

LAND USE COMMISSION

STATE OF HAWAII

County of Kaua'i

Moiukeha Building

Conference 2A/2B

4444 Rice Street, Lihu'e, Kaua'i, Hawai'i 96766

March 22, 2017

9:30 a.m.

AGENDA

I. Call to Order

II. Adoption of Minutes

III. Tentative Meeting Schedule

IV. Hearing - page 5

A16-800 Island School (Kaua'i)
To amend the Agricultural Land use District
Boundary into the Urban District for
approximately 38.448 acres at Puhi, Lihu'e,
Kaua'i, Hawai'i, Tax Map Key: (4) 3-8-002:016

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APPEARANCES:

EDMUND ACZON CHAIRPERSON
JONATHAN SCHEUER VICE CHAIR
ARNOLD WONG VICE CHAIR

COMMISSIONERS:

NANCY CABRAL
GARY OKUDA
LINDA ESTES
KENT HIRANAGA
DAWN CHANG
AARON MAHI

DAN ORDENECKER
Executive Director

DIANE ERICKSON, ESQ.
Deputy Attorney Director

RILEY HAKODA, Chief Clerk/Planner
SCOTT DERICKSON, AICP-Planner

BENJAMIN MATSUBARA, ESQ.
CURTIS TABATA, ESQ.
For A16-800 Island School

Matthew Bracken, Esq.
Leanora Kai'aokamaile
County of Kaua'i Planning Department

Dawn Apuna, Esq.
Rodney Funakoshi
Lorraine Maki
State Office of Planning

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1 CHAIRPERSON ACZON: Good morning, everyone.
2 This is the March 22, 2017 Land Use Commission
3 Meeting. First order of business is the adoption of
4 the minutes for the February 15th, 2017 meeting and
5 March 9th, 2017 Maui site visit.

6 Are there any corrections or comments on
7 them? If not, is there a motion to the adopt minutes?

8 COMMISSIONER ESTES: So moved.

9 COMMISSIONER MAHI: Second.

10 CHAIRPERSON ACZON: Motion has been moved
11 by Commissioner Estes and seconded by Commissioner
12 Mahi to adopt minutes for February 15, 2017 and
13 March 9th, 2017 site visit.

14 All in favor say "aye". Opposed. Minutes
15 are adopted unanimously.

16 The next agenda item is the tentative
17 meeting schedule. Mr. Orodener.

18 EXECUTIVE DIRECTOR: Right now the
19 tentative meeting schedule is April 12th, site visit
20 on Lana'i. April 26 and 27, 2017, keep that open for
21 Lana'i remand. May 18th and 19 on Maui for
22 Kau'ono'ulu Ranch EIS acceptance.

23 MR. DERRICKSON: Thursday and Friday
24 Waimanalo Gulch, still not sure, but keeping last two
25 meeting dates in May open for that May 24 and 25.

1 COMMISSIONER CABRAL: Clarification, so
2 April 12, one day on Lana'i.

3 MR. DERRICKSON: Right.

4 COMMISSIONER CABRAL: Then April 26-27
5 Lanai, May 18th and 19, Thursday, Friday on Maui,
6 thank you.

7 CHAIRPERSON ACZON: Thank you.
8 Commissioners, do you have any further questions?
9 Thank you.

10 Today's meeting agenda addresses two
11 dockets that are neighbors in the same area of
12 Lihu'e, Kaua'i. The first docket that the Commission
13 will address will be A16-800 Island School.

14 The Commission will complete the
15 proceedings on Docket A16-800 before moving on to
16 Docket A16-801. Both presentations may involve
17 testimony from some of the same witnesses, but the
18 testimonies are different and separate in regards to
19 the respective Petition areas.

20 To familiarize the Commission with this
21 Petition areas, staff will provide its map
22 orientation at this time.

23 MR. DERRICKSON: Aloha, Commissioners. I'm
24 going to direct your attention to the map up here on
25 the wall. The Petition area for the University of

1 Hawaii Community College, here you can see outlined
2 here the entire property. Of course, now the pointer
3 is gone. I'll point it out to you.

4 So the entire property is here
5 (indicating). This is a portion that is not part of
6 the Petition area. This lower portion is all part of
7 the Petition area, existing campus kind of on the
8 eastern side. This is for the University of Hawaii
9 Community College Campus.

10 COMMISSIONER CHANG: We'll get into that
11 today?

12 MR. DERRICKSON: We may get into that
13 today. I'm going to do the map orientation for both.

14 The University of Hawaii Community College
15 Campus is here (indicating). Petition area, the
16 Island School Petition area is adjacent right here
17 (indicating), and in this map over here, you can see
18 it in identified in red. I know it's so small, you
19 might not see it.

20 So in looking here (indicating) it's easier
21 to see them in context. Right adjacent to each
22 other, Kaumuali'i Highway runs along the Southern
23 Hemisphere boundary, east to west, and then access to
24 Island School is through and adjacent to the campus.

25 Existing commercial area down here and

1 along the highway, housing, and then a large shopping
2 center area over here. Large golf course. Some
3 existing agricultural properties over here
4 (indicating).

5 COMMISSIONER CHANG: Can you show me where
6 the cemetery is?

7 MR. DERRICKSON: I believe the cemetery is
8 an excluded area.

9 This is part of the reservoir (indicating).
10 There's also Island School. See here in the red
11 slight cut out, that's an old reservoir which you can
12 see on the map here. When you get a chance and want
13 to look again up closer, you can see it on this
14 aerial photo (indicating). Any other questions?

15 CHAIRPERSON ACZON: Any questions for
16 Scott, Commissioners? Thank you, Scott.

17 This is a hearing and action meeting on
18 Docket A16-800 Island School to Amend the
19 Agricultural Land Use District Boundary into the
20 Urban District for approximately 38,448 acres at
21 Puhi, Lihu'e, Kaua'i, Hawai'i, Tax Map Key No. (4)
22 3-8-002:016

23 Will the parties please identify themselves
24 for the record?

25 MR. MATSUBARA: Good morning, Chair Aczon,

1 Commission members. My name is Ben Matsubara, and
2 along with Curtis Tabata we represent Island School.
3 In the rear is David Pratt Vice President and Board
4 member of Island School.

5 MR. BRACKEN: Good morning, Chair and
6 Commissioners, Matt Bracken on behalf of County of
7 Kaua'i Planning Department. With me is Lea
8 Kai'aokamaile, and behind me is the Director of
9 Planning.

10 MS. APUNA: Good morning, Chair Aczon and
11 members of the Commission, Deputy Attorney General
12 Dawn Apuna on behalf of Office of Planning. Here
13 with me today is Rodney Funakoshi and Lorraine Maki.

14 CHAIRPERSON ACZON: Thank you.

15 Let me update the record. On December 2nd,
16 2016 Land Use Commission received the Petition for
17 Designation of Land Use Change (Petitioner's
18 Exhibit 11); Affidavit of Service of Petition for
19 Land Use District Boundary Amendment (Exhibit 9);
20 Affidavit of Sending of Notice of Petition Filing
21 (Exhibit 10) and Exhibits 1 through 8.

22 On December 19, 2016 the Commission's
23 Executive Officer mailed a letter to Petitioner's
24 Representative, OP, County of Kaua'i and OP's
25 Attorney General deeming the December 2, 2016

1 Petition complete.

2 On January 17th, 017, the Commission
3 received County of Kauai's Position Statement.

4 On January 19, 2017, the Commission mailed
5 its prehearing order to the Parties and received OP's
6 Statement of Position.

7 On February 21, 2017, the Commission
8 received OP's Witness and Exhibit lists and Exhibits
9 2 through 8.

10 On February 22nd, 2017, the Commission
11 received Petitioner's Witness and Exhibit Lists and
12 Exhibits 18 through 19.

13 On February 23, 2017, the Commission
14 received County of Kauai's Witness List.

15 On March 2nd, 2017, the Commission received
16 Petitioner's Affidavit of Service RE: Notice of
17 Hearing, and Exhibits A through D (Exhibit 12).

18 On March 3rd, 2017, the Commission received
19 the following:

20 Kaua'i Planning Department's Rebuttal
21 Exhibit List.

22 Amended Certificate of Service for
23 Petitioner's Affidavit of Service regarding Notice of
24 Hearing, Exhibit A through D.

25 Petitioners Island School's 1) First

1 Amended List of Exhibits 2) Exhibits 13 through 19.

2 OP's Testimony in Support of Petition with
3 Conditions (OP's Exhibit 1).

4 On March 9, 2017, the Commission received a
5 Comment letter from the State Department of
6 Accounting and General Services.

7 On March 13, 2017, the Commission mailed
8 March 22nd-23rd, 2017 LUC meeting Agenda to the
9 Parties, the Statewide and Kaua'i mailing lists.

10 Mr. Tabata, has our staff informed you of
11 the Commission's policy regarding reimbursement of
12 hearing expenses? If so, could you state your
13 client's position with respect to this policy.

14 MR. MATSUBARA: Mr. Chairman, my client
15 intends to comply with your procedure and policy on
16 reimbursement.

17 CHAIRPERSON ACZON: Thank you.

18 Let me describe our procedure for today.
19 First, I will call for those individuals desiring to
20 provide public testimony on this matter to identify
21 themselves. All such individuals will be called in
22 turn to our witness box where they will be sworn in.
23 A three minute time limit on testimony will be
24 enforced.

25 The Commission will then consider the

1 exhibits that the Parties wish to offer into
2 evidence, starting with Petitioner, followed by
3 County Planning Department and the State Office of
4 Planning.

5 The Commission will then begin proceedings
6 on Docket No. A16-800 and the parties will present
7 their cases, in the same order.

8 It is the Chair's intent to close the
9 evidence in this docket by this afternoon.

10 The Chair would also note for the parties
11 and the public that from time to time, I will be
12 calling for short breaks.

13 Are there any questions on our procedures
14 for today?

15 MR. MATSUBARA: No questions.

16 MR. BRACKEN: No questions.

17 MS. APUNA: No questions.

18 CHAIRPERSON ACZON: Are there any
19 individuals desiring to provide public testimony on
20 this docket?

21 EXECUTIVE DIRECTOR: Three people signed up
22 to testify. First Leah Edwards, Milo -- I can't read
23 the last name. Ferdinand Pascua.

24 CHAIRPERSON ACZON: Can we have Ms. Edwards
25 to the witness box.

1 May I swear you in?

2 Do you swear or you affirm that the
3 testimony you're about to give is the truth?

4 THE WITNESS: I do.

5 CHAIRPERSON ACZON: State your name and
6 address for the record and proceed with your
7 testimony;

8 LEAH EDWARDS

9 Was called as a public witness, was sworn to tell the
10 truth, was examined and testified as follows:

11 DIRECT EXAMINATION

12 THE WITNESS: Aloha, good morning. Thank
13 you for allowing me this opportunity to show my
14 support for Island School. My name is Leah Edwards,
15 address, you said? 2320 Haku Hale Street, Kalaheo.

16 CHAIRPERSON ACZON: Please proceed.

17 THE WITNESS: Thank you. My husband and I
18 are parents of four children and all four are
19 students at Island School. We have a 9th grader, and
20 8th grader, and two 6 graders.

21 We have been a part of the Island School
22 ohana for over ten years. Needless to say, with a
23 decade under our belts, we are invested at Island
24 School, and not just financially, but in all things
25 that Island School offers.

1 As our children have moved from elementary
2 school, middle school and now high school, we have
3 witnessed and been a part of their evolving,
4 nurturing and college preparatory education.

5 We have observed firsthand how intimate,
6 small student teacher ratio and individualized care
7 has contributed to the health and well-being of each
8 of our children.

9 As parents we are also invested as
10 volunteers for our school family. Volunteering is an
11 integral component that makes Island School function.
12 That understanding and charitable character is now
13 something our very own children possess.

14 Finally, just being an active part of our
15 school is second nature for us. Being involved in
16 our school's growing community, its progressive
17 education, the school's physical expansion, and our
18 school's future are all things that are not only
19 things we support immensely, but these are things
20 that we want to be a part of. Mahalo.

21 CHAIRPERSON ACZON: Any questions?

22 MR. MATSUBARA: Thank you. No questions.

23 MR. BRACKEN: Thank you. No questions.

24 MS. APUNA: No questions.

25 CHAIRPERSON ACZON: Commissioners? Thank

1 you.

2 EXECUTIVE DIRECTOR: Next Milo.

3 CHAIRPERSON ACZON: May I swear you in?

4 Do you swear or affirm that the testimony
5 you're about to give is the truth?

6 THE WITNESS: Yes.

7 MILO SPINDT

8 Was called as a public witness, was sworn to tell the
9 truth, was examined and testified as follows:

10 DIRECT EXAMINATION

11 CHAIRPERSON ACZON: Please state your name
12 and address for the record and proceed with.

13 THE WITNESS: Aloha, Chair, members of the
14 Commission. My name is Milo Spindt. Mailing address
15 P.O. Box 1335, in Lawai, 96765. S-P-I-N-D-T. I'm
16 used to it, it's okay.

17 I'm a fire fighter at Kalaheo Fire Station,
18 a past student at Island School in the old red barn
19 days. And the father of two elementary students
20 currently attending Island School.

21 I'm here to speak in support of Island
22 School's Petition for State Land Use District
23 Boundary Amendment.

24 The Petition supports the existing use of
25 the property, and would be consistent with the Master

1 Plan for future expansion of the school. Some of the
2 expansion plans that are important to my family are
3 the addition of more classrooms, specifically, new
4 rooms for visual arts, which are a favorite of my
5 daughter, and most important to my son, new robotic
6 facilities and a science building.

7 Thank you for your time and consideration.

8 CHAIRPERSON ACZON: Any questions?

9 MR. MATSUBARA: Thank you. No questions.

10 MR. BRACKEN: No questions.

11 MS. APUNA: No.

12 CHAIRPERSON ACZON: Commissioners? Thank
13 you. Mr. Pascua.

14 Do you swear or affirm that the testimony
15 that you're about to give is the truth?

16 THE WITNESS: Yep.

17 FERDINAND PASCUA

18 Was called as a public witness, was sworn to tell the
19 truth, was examined and testified as follows:

20 DIRECT EXAMINATION

21 CHAIRPERSON ACZON: Thank you. Please
22 state your name and address for the record, and
23 proceed with your testimony.

24 THE WITNESS: For the record my name is
25 Ferdinand Pascua. Everyone calls me Fred.

1 CHAIRPERSON ACZON: Good morning, Fred.

2 THE WITNESS: Aloha and good morning. I am
3 a resident of Kaloa, my address is 390 Amake Street.
4 I am testifying today in support of Island School's
5 Petition to amend the Land Use District Boundaries of
6 approximately 34-acre at Puhi from its current State
7 Land Use Ag District to State Land Use Urban District
8 for the Island School campus.

9 A little background information of myself.
10 I was born and raised here on Kaua'i, and I attended
11 public schools. I am currently employed at Kaua'i
12 Island Utility Cooperative, so I have a little
13 understanding of the planning process. I have two
14 daughters that have attended Island School, so they
15 have attended from very young age to through 12th
16 grade.

17 So I am well-connected with the school and
18 I continue to devote time and in areas where help is
19 needed.

20 I am here to support the Petition because
21 of the following.

22 I support the need for more classrooms,
23 libraries, learning centers, cafeteria with a student
24 lounge, performing arts buildings and improvements to
25 sport and athletic facilities at Island School.

1 By adding more classrooms, involvement can
2 be increased and will benefit students on Kaua'i.
3 Our island community is growing, and you can see with
4 current developments here in the Lihu'e area and
5 proposed developments throughout the island, this
6 will only increase enrollment in the public school
7 areas.

8 So with this Petition to change, it will
9 help Island School increase their enrollment.

10 Amending the Land Use District Boundaries
11 to Urban will not require Special Permits as it is
12 currently required for Agricultural Districts. I am
13 also encouraged that the Proposed Boundary Amendment
14 will be consistent with Kaua'i General Plan and the
15 Lihu'e Community Plan.

16 In closing, I would like to thank you for
17 allowing me to speak on this Petition, and I thank
18 you all as Commissioners for your participation as
19 Commissioners.

20 I believe by changing the Boundary District
21 will spur new developments and improvements to the
22 Island School campus, which in turn will benefit our
23 growing island community. Thank you.

24 CHAIRPERSON ACZON: Any questions for Mr.
25 Pascua?

1 MR. MATSUBARA: Thank you, no questions.

2 MR. BRACKEN: No questions.

3 MS. APUNA: No questions.

4 CHAIRPERSON ACZON: Commissioners? Anyone
5 else wish to testify on this document?

6 Mr. Matsubara, please describe the exhibits
7 you wish to have admitted into the record.

8 MR. MATSUBARA: We previously filed and
9 served on all the Parties 19 exhibits that we filed
10 to support our Petition. We would like to have them
11 identified and admitted into evidence, if I could,
12 Mr. Chair.

13 CHAIRPERSON ACZON: Exhibits 1 through 19?

14 MR. MATSUBARA: Yes, one through 19.

15 CHAIRPERSON ACZON: Any objection?

16 MR. BRACKEN: No objection.

17 MS. APUNA: No objection.

18 CHAIRPERSON ACZON: Commissioners? Hearing
19 none, Petitioners Exhibits 1 through 19 are admitted
20 into the record.

21 County, Mr. Bracket, any exhibits?

22 MR. BRACKEN: Yes, two exhibits. County
23 would like identify two pages from Lihu'e Community
24 Plan. One, the Urban edge boundary designation, and
25 the other one shows Important Agricultural Land.

1 CHAIRPERSON ACZON: What exhibit numbers?

2 MR. BRACKEN: Exhibits 1 and 2.

3 CHAIRPERSON ACZON: 1 and 6?

4 MR. BRACKEN: 1 and 2.

5 CHAIRPERSON ACZON: Any objections?

6 MR. MATSUBARA: No objection.

7 MS. APUNA: No objections.

8 CHAIRPERSON ACZON: Hearing none, County's
9 Exhibit 1 and 2 are admitted into the record.

10 Ms. Apuna describe OP's list of exhibits
11 for the record.

12 MS. APUNA: Office of Planning has Exhibits
13 1 through 8 that were submitted, filed previously
14 with the Commission and served on the other parties,
15 1 through 8. Thank you.

16 CHAIRPERSON ACZON: Any objections?

17 MR. MATSUBARA: No objection.

18 MR. BRACKEN: No objection.

19 CHAIRPERSON ACZON: Commissioners? Hearing
20 none, State Office of Planning Exhibits 1 through 8
21 are admitted into the record. Thank you.

22 Mr. Matsubara, please proceed with your
23 presentation.

24 MR. MATSUBARA: Thank you, Mr. Chair.

25 As indicated in the orientation presented

1 by Mr. Derrickson, Island School is located in the
2 Agricultural Land Use District. It occupies
3 approximately 38.5 acres, and has been in operation
4 at that site since 1990, approximately 27 years.

5 Special Use Permit granted to Island School
6 permits it to operate its facilities as a school
7 within the State Agricultural District.

8 When, under the law, the Commission finds
9 that it would promote effectiveness and the
10 objectives of the land use law.

11 Island School, although operating there for
12 27 years, in dealing with its expansion plans and
13 interaction with the County Planning Department,
14 discovered that it would be much more expedient and
15 efficient to reclassify their property from the
16 Agricultural District to the Urban Land Use District
17 and that would permit expansion of their facilities
18 as they grow.

19 The school provides urban activities and
20 settings and structures, and so what you have really
21 is a continuation of the use that has existed for
22 27 years, but we are reclassifying the property from
23 Ag to Urban for planning purposes.

24 We will be calling six witnesses today. We
25 will be provide you with background and history of

1 Island School, its operation, its programs and
2 faculty, its future plans for growth and its
3 community participation.

4 Included we will have expert witnesses who
5 will discuss planning, engineering, environmental
6 impacts, archaeological and cultural assessments, as
7 well as traffic impacts, and flora and fauna elements
8 related to the project site.

9 For my first witness I would like to call
10 is Mr. David Pratt.

11 CHAIRPERSON ACZON: May I swear you in?

12 Do you swear or affirm that the testimony
13 that you're about to give is the truth?

14 THE WITNESS: I do.

15 DAVID PRATT

16 Called as a witness on behalf of Island School, was
17 sworn to tell the truth, was examined and testified
18 as follows:

19 DIRECT EXAMINATION

20 CHAIRPERSON ACZON: Thank you please state
21 name and address for the record and proceed with your
22 testimony.

23 THE WITNESS: My name is David Pratt, and
24 I live 2741 Nokekula Circle in Lihu'e.

25 CHAIRPERSON ACZON: Please proceed.

1 BY MR. MATSUBARA:

2 Q Mr. Pratt, could you please state your
3 position with Island School?

4 A I'm currently Vice President and a Board
5 Member.

6 Q How long have you served in those
7 capacities?

8 A I've been a Board Member since 1987, and
9 President of the school from 1997 to 2009, and since
10 2009 as Vice President.

11 Q Could you please provide the Commission
12 with a brief history of Island School?

13 A Okay, I can do that.

14 The school was started in 1977 by seven
15 women who wanted Kaua'i to have a quality college
16 prep school, and they started the school and it was
17 in Kealia Plantation Store was where they started it.

18 And over the years it grew, and they had
19 plans to move to a more central location. And in
20 1991 they actually opened the school in Puhi, its
21 current location, on ten acres that was donated by
22 Lihu'e Plantation.

23 They raised capital funds to build the
24 campus and we're happy with the fact that it was in
25 Lihu'e, which is sort of central for the whole

1 island.

2 After one year, after they opened with 116
3 students, Hurricane Iniki came and totally wrecked
4 the school. Took a lot of the housing off, and
5 several of the portable buildings were blown away.

6 Through the hard work of Curtis Law, a
7 contractor and friend of the school, they were able
8 to open a portion of the school in 11 days for a
9 school to open.

10 And by December '92, there were -- it was
11 open, all of the campus.

12 During that intervening time, they were
13 able to use the Adventist School in Kahili Mountain
14 Park for part of their classes. They were very
15 helpful in that regard -- Adventist were very helpful
16 in that regard.

17 The Board decided to provide high school
18 grades, and in 1996 they started 9th grade, 10th,
19 11th, and 12th. Actually it was a difficult
20 decision. A number of parents and teachers were
21 unhappy with that. They felt that it would change
22 the character of the K-8 school. But the parents of
23 the 8th grade students prevailed. And they opened
24 the high school.

25 In 1998 the school purchased 20 acres from

1 the Lihu'e Plantation, in addition to ten acres that
2 was donated. That provided an area for future
3 expansion and athletic fields like soccer, maybe
4 football some day, who knows.

5 And in December 2005 Grove Farm Company,
6 subsidiary to Lihu'e Land Company donated 8.44 acres
7 to the school which is also adjacent. So that
8 created 38.448-acre campus.

9 With the high school, community college was
10 concerned about high school students driving through
11 their campus. So we worked on a new access agreement
12 and easement, and created a new way to get into the
13 campus from Nuhou Road through Kilohana Plantation,
14 and the new access. And the road was opened in
15 February 2008. And was paid for, half Island School
16 and half Hawaii Community College split the cost.

17 In 2007, the school had the 30th
18 anniversary of their opening with 330 students. In
19 2008, we added two new building, one was a
20 regulation size Wilcox gym, service for volleyball
21 basketball and lots of events. And a Freer Center
22 for Hawaiian Culture and Arts.

23 In 2012 the school added a 1200 panel solar
24 farm that provides about 25 percent of our electrical
25 needs during the day. In 2010 the school began

1 gathering information for this hearing.

2 One of the things we did was hire
3 Flansburgh Architects, which is a mainland firm that
4 specializes in school design. And they updated our
5 master plan, and provided a plan for what we would
6 like to have if we had 500 students.

7 And so not only located the buildings, but
8 also did a preliminary design to figure out the
9 footprint and to give a rough estimate of the cost of
10 these projects.

11 But to move forward, you need to balance
12 the school's need with opportunity to obtain funding,
13 and, for example, a donor may want to build a
14 swimming pool, but the school might want a locker
15 room instead. So you have to decide whether you're
16 going to tell him, go away, take your money, or build
17 the pool.

18 So with this kind of a fluid system, we
19 think urban setting is more appropriate than using ag
20 permits to figure all that out.

21 Bob Springer, the head of school for
22 18 years, retired in June 2015. And under his
23 leadership, the school grew to 370 students, and had
24 improved curriculum, and was operating quite well.
25 Bob was replaced by Shannon Graves, who had

1 previously worked at Hawaii Preparatory on the Big
2 Island.

3 January 2017 Island School celebrated their
4 40th anniversary.

5 Q Thank you.

6 I have no further questions for Mr. Pratt.
7 He's available for cross-examination.

8 CHAIRPERSON ACZON: Any questions, Mr.
9 Bracken?

10 MR. BRACKEN: No questions.

11 CHAIRPERSON ACZON: Ms. Apuna?

12 CROSS-EXAMINATION

13 BY MS. APUNA:

14 Q Thank you, Mr. Pratt, for your testimony.
15 I have a few questions for you.

16 Are you authorized to commit and make
17 representations on behalf half of Island School?

18 A Yes, I am.

19 Q Have you had a chance to look at or Office
20 of Planning's proposed conditions?

21 A Yes, I have.

22 Q And do you commit to those eight additions
23 that we have provided?

24 A Yes.

25 Q Thank you, that's it. Thank you.

1 CHAIRPERSON ACZON: Commissioners,
2 questions? Commissioner Estes.

3 COMMISSIONER ESTES: I'm just curious about
4 something. You said the school was started by seven
5 women. Are any of them still around?

6 THE WITNESS: Yes. Oh, yeah. In fact, for
7 our anniversary they all showed up. A couple of them
8 live on the mainland, some live on Maui. In fact,
9 Lindsey Kam, I don't know if you know her or not.

10 COMMISSIONER ESTES: I do.

11 THE WITNESS: She was one of the founding
12 mothers. She was also head of school for like
13 20 years.

14 COMMISSIONER ESTES: Yea, women.

15 COMMISSIONER CABRAL: You indicated
16 enrollment went up to 370 two years ago. What is it
17 at now?

18 THE WITNESS: It's over 400.

19 COMMISSIONER CABRAL: So your goal of 500,
20 or dream, could be pretty soon?

21 THE WITNESS: Could be. We need more
22 classrooms.

23 COMMISSIONER CABRAL: Right. Thank you
24 very much.

25 CHAIRPERSON ACZON: Vice Chair Wong.

1 VICE CHAIR WONG: With the increase of
2 future enrollment, looks like 500, are you trying to
3 increase any more than 500? Increase how the
4 space -- future, let's say 20 years down the line?

5 THE WITNESS: It could be. Yes, we don't
6 really know. I mean we need to get to the 500 first,
7 then look around and see what to do. And it's a
8 matter of funding to get the improvements. That's
9 difficult. We depend on donations.

10 VICE CHAIR WONG: No further questions.
11 Thank you.

12 COMMISSIONER CHANG: Thank you so much, Mr.
13 Pratt, for your testimony. I just have one question.

14 Is Island School a private school or
15 charter?

16 THE WITNESS: It's a private school.
17 Private nonprofit, and the nonprofit is every year.

18 VICE CHAIR SCHEUER: Mr. Pratt, perhaps
19 this is -- you're not the right person for this
20 question, but could you explain to us, the petition
21 for redistricting was submitted and withdrawn and
22 resubmitted.

23 Could you explain a little bit about that
24 process, please?

25 MR. MATSUBARA: I could answer that.

1 We were coordinating the filing with Kaua'i
2 Community Colleges, because we wanted to have our
3 hearings conducted simultaneously because of
4 proximity to each other, plus the fact Kaua'i
5 Community property abuts existing Urban District and
6 we're a little further removed.

7 We thought that we had our dates tied down
8 together and so we filed ours, but there were some
9 problems with Kaua'i's petition, so the time started
10 running. Our petition was accepted. And so in order
11 to avoid having to go ahead by ourselves, we withdrew
12 the petition so that we could start basically at the
13 same time, so we were on the same calendar and
14 proceed together like we are today. And that's
15 basically what happened.

16 THE WITNESS: I agree with that answer.

17 CHAIRPERSON ACZON: Anybody else?

18 COMMISSIONER OKUDA: Mr. Pratt, thank you
19 for your testimony. I have a question, because I
20 just want something in the record on this.

21 The constitution, Article 11, Section 1
22 speaks about conserving natural resources and doing
23 things in the furtherance of self-sufficiency of the
24 state.

25 Can you tell us how educating students at

1 your school promotes self-sufficiency of the state or
2 the goal of self-sufficiency?

3 THE WITNESS: Well, one way is that the
4 state taxpayers don't have to pay for the education
5 of our students. That helps.

6 COMMISSIONER OKUDA: Would you agree
7 educating students in the way you do with college
8 preparatory program gives them tools which also helps
9 them compete and survive in the modern world?

10 THE WITNESS: Oh, yes, for sure.

11 COMMISSIONER OKUDA: I just wanted that
12 statement on the record.

13 CHAIRPERSON ACZON: Commissioner Hiranaga.

14 COMMISSIONER HIRANAGA: Good morning. I'm
15 not sure if you're the right person to direct this
16 question to, but I was reviewing the Final
17 Environmental Assessment and its reference to the
18 Plantation Era Reservoir CSH 1 which is I believe is
19 owned by Grove Farm.

20 THE WITNESS: That's correct.

21 COMMISSIONER HIRANAGA: In looking at the
22 aerial photos, I'm assuming that the project site is
23 a higher elevation than the reservoir.

24 THE WITNESS: That's correct.

25 COMMISSIONER HIRANAGA: My concern or

1 question is: Does Grove Farm maintain this reservoir
2 on a regular basis? Because my concern is, with the
3 demise of sugarcane, many of these reservoirs
4 throughout the state have become neglected. And
5 reading the Final Environmental Assessment, there's
6 apparently one valve that can be used to reduce the
7 level of water in the reservoir.

8 I guess particularly in the case of heavy
9 rainfall, where the berme may be breached over the
10 top, which could cause collapse of the berme, and
11 probably impact Kaua'i Community College more than
12 Island School, but wondering do you know if Grove
13 Farm has an annual inspection program?

14 Do they test the valve annually to make
15 sure it functions? Ensures that it operates
16 properly?

17 THE WITNESS: I can answer that. Yes,
18 actually Grove Farm does manage the ditch system and
19 the reservoir that's in use adjacent to the school.
20 They have an operator that does that on a daily
21 basis. And they use the water for their agricultural
22 lessees, and for the golf course.

23 So they want to manage it, and they need
24 the water on a regular basis. So it's operated by a
25 professional manager.

1 COMMISSIONER HIRANAGA: I guess for
2 clarity, it is maintained and inspected quite
3 regularly?

4 THE WITNESS: Yes.

5 COMMISSIONER HIRANAGA: Thank you.

6 CHAIRPERSON ACZON: Anybody else?

7 VICE CHAIR WONG: Excuse me, Mr. Pratt, one
8 more question.

9 The students, do they walk, or are they
10 picked up or bused from school?

11 THE WITNESS: Actually a number of parents
12 drop their kids off. But we also operate a bus
13 system from the North Shore and South Shore, our own
14 bus system, the school does. So a number of children
15 ride the bus.

16 VICE CHAIR WONG: So most of them do not
17 walk to the highway then?

18 THE WITNESS: I would say very few.

19 VICE CHAIR WONG: That's all. Thank you.

20 THE WITNESS: But maybe one of our
21 witnesses can help answer that better than me.

22 COMMISSIONER CHANG: Mr. Pratt, three of
23 the public testifiers, they have a relationship with
24 the school, very persuasive.

25 On your plans for the school expansion, do

1 you involve the parents? Do you have meetings with
2 the student body? With the parents to keep them
3 informed about your plans?

4 THE WITNESS: We do. We have -- our board
5 gets involved. And then we also involve the faculty
6 and the parents, yeah.

7 CHAIRPERSON ACZON: Mr. Pratt, Vice Chair
8 Wong kind of touched on the number of students as
9 500. With the proposed master plan that you have
10 now, what do you think is the maximum students that
11 this master plan can hold?

12 THE WITNESS: Probably could exceed 500,
13 but I think we have --

14 CHAIRPERSON ACZON: 600, 700?

15 THE WITNESS: I don't really know. But
16 right now we're short, very short of classrooms. We
17 really have a problem with scheduling our classes.

18 CHAIRPERSON ACZON: Is there a plan on
19 phasing out the construction, what you going to build
20 first, the administration? Are there some kind of
21 phasing out, or you going to just continue?

22 I know the completion date is 2027. I'm
23 kind of asking is, for instance, I want to know how
24 you going to finance it?

25 THE WITNESS: We depend on donation.

1 CHAIRPERSON ACZON: Donation coming from --

2 THE WITNESS: Individuals, trust and
3 foundations, corporations. That's how we built the
4 school so far.

5 CHAIRPERSON ACZON: So you're not
6 anticipating financing loans or other --

7 THE WITNESS: We've tried to avoid
8 borrowing money just to play it safe, but we could.

9 CHAIRPERSON ACZON: So you think you can
10 get the -- on do you have any idea of how much this
11 things going to cost?

12 THE WITNESS: Everything, the whole --
13 probably 30 million.

14 CHAIRPERSON ACZON: Thank you.

15 THE WITNESS: If you know anybody who wants
16 to donate 30 million, call me.

17 CHAIRPERSON ACZON: Commissioner Mahi.

18 COMMISSIONER MAHI: Just a quick question.

19 In your curriculum of the students, in the
20 school based on information, thank you so much for
21 sharing that information, instilling in your students
22 a further understanding of self-sufficiency and
23 self-sustaining.

24 Were you planning an agricultural program?

25 THE WITNESS: We do. The children are

1 taught, you know, to grow plants and that sort of
2 thing, and they have little gardens, elementary
3 school, particularly.

4 Beyond that maybe a later witness could
5 help you more on that curriculum side.

6 COMMISSIONER MAHI: Thank you. I know you
7 repeatedly shared with us the importance of increased
8 classroom space.

9 THE WITNESS: Yeah.

10 CHAIRPERSON ACZON: Mahalo.

11 VICE CHAIR SCHEUER: Chair, a couple more
12 questions.

13 The plan that you have at build-out of this
14 next master plan, how much of the remaining property
15 will be unoccupied and unused?

16 THE WITNESS: Well, our master plan really
17 does not utilize the 8.4 acres we got from Grove
18 Farm. It's not really in the plan. The only thing
19 that's in there is a baseball field, in the master
20 plan.

21 And then we have quite a bit of open area
22 for soccer fields, baseball fields, football field,
23 that sort of open --

24 VICE CHAIR SCHEUER: Is it the school's
25 intention to use the entirety of the Petition area

1 solely for educational related uses.

2 THE WITNESS: Yes.

3 VICE CHAIR SCHEUER: Thank you.

4 CHAIRPERSON ACZON: Any other questions?

5 Thank you, Mr. Pratt.

6 MR. TABATA: Our next witness is Sean
7 Magoun.

8 CHAIRPERSON ACZON: May I swear you in?

9 Do you swear or affirm that the testimony
10 you're about to give is the truth?

11 THE WITNESS: I do.

12 SEAN MAGOUN

13 Was called as a witness by and on behalf of Island
14 School, was sworn to tell the truth, was examined and
15 testified as follows:

16 CHAIRPERSON ACZON: Please state your name
17 and address for the record and proceed with your
18 testimony.

19 THE WITNESS: My name Sean Magoun, address
20 is 3781 A Papalina Road, Kalaheo.

21 DIRECT EXAMINATION

22 BY MR. TABATA:

23 Q Could you state your position at Island
24 School?

25 A I'm the Director of Institutional

1 Advancement.

2 Q Describe your duties as Director of
3 Institutional Advancement.

4 A I have many duties. Most important duties
5 are related to Admissions, Financial Aid, Fund
6 Raising, Marketing, Public Relations. Also involved
7 with various other administrative fronts such as
8 discipline, teacher support, or anything else that
9 may fall under the purview of "this needs to get
10 done".

11 Q Could you please describe for the
12 Commission the curriculum offered at Island School?

13 A Yes, we are a college preparatory school.
14 Our main points of focus are to foster lifelong
15 learning, to support successful higher education for
16 the endeavor thereof, foster creative critical
17 thinking, initiative and respect for self and others.

18 One of the ways in which we continue to
19 challenge our students is pursuing teachers that are
20 experts in their particular field of study. For
21 instance, we have Dr. Jeff Kozak is head of our Math
22 and Science Department. He came to us after eight
23 years at Rochester Institute of Technology. He had
24 graduated with a doctorate in Mechanical Engineering
25 from Virginia Tech.

1 Curiosity got best of me, and I had to ask
2 him why he wanted to teach at a place like Island
3 School with a Ph.D.? And his answer surprised me.
4 He said: "Because I want to return to the classroom
5 where students are enthusiastic about learning. I'm
6 tired of students taking my class just because it's a
7 prerequisite."

8 I also have a 1st grade teacher who has
9 taught at Island School for 30-plus years. And she
10 is one of the first people to reply to me in email
11 saying: "I'd like to teach summer school this year."

12 And she teaches a summer science camp for
13 1st through 5th graders. And my children, in
14 particular, have participated in that and enjoyed it
15 thoroughly.

16 I have another teacher who is the lead
17 preschool teacher in our preschool program. And she
18 heads up our First Lego league Robotics for 4th
19 through 6th graders.

20 I also have an art teacher who works with
21 students, most recent project is quite eclectic.
22 She's seeking out wooden chairs to strip them of
23 their original paint, and to paint them with
24 classical pieces. Very intriguing idea.

25 So when I'm talking about families about

1 Island School, I'm often looking at a match-making
2 process and trying to help them understand the
3 dynamics of what Island School is all about.

4 My point is simply this, that we are a
5 diverse and very talented group of educators
6 dedicated to the job of instilling inquiry and
7 questions and not to be afraid to ask for more.

8 Q Are you familiar with Island School's
9 Updated Master Plan?

10 A Yes, I am.

11 Q Can you briefly describe the Master Plan
12 Update?

13 A Certainly. As I say, the Master Plan is
14 basically a road map of what our future might look
15 like. When I first started at Island School as a 4th
16 grade teacher, we had about 140 kids. We had five
17 buildings. Of those buildings, we had only the main
18 office. Cafeteria, theater, they substituted as
19 both, and five buildings.

20 Of those buildings, nine classrooms, ten
21 acres. Today we have 38.4 acres and presently 12
22 buildings, in all equaling about 25 total
23 classrooms/learning spaces for about 400 students.

24 Our greatest challenges come in the form of
25 scheduling. We have students wanting to learn at a

1 variety of different levels focusing on different
2 subjects, but we can't offer what they want because
3 we don't have enough space. Students study
4 everything from basic algebra, second year calculus,
5 to ballroom dance -- who's, by the way, instructed by
6 our business manager -- to digital photography to AP
7 biology to Yoga.

8 The question then becomes which of these do
9 we not offer this trimester or this year due to not
10 having enough rooms. With more rooms we would be
11 better serving our learning community with more
12 diversity.

13 With additional classrooms in renter use
14 from our larger community, we would be able to serve
15 our community better. We presently have 40 different
16 community organizations that utilize our campus. And
17 it's at variety of times, more use at certain times
18 of years than others.

19 Q Thank you.

20 Can you describe for us how the Master Plan
21 Update will help Island School fulfill its mission?

22 A Yeah. I mean I think we envision our next
23 building being designed obviously with the greatest
24 flexibility in mind so that we can use rooms for a
25 variety of different subjects, not just one

1 particular academic focus. Part of the learning
2 trend these days is to use a mobile space that allows
3 us to really dive into a subject matter without being
4 locked into, you know, a chemistry room or whatever.

5 We want to -- if we did build a new
6 building, we would want to be able use it for
7 English, Math, History, or even perhaps the less
8 conventional subject such as Yoga or Lego Robotic or
9 even Hula.

10 We plan on obviously building it with the
11 idea in mind that we want to support IT
12 infrastructure. That is here to stay. Movable walls
13 would allow for flexibility in a smaller room or
14 larger room.

15 This will give teachers, as well as
16 facility users, a great deal of choice.

17 Q Does Island School play supporting role in
18 the larger community?

19 A Yes.

20 Q Could you describe that role, please?

21 A Certainly.

22 A very fine example of our community
23 collaboration is we have a program -- excuse, me let
24 he rephrase that.

25 We have a team called Kaua'i Bots. The

1 Kaua'i Bots are a conglomerate of students from the
2 three public high schools, Waimea, Kaua'i and Kapaa
3 as well as Island School. We make up the Kaua'i
4 Robotics team essentially. And they collaborate on
5 designing robots and go to Oahu to compete in First
6 Robotics.

7 I also understood they traveled to San
8 Diego this year as a team. So they don't mess
9 around.

10 Every student in the high school as well is
11 required to do a minimum of 20 community service
12 hours annually. So their education is not only
13 paramount but their community relations is also an
14 important integral part of our curriculum.

15 The school takes that yet one step further.
16 Every year we do a ho'okupu where classes from our
17 community from pre-K through 12th grade, go out
18 whether it's our local community on campus for pre-K
19 children, to high schoolers who go down to Maha'uлеpu
20 and replant Native Hawaiian species down near the
21 sinkhole, the dry cave. And they have been doing
22 that for the last 16 years.

23 We also, as I mentioned earlier, have 40
24 related-community organizations that have used our
25 campus and are still using our campus weekly.

1 Q Thank you, Sean. He is as available for
2 cross.

3 CHAIRPERSON ACZON: Before you ask the next
4 question. I want to take a break for three minutes.

5 (Recess taken.)

6 CHAIRPERSON ACZON: Back on the record.

7 Mr. Tabata, please continue.

8 Q (By Mr. Tabata): Can you describe for us
9 how Island School promotes self-sufficiency?

10 A There is a number of ways that our teachers
11 and our students have looked at self-sufficiency. At
12 one time we had an aquaponic lab at Island School
13 where we had tilapia in a tank. We were using the
14 water to have floating beds of produce that students
15 and teachers collaborated on.

16 We also presently have a small space noted
17 as a community garden on our campus where we are
18 trying to have farm-to-table in effect. And there
19 was one more. Really good one.

20 Anyway, those are just a few of the ideas
21 that we have had that we foster with students
22 participation as far as creating opportunity to --
23 yeah, one more.

24 We're never short of good ideas. We had a
25 graduate recently come up with a flow-water machine.

1 And his purpose behind designing this machine that
2 gave high quality water to individuals was to
3 eliminate the use of plastic water bottles. So if
4 everyone had an aluminum water jug, flasks all over
5 the place, and his idea was, hey, listen, let's just
6 refill the water rather than reuse the plastic
7 bottle. A few of the ideas.

8 MR. TABATA: Thank you. Mr. Magoun is
9 available for cross.

10 CHAIRPERSON ACZON: Questions, Mr. Bracken?

11 MR. BRACKEN: No questions.

12 CROSS-EXAMINATION

13 BY MS. APUNA:

14 Q Thank you for your testimony.

15 I think the biologist's testimony is that
16 there are some endangered species particularly birds
17 that traverse that property.

18 Have you ever seen any of the birds that
19 were mentioned?

20 A I'm sure at one time or another I have,
21 yes.

22 Q So one of our conditions that Office of
23 Planning is proposing and that the biologist
24 testifies to, is that when construction does happen,
25 there will be certain programs, policies in place for

1 the birds, and how construction workers will -- what
2 they will do when they encounter birds.

3 So I was wondering if the school has
4 programs or policies for the students and staff
5 interaction or encounter with endangered species on
6 campus?

7 A I think we take every opportunity to
8 educate our youth about protocols, procedures,
9 respect, distance, kindness, all of those things are
10 a part of our community, for sure.

11 Q Thank you. No further questions.

12 CHAIRPERSON ACZON: Commissioners, any
13 questions?

14 COMMISSIONER CHANG: Thank you, Mr. Magoun.
15 You obviously have a very diverse curriculum, and a
16 lot of really great classes.

17 I was wondering whether if any part of your
18 curriculum you focus on the plantation era, given
19 that Lihu'e Plantation donated the land, their
20 proximity, the changing of the Ag to Urban, are you
21 integrating that in any way? Or is there any kind of
22 educational opportunities on that?

23 THE WITNESS: I think the opportunities
24 present themselves when given. We are a very diverse
25 campus. We have students from Haena and from Kekaha

1 who come to Island School. And we also are very
2 aware of our sense of self, as Hawaiians would put
3 it, our sense of place, and belonging.

4 And as a result, we do try to tread
5 thoughtfully. To the specific nature of your
6 question, in studying the plantation day, I can't say
7 for certain that it has been the focus of a great
8 deal of discussion, but it is not necessarily
9 overlooked.

10 COMMISSIONER CHANG: And I guess, you know,
11 looking at, given how -- I'm not saying that there is
12 not necessarily traditional and customary practices,
13 but from a Hawaiian perspective, the best way to
14 honor a place is to tell its stories.

15 And it might be something for you to think
16 about as you integrate into very a diverse
17 curriculum, even a brochure, flier, some way that the
18 children and parents have appreciation of the great
19 stories of this place might be a good opportunity to
20 create a sense of ownership to that place too?

21 THE WITNESS: Duly noted. Thank you.

22 CHAIRPERSON ACZON: Anybody else,
23 Commissioners? Commissioner Okuda.

24 COMMISSIONER OKUDA: What percentage of
25 your graduates go onto college?

1 THE WITNESS: The last five years have been
2 nearly 100 percent.

3 COMMISSIONER OKUDA: Can you give us a
4 general idea of what kind of colleges or identities
5 of colleges they attend?

6 THE WITNESS: If I may, I would like to
7 backfill that question with some information before I
8 answer that.

9 In their second trimester junior year we
10 make them take a college counseling class. So
11 there's 4400 universities and colleges that are out
12 there today. How does a senior select one?

13 That's a very difficult question. And so
14 we walk them through the process of how do you
15 cultivate a student resume so that you can make
16 yourself -- sell yourself, look good, sell yourself
17 to an institution of choice.

18 We also help them vet geographically where
19 do they want to go, East Coast, West Coast, by the
20 ocean, do you care? Do you want to be in a cold
21 place like Minnesota? Warm place like Oahu? Do you
22 want to major in international business. There's a
23 variety of different things.

24 So we help them take that enormous list,
25 4400 schools and colleges, and move it down to a

1 manageable list of say, ten. And then from there
2 move backwards, along with their scores and their
3 GPA, what their interests are, help them take the
4 next step in taking that application and fulfilling
5 those dreams and decisions so forth.

6 So to that effect, we have kids on the East
7 Coast, in England even, West Coast, University of San
8 Diego, Santa Clara, Stanford, MIT on the East Coast,
9 you name it, we have kids all over the place.

10 COMMISSIONER OKUDA: And these are students
11 or kids or young adults from the Island of Kaua'i?

12 THE WITNESS: Yes, sir.

13 COMMISSIONER OKUDA: So if I could sum it
14 up, it seems like your institution is able to prepare
15 them to compete anywhere in the world.

16 THE WITNESS: We have frequently had
17 students come back and say, thank you, Mr. Bray
18 (phonetic) for that philosophy class, thank you,
19 Dr. Kozak for helping me get ready for that calculus
20 class, I felt prepared. I didn't feel overwhelmed.

21 And so as the expression goes, "pay now or
22 pay later", we like to encourage our kids to pay now
23 and be ready so when they go to college they can
24 enjoy themselves, relax, engage the professors, and
25 feel competent about what they're learning.

1 COMMISSIONER OKUDA: In your mind, this
2 Boundary Amendment would help you get the physical
3 facilities to -- or ease the path to get physical
4 facilities to support this educational mission?

5 THE WITNESS: If we can take one additional
6 community family member from Kaua'i to provide
7 opportunity for their child to be exposed to an
8 education such as Island School, I would think that
9 would be worth it, yes.

10 COMMISSIONER OKUDA: Thank you.

11 CHAIRPERSON ACZON: Anybody else?

12 Sorry, Commissioner Hiranaga.

13 COMMISSIONER HIRANAGA: Thank you. Good
14 morning.

15 Just kind of doing some basic math. So you
16 have approximately 300 students?

17 THE WITNESS: 400.

18 COMMISSIONER HIRANAGA: And you're
19 currently operating K through 8.

20 THE WITNESS: Pre-K through 12th grade.

21 COMMISSIONER HIRANAGA: So about 30-plus
22 students per grade?

23 THE WITNESS: I could get very specific if
24 you like.

25 COMMISSIONER HIRANAGA: Average 30-plus?

1 THE WITNESS: We have 44 preschoolers. In
2 my K through 5th grade, I have 25 or less. In 6
3 through 8th grade -- the 6th grade is around 36, 7th
4 grade around 32, 8th grade around 47, 9th through
5 12th grade, about 137 kids.

6 So each class by designation 9th, 10th
7 grade is around 30-plus.

8 COMMISSIONER HIRANAGA: Thank you.

9 Wondering about sustainability. I guess
10 you derive your income through tuition?

11 THE WITNESS: Yes.

12 COMMISSIONER HIRANAGA: And then you have
13 your operating expenses?

14 THE WITNESS: Yes.

15 COMMISSIONER HIRANAGA: You try to create
16 cash reserve for unexpected expenses. So I guess --
17 do you have much fluctuation in enrollment per year?
18 Just say like 2008 with the financial crash, did you
19 experience a downturn in enrollment, or are you
20 fairly insulated from the economics of the state or
21 the county or the nation?

22 THE WITNESS: We have been very fortunate.
23 I've been direct -- in my pursuit at Island School,
24 prior to Director of Institutional Advancement; I've
25 been Admission Director since 2000, we have hit our

1 enrollment numbers every year except for I believe
2 2014 we were short by 30 students at the start of
3 school. But that's been the only year that we really
4 suffered a negative enrollment.

5 But by the end of that year we had amassed
6 15 to 20 additional students throughout the course of
7 that year, so just at the start of the year were we
8 low.

9 COMMISSIONER HIRANAGA: Students
10 transferring in mid term?

11 THE WITNESS: All the time.

12 COMMISSIONER HIRANAGA: Average class size
13 of 30-plus just seems like, for me anyway, just
14 looking in from the outside, financial sustainability
15 sometimes fairly precarious as long as you meet your
16 projections on enrollment.

17 THE WITNESS: Sometimes our projections are
18 more conservative from year to year based on
19 availability of rooms and so forth.

20 COMMISSIONER HIRANAGA: One more question.

21 How many private schools on Kaua'i?

22 THE WITNESS: We're the only independent
23 private school. There are Catholic parochial
24 schools.

25 COMMISSIONER HIRANAGA: How many of those?

1 THE WITNESS: St. Theresa and -- so there's
2 two others, and a smattering of other smaller
3 schools, Kaua'i Christian Academy in Kilauea, but
4 they're not independent or private.

5 COMMISSIONER HIRANAGA: Just using Maui as
6 an example, we have St. Anthony High School, which
7 has been there for an extremely long time. And then
8 Seabury Hall, which was created 50 years ago.
9 Seabury Hall continues to be prosperous and a vibrant
10 school, but St. Anthony, for reasons really unknown
11 to me, is now really suffering with enrollment where
12 they struggle to have 30 students per class.

13 So just kind of concerned about -- and I'm
14 sure you look forward into the future to maintain
15 financial sustainability, because I guess competition
16 or other opportunities too could present itself,
17 which might then challenge your enrollment
18 projection?

19 THE WITNESS: I personally welcome the
20 challenge and competition to be honest. I think
21 Island School is a type of institution that is one
22 that really sells itself. Parents appreciate the
23 flexibility and creativity of the curriculum.

24 As long as we continue to have the
25 wonderful personnel that we have at the school, doing

1 what they do daily with our students, I do think that
2 on Kaua'i, of all places, number one marketing tool
3 is word of mouth.

4 So I think that our relationships with our
5 parents and students speak to the effect of the job
6 that we're doing.

7 COMMISSIONER HIRANAGA: Thank you.

8 COMMISSIONER CABRAL: Being that I'm in
9 business, I would anticipate it's your plan that this
10 expansion and stability of getting to 500 or 50 per
11 class would help financially to provide more
12 stability.

13 THE WITNESS: Certainly. I do believe so,
14 yes.

15 COMMISSIONER CABRAL: Yes.

16 CHAIRPERSON ACZON: Anybody else? Just
17 following up on Commissioner Okuda's questions.

18 You mentioned that you have 100 percent
19 graduate go to college. What is your graduation?

20 THE WITNESS: You asked for graduation?

21 CHAIRPERSON ACZON: Graduation rate. Any
22 dropouts?

23 THE WITNESS: To say that we have never had
24 a dropout is not true. I'd say that on occasion we
25 have counseled to take a GED. On occasion, in fact

1 just last year, we had a student who just was no
2 longer enthusiastic about being at a school. They
3 wanted to move on. They wanted to be 21 and then
4 some. So we said, here's the door. Here's how you
5 do the GED. We put them in contact with that person,
6 and away they went. And I think they're doing very
7 well for them self, a different route.

8 CHAIRPERSON ACZON: Do you track those
9 students that go to college if they complete college,
10 or is after one year or two years?

11 THE WITNESS: We do. We have a strange
12 phenomenon that keeps occurring where graduates and
13 alumni keep returning back to our campus and saying,
14 "hi". It's highly unusual. You'd think that when
15 they leave through that door in the gym, that they're
16 never going to come back. But a percentage always do
17 and say, "hello".

18 It's the strength of those relationships
19 that allow us to keep tabs on what they're doing. To
20 the effect that we have a great deal of information
21 about all of our graduates, admittedly some don't want
22 to talk to us any more. To that effect, we don't
23 have complete accurate information.

24 But to our knowledge, majority of students
25 have gone on to complete four years, some five, six,

1 and are doing very well for themselves. But there
2 probably are a percentage that have chosen other
3 paths.

4 CHAIRPERSON ACZON: The reason I was asking
5 that, sometimes, I know some kids they all prepared
6 to go to college, and one year later it's not for me,
7 I want to go to work.

8 And going back to the dropout, does the
9 school have some kind of program that prepare those
10 students for a technical career or technical
11 programs?

12 THE WITNESS: It's a great question. It's
13 one that our staff and faculty wrestle with. Some
14 kids are cut out for Algebra 1, they love it. They
15 rock. Other kids are not, and they're much better
16 with their hands.

17 For us presently we do not have a vo-tech
18 line that would be indicative of curriculum that says
19 you're not going to college, here you go. Take these
20 classes.

21 Instead, what we do is we try to bolster up
22 their talents in areas where we can. As you allude
23 to some are not conventional in Math, English or
24 Sciences, but fantastic artist or beautiful dancers.
25 And we have classes to support that.

1 CHAIRPERSON ACZON: Anybody else?

2 COMMISSIONER CABRAL: During the break, in
3 light of full disclosure, I met David Pratt and found
4 out that his niece worked for me for about five or
5 six years in Hilo, and that a property that his
6 family has ownership interest on the Big Island has
7 previously been a sponsor of my Pana'ewa Stampede
8 Rodeo that I'm involved with. So we have financial
9 ties. I don't think I have any conflict of interest.

10 CHAIRPERSON ACZON: Any objections from the
11 parties?

12 MR. TABATA: No objection.

13 Our next witness is Earl Matsukawa.

14 CHAIRPERSON ACZON: By the way County, OP,
15 any questions for Mr. Magoun? No questions.

16 Do you swear that the testimony you're
17 about to give is the truth?

18 THE WITNESS: Yes, I do.

19 CHAIRPERSON ACZON: Please state your name
20 and address for the record and proceed.

21 THE WITNESS: My name is Earl Matsukawa,
22 602 Poipu Drive in Honolulu.

23 EARL MATSUKAWA

24 Was called as a witness by and on behalf of Island
25 School, was sworn to tell the truth, was examined and

1 testified as follows:

2 DIRECT EXAMINATION

3 BY MR. TABATA:

4 Q Where are you employed?

5 A Employed with Wilson Okamoto Corporation.

6 Q What is your position there?

7 A I am Vice President and Director of
8 Planning.

9 Q In preparation for today, did you prepare
10 written testimony?

11 A Yes, I have prepared, yes.

12 Q Does that written testimony include your
13 curriculum vitae?

14 A Yes.

15 Q How long have you been a planner?

16 A I've been a planner for 40 years.

17 Q Are you certified by the American Institute
18 of Certified Planners?

19 A Yes, since 1993.

20 Q When I review your curriculum vitae, it
21 shows that you have completed approximately 16
22 environmental assessments or environmental impact
23 statements; is that correct?

24 A That's probably in excess of that, at least
25 16.

1 Q And were all of these environmental
2 documents prepared pursuant to Chapter 343 of the
3 Hawaii Revised Statutes?

4 A Most of them were. I've also done federal
5 environmental assessments too, but most of 343.

6 MR. TABATA: Mr. Chair, we request that Mr.
7 Matsukawa be qualified as an expert in the fields of
8 planning, environmental impacts and land use.

9 CHAIRPERSON ACZON: Any objection?

10 MR. BRACKEN: No objection.

11 MS. APUNA: No objection.

12 CHAIRPERSON ACZON: Commissioners? Please
13 proceed.

14 Q (By Mr. Tabata): Are you familiar with the
15 Island School Updated Master Plan?

16 A Yes.

17 Q Do you have a poster board of the Master
18 Plan with you today? Could you hold it up for the
19 Commission?

20 A Sure.

21 Q Let me ask a preliminary question.

22 Did you prepare the Environmental
23 Assessment for the Island School Updated Master Plan?

24 A Yes, we did prepare the EA. We filed a
25 Draft EA, and it was refiled, a Final with the Kaua'i

1 Planning Department. And this was in conjunction
2 with General Plan Amendment to put the Island School
3 on the General Plan as Urban growth area.

4 Q Thank you.

5 And the Master Plan that Keola is holding
6 up for us, is that Figure 2-1 which is found on page
7 2-2 of the Environmental Assessment you mentioned?

8 A Yes, that is correct.

9 Q For the record, the Environmental
10 Assessment is Island School's Exhibit 6, Chair.

11 If you could, could you please explain the
12 various elements of the conceptual Master Plan that
13 Keola is holding for us?

14 A This is the -- about 34-and-a-half acre
15 site for the Island School. The blue items you see
16 in here are the existing buildings at the Island
17 School. Mentioned also that photovoltaic array is up
18 in this corner. The orange and light orange are the
19 additions that are planned for the school under the
20 Master Plan.

21 There are some classroom building here
22 (indicating), two stories, six classrooms, one
23 lecture room, small seminar room and faculty offices.
24 There's a science building planned right here, two
25 classrooms, three science rooms, one workshop, small

1 seminar room and formal gathering area.

2 There was mention in the testimony about
3 the robotics. This is the robotic shed, brand new
4 for that campus. That is a dining common and kitchen
5 right here, and there is a new campus center right
6 here. These include library, two computer rooms,
7 large lecture room, learning center, bookstore and
8 student center.

9 There is also renovations of these blue
10 buildings and some expansion. These are all
11 classrooms. This is the new visual art expansion
12 that was mentioned by one of the parents, and
13 includes the art room, kiln room and art storage.

14 This is new auditoriorum facility here.
15 And this is the arts education, including the band
16 room, drama classroom, dressing rooms, dance and
17 rehearsal space. And these are some of the athletic
18 PE facilities here in this area.

19 And then some of the fields, sporting
20 fields, includes baseball field, softball field,
21 soccer field, and then possible football field in the
22 future.

23 Q Thank you, Earl. Thank you, Keola.

24 Could you please summarize for us your
25 written testimony which is Island School Exhibit 13?

1 A Okay. So we did prepare a Final
2 Environmental Assessment pursuant to Chapter 343 and
3 the Hawaii Administrative Rules pursuant to the
4 Environmental Assessment. It included evaluations
5 with regard to climate, geology, hydrology, natural
6 resources, agricultural resources, air quality,
7 noise, historic and archaeologic resources as well as
8 cultural and visual resources.

9 The County of Kaua'i Planning Department
10 approved the Final Environmental Assessment and
11 issued a finding of no significant impact on
12 January 8, 2013. And that was published in the
13 February 8th Bulletin of the Environmental Notice in
14 2013. And then later that year we filed for a
15 General Plan Amendment, and received that by
16 unanimous approval by the County Council.

17 I then go onto discuss the criteria for
18 Urban designation. It shall include lands
19 characterized by city-like concentrations of people,
20 structures, streets, urban levels of services and
21 other-related land uses.

22 The character of the site is already very
23 much Urban with all of the classroom development.
24 It's also adjacent to the well developed Kaua'i
25 Community College, and further across Kaumuali'i

1 Highway. There is the Puhi area and it's also very
2 in close proximity to Lihu'e Urban Center.

3 Second criteria shall take into
4 consideration the following specific factors:

5 A. Proximity to the centers of trading and
6 employment except where the development would
7 generate new centers of trading and employment.

8 B. Availability of basic services such as
9 schools, parks, wastewater systems, solid waste
10 disposal, drainage, water, transportation systems,
11 public utilities, and police and fire protection;
12 and;

13 C. Sufficient reserve area for foreseeable
14 urban growth.

15 As I mentioned it is very much in close
16 proximity to Puhi and Lihu'e urban areas. Lihu'e is
17 the government center for Kaua'i, and is a major
18 trading and employment center. Also close to Lihu'e
19 Airport, Nawiliwili Harbor, Kalapaki commercial area,
20 Lihu'e Industrial Area and a number of schools and
21 other services.

22 The County Department of Parks and
23 Recreation operates 17 parks in the vicinity
24 including the Vidinha Memorial Stadium. There is a
25 number of other various state and county recreational

1 areas in the general vicinity.

2 The county police department headquarters
3 is nearby about 2.7 miles east, and the county's
4 Lihu'e Fire Station is approximately 2.1 miles to the
5 east on Rice Street.

6 The Kekaha Landfill where waste, solid
7 waste is disposed of about 1.3 miles northwest of the
8 town of Kekaha on the south side of the island.

9 Potable water supply is provided by the
10 county Department of Water. Actually irrigation
11 water for the Island School is drawn from the Grove
12 Farm irrigation system.

13 Wastewater service for Island School is
14 provided by the Grove Farm Company, and new drainage
15 improvements will be provided, more impervious
16 draining through the current existing pattern of
17 drainage.

18 Although the Island School itself is not
19 contiguous to an urban area, it is adjacent to the
20 Kaua'i Community College which we are petitioning for
21 Urban designation, so it will tie into a proposed
22 petition for boundary amendment.

23 It shall include lands with satisfactory
24 topography, drainage and reasonably free from the
25 danger of any flood, tsunami, unstable soil

1 conditions and other adverse environmental affects.

2 The existing topography is around three
3 percent, and ranges in elevation from 400 feet to
4 300 feet. The general direction of drainage is
5 towards the reservoir that's visible, adjacent to the
6 Kaua'i Community College.

7 And so any future drainage improvements
8 will serve the developed area will follow that
9 general pattern of drainage.

10 The site is, according to the FIRM, by
11 FEMA, the Petition area is in Zone X area determined
12 to be outside the .2 percent annual chance flood
13 plain. It's not within tsunami inundation area and
14 is about 2.7 miles inland.

15 Item four, land contiguous with other
16 existing urban areas shall be given more
17 consideration than non-contiguous land, and
18 particularly when indicated for future urban use on
19 state or county general plans.

20 Again, this site has been redesignated as
21 urban growth, which is the same designation for
22 Kaua'i Community College, and also it is not
23 currently adjacent to Urban District, should the
24 Kaua'i Community College be redesignated Urban, then
25 it would be.

1 It shall include lands in appropriate
2 locations for new urban concentrations. It shall
3 give consideration to areas of urban growth as shown
4 on state and county general plans.

5 Again, I mentioned the general plan and
6 general vicinity of the urban-type character that
7 project is located in.

8 I also -- this also pertains -- all the
9 items pertain to above number 6, may include lands
10 which do not conform to the standards in paragraphs
11 (1) to (5);.

12 (A) When surrounded by or adjacent to
13 existing urban development; and (B) Only when those
14 lands represent a minor portion of this district.

15 I think I answered that previously.

16 It shall not include lands, the
17 urbanization of which will contribute toward scatter
18 spot urban development, necessitating unreasonable
19 investment in public infrastructure or support
20 services.

21 And I answered that. It is adjacent to the
22 Kaua'i Community College, which is being petitioned
23 for urban designation.

24 It may include lands with a general slope
25 of 20 percent or more if the Commission finds that

1 those lands are desirable and suitable for urban
2 purposes and that the design and construction of
3 controls, as adopted by any federal, state or county
4 agency, are adequate to protect the public health,
5 welfare and safety, and public's interest in the
6 aesthetic quality of the landscape.

7 Again, I mentioned that it is three percent
8 slope. There is a good drainage pattern. Not very
9 steep lands.

10 That covers it.

11 Q Thank you.

12 Earl, are you familiar with the term
13 "Important Agricultural Lands" as it's used in
14 Chapter 205?

15 A Yes, I am.

16 Q Do you know where the Island School
17 Petition area has been designated as Important
18 Agricultural Lands?

19 A It has not been designated Important
20 Agricultural Lands.

21 Q Do you know whether Island School Petition
22 area would qualify for Important Agricultural Lands
23 designation?

24 A Yes. It's my understanding that such lands
25 are not designated if they have an urban growth

1 designation or urban State Land Use designation, and
2 the site does have -- currently have the urban growth
3 under Kaua'i General Plan.

4 Q So your understanding is that the property
5 would not qualify as Important Agricultural Lands?

6 A That is correct.

7 Q Thank you. Mr. Matsukawa is available for
8 cross.

9 CHAIRPERSON ACZON: Any questions for, Mr.
10 Matsukawa, Mr. Bracken?

11 MR. BRACKEN: No questions.

12 CHAIRPERSON ACZON: Ms. Apuna?

13 CROSS-EXAMINATION

14 BY MS. APUNA:

15 Q Thank you for your testimony.

16 Can you describe the quality of the ag land
17 in terms of ALISH and LSB rating.

18 A I'm not sure I completely recall. I do
19 that when it was in ag, it was prime agricultural
20 land. I don't recall the exact designation right
21 now, because it has been developed.

22 Q What if any impacts will the project have
23 on ag?

24 A There are some irrigation facilities that
25 are active irrigation facilities of Grove Farm that

1 traverse the property. And it is really built into
2 the master plan that those continue to operate.

3 Q And I believe in the Petition there is
4 mention of an agreement between Grove Farm for the
5 irrigation water.

6 Do you know the basic terms of that
7 agreement?

8 A I am not really familiar with the terms of
9 that agreement.

10 Q Thank you, no further questions.

11 CHAIRPERSON ACZON: Mr. Tabata, he's your
12 last witness or you have one more?

13 MR. TABATA: Three more.

14 CHAIRPERSON ACZON: Thinking about lunch,
15 that's all. Commissioners, any questions?

16 Vice Chair Scheuer.

17 VICE CHAIR SCHEUER: Good morning.

18 Following up on Ms. Apuna's questions regarding Grove
19 Farm's irrigation system, your written testimony
20 contends these are sufficient water because there's
21 approximately 1 million gallons a day flow in the
22 irrigation ditch, and if built out, there is going to
23 be 65,000-gallon per day demand at build-out of the
24 master plan; is that correct?

25 THE WITNESS: I believe so, yes.

1 VICE CHAIR SCHEUER: Do you know where the
2 water comes from that is being diverted into that
3 irrigation system?

4 THE WITNESS: I'm not really familiar with
5 how the sources contribute to that in detail to that
6 irrigation system.

7 VICE CHAIR SCHEUER: Do you know if the
8 system diverts the same amount of water independent
9 of how much demand is on the system?

10 THE WITNESS: You know, I don't know
11 exactly how that works in terms of the water
12 diversion.

13 VICE CHAIR SCHEUER: Is it diverted from a
14 surface stream, do you believe?

15 THE WITNESS: I believe so.

16 VICE CHAIR SCHEUER: Okay. But you know
17 nothing about what the sources of that stream, or
18 what the impacts, if any, are on that stream from
19 that diversion?

20 THE WITNESS: That issue was not raised as
21 a comment or concern through the environmental
22 assessment process, so we described the irrigation
23 system as it passes through the Island School campus.

24 VICE CHAIR SCHEUER: Do you know what
25 happens to the water that's in the ditch system if it

1 is not going to be used by Island School?

2 THE WITNESS: I believe it goes on through
3 that system for other agricultural purposes
4 downstream, but I'm not familiar with exactly which
5 areas are being irrigated with that water.

6 VICE CHAIR SCHEUER: Do you know if other
7 areas will not be irrigated if this use goes into
8 place for Island School?

9 THE WITNESS: No. My understanding there
10 is sufficient water to serve Island School as well as
11 other agricultural demands through the system.

12 VICE CHAIR SCHEUER: I guess I'm just
13 trying to understand. I realize it's a relatively a
14 small amount of water, but there is sufficient water
15 in the system for this new future use?

16 THE WITNESS: Yes.

17 VICE CHAIR SCHEUER: But it's not going to
18 reduce any other existing uses?

19 THE WITNESS: That's my understanding.

20 VICE CHAIR SCHEUER: So there's currently
21 water being diverted that is not being used?

22 THE WITNESS: I don't know. Maybe -- I
23 believe so. I was just looking at Mr. Pratt. He's
24 much more familiar with the irrigation system.

25 VICE CHAIR SCHEUER: Thank you.

1 COMMISSIONER CHANG: Good morning, thank
2 you.

3 You describe under the master plan some of
4 the potential athletic facilities including baseball,
5 soccer and possibly football. Will any of those have
6 nighttime lighting?

7 THE WITNESS: The plans are not
8 sufficiently developed, but definitely any kind of
9 lighting is a concern with regard to seabird
10 migration. So when those plans come in, I'm sure
11 there will be comments addressing that.

12 At this time I have not heard Island School
13 discuss any ideas for lighting. These are so far
14 down the line, that I don't think those details have
15 been developed, but I understand the concern.

16 COMMISSIONER CHANG: Maybe this is going to
17 be more the flora and fauna expert who will testify.
18 It does say that there may be an adverse effect.

19 THE WITNESS: If there is nighttime
20 lighting, there is a potential for adverse --

21 COMMISSIONER CHANG: So no objection about
22 that being a condition?

23 THE WITNESS: No, that is pretty standard I
24 think for Kaua'i.

25 COMMISSIONER CHANG: Thank you.

1 CHAIRPERSON ACZON: Thank you. We're going
2 to take a five-minute break.

3 (Recess taken.)

4 CHAIRPERSON ACZON: Back on the record.

5 Mr. Matsubara, I'll take one more witness
6 and then we will take a break for lunch.

7 MR. MATSUBARA: Thank you, Chair. My next
8 witness is Dr. Hal Hammatt.

9 CHAIRPERSON ACZON: Do you swear or affirm
10 that the testimony you're about to give is the truth?

11 THE WITNESS: Yes, I do.

12 CHAIRPERSON ACZON: Please state your name
13 and address for the record.

14 THE WITNESS: My name is Hallett Hammatt.
15 I live at 49 South Kalaheo Avenue on the Island of
16 Oahu.

17 CHAIRPERSON ACZON: Mr. Matsubara.

18 MR. MATSUBARA: Thank you.

19 HALLETT HAMMATT

20 Was called as a witness by and on behalf of Island
21 School, was sworn to tell the truth, was examined and
22 testified as follows:

23 DIRECT EXAMINATION

24 BY MR. MATSUBARA:

25 Q Dr. Hammatt, you have been qualified as an

1 expert and testified before the Land Use Commission
2 as an expert in archaeology and cultural assessment,
3 have you not?

4 A Yes, I have.

5 MR. MATSUBARA: I would like to request
6 that Dr. Hammatt be qualified as an expert witness in
7 archaeology and cultural assessment.

8 CHAIRPERSON ACZON: Please proceed. Any
9 objection?

10 MR. BRACKEN: No objection.

11 MS. APUNA: No.

12 MR. MATSUBARA: We have submitted written
13 testimony submitted by Dr. Hammatt as Island School
14 Exhibit 14. And we've also attached to the Petition
15 an Archaeological Inventory Survey which is marked as
16 Exhibit 7, and our Cultural Impact Analysis which is
17 identified as Exhibit 8.

18 To shorten this, let me ask, Dr. Hammatt,
19 basically to summarize the written testimony you
20 prepared that we submitted as Exhibit 14 for the
21 Commission, please?

22 A Yes, I will do that.

23 I would like to summarize the conclusion.
24 I have two reports we prepared on this Petition area.
25 One is an Archaeological Inventory Survey prepared in

1 2014. And in that survey we excavated 25 backhoe
2 trenches for subsurface testing in the project area.
3 Also identified two historic properties. One is
4 plantation infrastructure, includes four features,
5 that is Site 2179, which the first two features,
6 Feature A is the reservoir which was previously
7 discussed; and feature B is an auwai or ditch,
8 plantation ditch which runs along the southwestern
9 portion of the Petition area.

10 And the other two features, Features C and
11 D, are ditches which are on the eastern portion of
12 the project area which are no longer in use.

13 The second site is 2220 which is the
14 northwestern portion of the project area. That is a
15 very interesting transit station which dates back,
16 appears on the maps back in the territory days 1920.
17 It's still very intact.

18 It was platform for setting up a transit
19 which was one of the major focal points of the
20 survey, original survey, of this portion of Kaua'i.

21 As far as the impacts to the sites, the
22 plantation infrastructure, that first two features
23 will not be impacted.

24 The second two features may be impacted by
25 the development in the Petition area. And we have

1 recommended archaeological monitoring, and those are
2 the two ditch remnants on the eastern portion of the
3 project area.

4 The second report we prepared was Cultural
5 Impact Assessment.

6 Q Before you move on to Cultural Assessment,
7 your archaeological AIS was accepted by SHPD on
8 February 11, 2013?

9 A That is correct.

10 Q Thank you, please go on.

11 A The second report prepared was the Cultural
12 Impact Assessment. And this was prepared again in
13 2014. We contacted between 25 and 30 people,
14 including agencies such as Office of Hawaiian
15 Affairs, State Historic Preservation Division,
16 community groups. And we interviewed a number of
17 people.

18 Most of the work was -- most of the
19 interviews were focused on the former Puhi Camp,
20 which is not in the project area, but is adjacent to
21 it. And we interviewed a number of people. One that
22 comes to mind is Mabel Makanani (phonetic) and others
23 who lived in that camp told of the stories of life in
24 Puhi Camp during the plantation era.

25 And the conclusion of this report was that

1 there is no expectation of cultural impact to this
2 particular Petition area. And there's an appendix in
3 our AIS report written by David Pratt who reviewed
4 the maps. And his, as well as our conclusion, is
5 that this land was in sugarcane all the way back to
6 1900.

7 So we don't see any potential cultural
8 impacts or previous cultural activities in the area.

9 Q Dr. Hammatt, you're familiar with the
10 standards set forth in the Hawaii Supreme Court case
11 Ka Pa'akai versus Land Use Commission?

12 A That is correct.

13 Q The three elements that are involved in
14 terms of assessing the cultural assessment?

15 A Yes.

16 Q Were those three steps covered?

17 A Yes.

18 Q Could you briefly summarize those three and
19 what you did?

20 A Yes. Basically the three aspects of this
21 is -- first all number, one is to identify the
22 cultural, historical, and natural resources of the
23 project area. We certainly attempted to do that.

24 The second aspect is to -- second part of
25 that first part is to identify any traditional

1 cultural practices, customary practices that took
2 place in this area, and to evaluate the impact these
3 resources and these practices on the project area,
4 and give recommendations for mitigating those
5 impacts. And I believe we have done all three.

6 Our mitigation proposal is just very
7 simple. We don't really see any impacts of the
8 previous cultural activities, and we recommend only
9 -- our only basic recommendation is monitoring, if
10 any of the two sites previously mentioned are going
11 to be impacted.

12 Q Thank you.

13 Dr. Hammatt is available for
14 cross-examination.

15 CHAIRPERSON ACZON: Any questions?

16 MR. BRACKEN: No questions.

17 MS. APUNA: No questions.

18 CHAIRPERSON ACZON: Commissioners?

19 Commissioner Chang.

20 COMMISSIONER CHANG: Thank you so much for
21 your testimony. Just a couple of questions.

22 With respect to the Archaeological
23 Inventory Survey, was there your consultation with
24 the Kaua'i-Niihau Island Burial Council on that?

25 THE WITNESS: I don't recall any specific

1 consultation with them.

2 COMMISSIONER CHANG: On this property were
3 there any former Land Commission Awards?

4 THE WITNESS: Not that we could identify.

5 COMMISSIONER CHANG: During the -- and in
6 your Archaeologic Inventory Survey, did you find
7 any -- I notice you said three primary features, but
8 any evidence of subsurface habitation?

9 THE WITNESS: In our 25 backhoe trenches --
10 and I just reviewed these last night -- it's all red
11 dirt, typical of what you would expect in this area.
12 And you know as the practice of SHPD to ask us to
13 just to make sure to do subsurface excavation even in
14 canefields. And we have done that in past wrote
15 projects, and we did that in this project, but there
16 were no findings that we could say related to any
17 historic properties, a plow zone and that was it.

18 COMMISSIONER CHANG: With respect to the
19 Cultural Impact Assessment that was prepared, out of
20 the 20 to 30 people that were interviewed, did you
21 also contact like Aha Moku Council or
22 representatives?

23 THE WITNESS: I don't recall our contacting
24 -- I'm not aware that we contacted the Aha, but we
25 did contact OHA, and we did contact SHPD. And it's

1 our general practice also to make a presentation
2 before the KHPRC.

3 COMMISSIONER CHANG: Are you aware of any
4 trails that might have gone through this property?

5 THE WITNESS: No, we had no evidence of
6 trails.

7 COMMISSIONER CHANG: Was there any evidence
8 of any prior to the plantation? Lo'i that may have
9 been grown on the property?

10 THE WITNESS: We have evidence of lo'i more
11 makai in Nawiliwili Stream, but not specifically in
12 this area, that predate plantation.

13 COMMISSIONER CHANG: With respect to the
14 plantation, was there any testimony or information
15 regarding that the plantation, some of these
16 plantation camps may have been burials or cemeteries
17 around them?

18 THE WITNESS: There is a very well-known
19 cemetery associated with Puhi Camp to the west in the
20 grounds of Kaua'i Community College.

21 COMMISSIONER CHANG: And this property,
22 this proposed project area is a substantial distance
23 from the Puhi cemetery?

24 THE WITNESS: I wouldn't say "substantial"
25 but it is a distance. This cemetery, by the way, I

1 want to mention the name of William K. Kuchi
2 (phonetic), who did the very comprehensive inventory
3 of all the cemeteries on the Island of Kaua'i. Many
4 of you probably remember him.

5 He also did the very comprehensive report
6 on Puhi cemetery, which includes recording all of the
7 tombstones, names and doing research on each of the
8 families involved.

9 COMMISSIONER CHANG: He does very good
10 work. I know (indecipherable) -- has a very good
11 reputation, very good, extensive background work when
12 you do your reports.

13 Prior to the plantation, did you come
14 across any mo'olelo or stories about this area that
15 would have indicated that there were, for example,
16 maybe some cultural resources, plants that people
17 would gather, anything to that effect?

18 THE WITNESS: Well, the people we
19 interviewed talked about as children, children at
20 Puhi Camp, how they played in the canefields and how
21 there were some plants growing in and around the cane
22 that they used for various purposes. And, you know,
23 mostly games of children in the canefields, that was
24 the extent.

25 COMMISSIONER CHANG: Did anybody have --

1 according to Mr. Pratt, was the plantation here in
2 the 1900?

3 THE WITNESS: Yes.

4 COMMISSIONER CHANG: Anybody was aware of
5 who occupied the place prior to 1900?

6 THE WITNESS: I don't think we have very
7 much information on that. It's pretty much mauka.
8 You know the 'ahupua'a of Nawiliwili very well-known
9 for the fishpond, and also all the extensive lo'i
10 that go up the stream there, but not in this project
11 area.

12 COMMISSIONER CHANG: So when you did the Ka
13 Pa'akai analysis, you did not identify any cultural,
14 natural or historic resources in the area other than
15 the three sites?

16 THE WITNESS: That is correct.

17 COMMISSIONER CHANG: During your
18 interviews, you didn't -- none of those that you
19 interviewed, identified any traditional customary
20 practices that may continue to exist or that once
21 existed on that site?

22 THE WITNESS: Not as defined in the
23 regulation or as we would consider traditional
24 cultural practices today.

25 COMMISSIONER CHANG: And for purposes of

1 the mitigation for the Archaeological Inventory
2 Survey, you're recommending cultural monitoring of
3 any subsurface excavation, or whenever they're doing
4 subsurface work?

5 THE WITNESS: Yes. This would be
6 archaeological monitoring particularly if any impacts
7 anticipated on any of the sites. We believe the
8 reservoir, for example, will be preserved. But if
9 there are any impacts on any of the other sites, or
10 even those sites that we recommend at a minimum
11 archaeological monitoring. And that will be, of
12 course, in consultation with the State Historic
13 Preservation Division.

14 COMMISSIONER CHANG: During your
15 consultation, did you receive any comments from
16 Office of Hawaiian Affairs?

17 THE WITNESS: We always send them a letter.
18 I don't -- they used to be really, really good at
19 answering letters when Keola Lindsey was there, when
20 he was active. They've been a little bit remiss on
21 answering lately.

22 COMMISSIONER CHANG: But did you at least
23 reach out to them?

24 THE WITNESS: We always consult with OHA.

25 COMMISSIONER CHANG: Thank you very much,

1 appreciate.

2 CHAIRPERSON ACZON: Vice Chair Scheuer.

3 VICE CHAIR SCHEUER: I have some further
4 questions regarding the same topics that Commissioner
5 Chang was raising on Ka Pa'akai analysis.

6 Did you ask the landowner or the previous
7 landowner whether there have been any requests for
8 access across the property for cultural purposes?

9 THE WITNESS: Well, this I assume would be
10 Grove Farm. I don't recall asking David Pratt that
11 question directly.

12 VICE CHAIR SCHEUER: I ask only because
13 when we were last -- or one the last times we were on
14 Kaua'i only subsequent to us designating some
15 Important Agricultural Lands where the landowner
16 testified that there were no requests for traditional
17 customary access, I came across an intermediate court
18 of appeals judgement in favor of a Native Hawaiian
19 who was granted access across the property even
20 though he had been arrested for trespassing.

21 Also questions about Menehune Fishponds
22 that you mentioned. Does any of the water flowing
23 from this property flow downstream and eventually
24 into that river, that fishpond that is adjacent to
25 it?

1 THE WITNESS: I don't know, Jonathan.

2 VICE CHAIR SCHEUER: Did your analysis at
3 all look at any -- take into account the mitigation
4 measures against -- on flow onto the property and
5 possible affects on cultural practices makai?

6 THE WITNESS: No.

7 VICE CHAIR SCHEUER: That's it. Thank you,
8 Hal.

9 COMMISSIONER CHANG: Just one last.

10 During the Environmental Assessment
11 process, did you receive, or were you aware of any
12 comments that may have been -- may have come from
13 anybody in the Native Hawaiian community regarding
14 impacts of the property, the proposed activity?

15 THE WITNESS: No.

16 COMMISSIONER CHANG: Thank you very much.

17 CHAIRPERSON ACZON: Anybody else? Thank
18 you, Mr. Hammatt.

19 We will take a break for lunch and we will
20 come back 12:40.

21 (Noon recess taken.)

22 CHAIRPERSON ACZON: Back on the record.
23 Mr. Tabata, your next witness.

24 MR. TABATA: Next witness is Pete Pascua.

25 CHAIRPERSON ACZON: May I swear you in?

1 Do you affirm that the testimony that
2 you're about to give is the truth?

3 THE WITNESS: Yes, I do.

4 CHAIRPERSON ACZON: Please state your name
5 and address for the record.

6 THE WITNESS: My name is Pete Pascua. My
7 address is 1907 South Beretania Street, Suite 400,
8 Honolulu.

9 PETE PASCUA

10 Was called as a witness by and on behalf of Island
11 School, was sworn to tell the truth, was examined and
12 testified as follows:

13 DIRECT EXAMINATION

14 BY MR. TABATA:

15 Q Did you prepare direct testimony for today?

16 A Yes, I did.

17 Q Did that include your curriculum vitae?

18 A Yes, it did.

19 Q Let the record reflect Mr. Pascua's
20 testimony is Island School Exhibit 15.

21 In addition to your educational and
22 professional background, related to traffic
23 engineering, have you ever been qualified as a
24 traffic engineer expert before the State Land Use
25 Commission?

1 A Yes, I have, as well as the state and
2 federal courts.

3 Q Thank you.

4 Chair, the Petitioner request that Mr.
5 Pascua be qualified as an expert in the field of
6 traffic engineering.

7 MR. BRACKEN: No objection.

8 MS. APUNA: No objection.

9 CHAIRPERSON ACZON: No objection. Mr.
10 Pascua is accepted as an expert.

11 Q (By Mr. Tabata): Can you summarize your
12 testimony?

13 A Basically we did a traffic and impact
14 analysis report for the Island School Master Plan
15 project. Started off with the collection of data
16 along Kaumuali'i Highway at three intersections,
17 namely Puhi Road, Nani Street as well as Nahou
18 Street.

19 When we collected the data back in 2010, at
20 that time Kaumuali'i Highway was a two-lane roadway,
21 it now has since four lanes.

22 We developed traffic projections to project
23 the baseline data that we collected to year 2020,
24 which is at that time anticipated master plan
25 build-out.

1 On top of that we projected ambient growth
2 in the area, as well as projections, traffic
3 projections associated with enrollment increases up
4 to year 2020 as provided by Island School.

5 At the studied three intersections I
6 mentioned, we calculated the level of service to
7 identify the impacts associated with the proposed
8 master plan, and because of the widening as well as
9 other factors, the traffic impacts level of service
10 were all calculated up operating at sufficient or
11 acceptable level of service.

12 Without the widening, obviously it would
13 have been operating at poorer levels of service even
14 under existing conditions, but since then because of
15 the widening, it has shown -- the calculation has
16 shown operated sufficient or acceptable level of
17 service as described by the county as well as the
18 State DOT.

19 Nonetheless, we provided several
20 recommendations, namely associated with the master
21 plan on-site improvements, and these recommendations
22 include maintaining sufficient sight distance for
23 motorists to safely enter all project roadways and
24 driveways, as well as to minimize on-site loading and
25 offloading for service areas and prohibit off-site

1 loading operations to minimize any destruction of
2 traffic circulation and flow on the site.

3 Another recommendation is to maintain
4 adequate turn-a-rounds areas for service vehicles as
5 well as delivery and all refuse vehicles that may
6 enter the site.

7 Another recommendation was to minimize
8 sufficient -- maintain sufficient turning radius for
9 movement of vehicles through the area.

10 One last recommendation that may be of
11 interest, is that we recommended that the traffic
12 study be updated if the master plan is not -- or if
13 the master plan is not implemented prior to our
14 anticipated year 2020 build out.

15 MR. TABATA: Mr. Pascua is available for
16 cross.

17 CHAIRPERSON ACZON: Any questions?

18 MR. BRACKEN: No questions.

19 MS. APUNA: No questions.

20 CHAIRPERSON ACZON: Commissioners?

21 Commissioner Wong.

22 COMMISSIONER WONG: So reading your, the
23 traffic -- the TIAR, I see that you looked into the
24 expansion 2020 master plan with the increase of
25 students to 500, and also you had a portion in there

1 that had about the KCC, Community College; is that
2 correct?

3 THE WITNESS: That's correct.

4 COMMISSIONER WONG: And the volume looked
5 like it was really high for that area on the highway.

6 Did you also take into account if there is
7 an accident, what would happen somewhere down the
8 line?

9 THE WITNESS: No, the traffic impact report
10 is based on typical traffic operations during peak
11 periods in the morning and the afternoon. It does
12 not look at isolated incidents or cases associated
13 with emergency vehicles passing by or crashes that
14 may occur on the roadway.

15 VICE CHAIR WONG: I'm a dad, so I'm always
16 worried about kids running across the streets or
17 something. And I know that Mr. Pratt said most of
18 the children will be picked up, but there are a few
19 that are walking.

20 Just as a parent, I'm just worried that the
21 intersection at -- has stoplights, but enough time to
22 cross, college kids coming out say the same road, and
23 some of them are very impatient at times. I know
24 it's just a rhetorical question, but I wanted to put
25 it on the record, I'm very concerned especially how

1 close they are KCC and Island School.

2 THE WITNESS: And I can appreciate that.
3 I'm a dad as well. And, you know, signal timing,
4 signal timing set for pedestrians are based on the
5 type of users of that -- of that facility or that
6 intersection.

7 Say that signalized, and if you had an
8 elderly home, say, nearby, then signal or pets
9 crossings would be based on crossing times associated
10 with the elderly; or if you had a preschool nearby,
11 you know, like you were saying signal times are
12 usually set based on kids crossing as well.

13 So I would suspect that the DOT has timed
14 the signals appropriately. To be honest, I did not
15 check it after the completion of the widening.

16 VICE CHAIR WONG: One other thing I was
17 thinking about. I know they're looking at expansion
18 of the sports facilities. Was that taken into
19 account in the TIR?

20 THE WITNESS: Yes. The TIR looks at it
21 from a worst-case scenario. Assuming individuals
22 will be driving, or be driven to school as opposed to
23 other transportation management demand measures that
24 maybe taken, buses, for example, may be one. Or
25 provisions for bike rack to encourage the use of

1 bikes.

2 So we look at it from worse-case scenario
3 from vehicular standpoint.

4 In answer to your question, yes, in terms
5 of any kind of activity that would be associated with
6 sports facilities, say, we look at cumulative affect
7 associated with, as compared to peak hour demand,
8 commuter demand superimpose traffic associated with
9 the project and compare that to an event say.

10 Lot of times the events are isolated from
11 the start of a project, in terms of traffic
12 operations anyway. The start of an event is where
13 you have high concentrations, and at the end.

14 So you have a disproportional movement of
15 traffic entering as well as exiting. So we looked --
16 in answer to your question, again, yes. We did look
17 at that, but seems like from a cumulative standpoint,
18 the peak hour period was the worst-case scenario
19 because you have multiple movements occurring in
20 multiple directions.

21 VICE CHAIR WONG: Thank you.

22 VICE CHAIR SCHEUER: Aloha, can you briefly
23 address and expand on how this relates to the
24 adjacent property, Kaua'i Community College
25 build-out? In particular, how your TIAR was done in

1 conjunction with any TIAR, or took into account
2 findings from any TIAR for Kaua'i Community College?

3 THE WITNESS: In addition to
4 project-related traffic that was calculated
5 associated with Island School, that traffic was added
6 to the baseline as well as the Kaua'i Community
7 College traffic associated with their master plan up
8 to the year 2020.

9 Now, traffic generation is based on not
10 necessarily buildings or classrooms that's built on
11 the site, but more so the enrollment or anticipated
12 enrollment associated with these educational
13 facilities.

14 So we looked at up to 2020, although Kaua'i
15 Community College Master Plan may exceed that, which
16 means their enrollment may exceed beyond 2020,
17 enrollment is just a projection at 2020. When we
18 looked at it -- which may or may not come to fruition
19 at that time -- but it's the best information we have
20 at that time to project what anticipated traffic
21 would be.

22 We receive information from Kaua'i
23 Community College on what their historical enrollment
24 is. To project it, we extrapolated a straight line
25 curve -- actually it's a power curve if you

1 understand statistics -- it's a power curve to get to
2 the projected of 2020.

3 It's not to say that whatever roadway
4 facilities are there now is sufficient to handle that
5 or not. It's just that that projection that we had
6 determined along with Island School project traffic
7 projection, the roadways fronting the area of
8 Kaumuali'i Highway would be sufficient to handle that
9 calculation, our projected calculation.

10 VICE CHAIR SCHEUER: I generally understood
11 your response except for that last sentence.

12 You said it does not take into account any
13 improvements that are needed but Kaumuali'i Highway
14 was sufficient to handle the traffic.

15 Perhaps I misunderstood you, so if you
16 could clarify.

17 THE WITNESS: With the projections that was
18 calculated, associated with enrollment growth for
19 KCC, combined with the enrollment projection
20 associated with Island School, the highway fronting
21 the project site Kaumuali'i Highway would be
22 sufficient to handle that additional projection up to
23 year 2020.

24 VICE CHAIR SCHEUER: What was the part of
25 your sentence where you said it didn't take into

1 account needed improvements.

2 THE WITNESS: I'm not sure, and I
3 apologize.

4 VICE CHAIR SCHEUER: That's fine. You
5 don't have anything to say about additional
6 improvements that are needed to maintain traffic
7 levels in association with this?

8 THE WITNESS: That's correct.

9 VICE CHAIR SCHEUER: Thank you.

10 CHAIRPERSON ACZON: Commissioner Chang.

11 COMMISSIONER CHANG: Thank you, Mr. Pascua.
12 I wanted to know whether -- when you did your
13 study -- because you clearly you said everything is
14 based upon 2020.

15 THE WITNESS: Yes.

16 COMMISSIONER CHANG: When you did your
17 study -- what year did you do your study?

18 THE WITNESS: 2010.

19 COMMISSIONER CHANG: So now we are in year
20 2017 and 2020 is three years from now. Were you
21 asked do an update?

22 THE WITNESS: No, I wasn't asked to do an
23 update.

24 COMMISSIONER CHANG: You did make a
25 recommendation that if it goes beyond 2020, that

1 there be an update to the traffic study.

2 THE WITNESS: It's a recommendation.

3 COMMISSIONER CHANG: Do we know whether
4 Island School is going to follow that recommendation,
5 counsel?

6 MR. TABATA: Our understanding Island
7 School will follow the recommendations that are made.

8 COMMISSIONER CHANG: That's just three
9 years from now. At the time this was done in 2010,
10 were the projections based upon the build-out of the
11 master plan of the projection of 500? You said
12 worst-case scenario. Did that also include the
13 projections of the KCC?

14 THE WITNESS: That is correct.

15 COMMISSIONER CHANG: So what I'm hearing,
16 at least from the Petitioner, is that they will
17 comply with that recommendation?

18 MR. TABATA: That is correct.

19 THE WITNESS: Keep in mind that the traffic
20 projections are based on enrollment. The only reason
21 why I mentioned having to do an update if the project
22 exceeds year 2020 is because of the potential ambient
23 growth associated with the traffic volumes on the
24 highway.

25 COMMISSIONER CHANG: Bear with my naivety

1 on this. When you did it in 2010, it was based on
2 the existing conditions at that time?

3 THE WITNESS: That is correct.

4 COMMISSIONER CHANG: So whatever
5 development. In the year 2020, I suspect that that
6 area may be increased in residential housing, the
7 development in that area is going to increase. So
8 I'm trying to understand, a practical matter, what
9 happens in 2020 when we do an update? How does that
10 impact the conditions of this approval or of the
11 county condition?

12 I mean, is that something that the county
13 is going to looking into? Because it does appear to
14 me that at the time that this study was done in 2010,
15 there were certain existing conditions in the area.

16 In 2020 if they do an update, they are now
17 going to have to take into consideration the enhanced
18 development of this area. So how is that going to
19 impact, if LUC approves the boundary amendment? I'm
20 assuming this goes to the county.

21 So does the county, before they approve any
22 development, require them to do an updated traffic
23 plan?

24 THE WITNESS: When we -- let me give little
25 bit of background on the methodology for how the

1 traffic study was developed.

2 When we collected data in 2010, that served
3 as baseline volume at 2010. We project that 2010
4 numbers to year 2020, using historical data, which is
5 really taken into account potential development that
6 would occur up to 2020. The exact number is five
7 percent that we use based on historical data.

8 So the 2010 numbers that were collected
9 were projected to 2020 based on the five percent
10 increase, that on top of that traffic generated by
11 Island School as a result of enrollment increases
12 were added to that baseline projected number.

13 So it takes into account five percent
14 growth from 2010 to 2020 based on historical data.
15 Historical traffic data, not necessarily historical
16 land use data.

17 COMMISSIONER CHANG: Again, I'm just
18 thinking about Land Use Commission as we look at
19 appropriate conditions to place on this approval,
20 because 2020 is quickly approaching, and the fact
21 that -- I don't know if five percent is reflective of
22 what's going on in this community at this point in
23 time. There seems to be a tremendous amount of
24 growth.

25 So I am anticipating that if it does appear

1 that the county will look at that in their approvals,
2 but that may also be a condition that LUC places on
3 any kind of approval to ensure that that is
4 memorialized and considered, but I appreciate the
5 candor and your testimony.

6 THE WITNESS: Thank you.

7 May I just make one more comment.

8 You know, with the widening, obviously
9 those that drive along the highway recognize the
10 increased capacity associated with the roadway. That
11 roadway operates -- today operates at 70 percent
12 capacity during the peak periods. And the five
13 percent increase that I had incorporated in the study
14 back in 2010 further looks at it from a conservative
15 standpoint, recognizing that the 70 percent can
16 probably handle a 30 percent increase in growth in
17 the area.

18 So I feel very comfortable that, you know,
19 even if the five percent growth wasn't sufficient,
20 that even a 30 percent growth would be accommodated
21 within the reserve capacity associated with the
22 highway.

23 You know, and I can appreciate the growth
24 that is occurring, and you may be correct,
25 Commissioner, that the five percent may be not high

1 enough, but recognizing -- doing the study in year
2 2010, we were using data that was available at that
3 time.

4 But, again, based on the current review and
5 analysis of the highway today, or other studies that
6 I've done, I recognize that there's about a
7 30 percent additional capacity associated with that
8 roadway to handle vehicular traffic.

9 That's, again, looking at it from
10 worst-case scenario where all the traffic from, not
11 only Island School, as well as KCC, based on
12 projected enrollment, will be using vehicles to come
13 and go from the schools.

14 That's not incorporating reductions
15 associated with enhanced bus pass -- bus passes, or
16 like I had mentioned earlier, you know, encouragement
17 of bike facilities, or even pedestrian movements,
18 encouraging that kind of mode of travel.

19 So I guess what I'm trying to say is that
20 the study that we took is really from a conservative
21 standpoint and trying to look at the absolute
22 worst-case scenario that we can from the typical
23 daily operation during the peak periods.

24 And not to discount the cases where there
25 may be emergencies or incidents on the roadway, but

1 from a daily normal traffic operation condition.

2 COMMISSIONER CHANG: Thank you. I
3 appreciate that. I think one of the previous
4 testifiers said pay up front end or pay on the back
5 end. This is sort of one of, you know, sort of we
6 have an opportunity to look up-front, and I think
7 those kinds of mitigations that you're talking about,
8 I'm certain that will all be taken into consideration
9 when they do their update. Thank you.

10 CHAIRPERSON ACZON: Vice Chair Scheuer.

11 VICE CHAIR SCHEUER: Just to follow up on
12 Commissioner Chang's excellent questions.

13 So your recommendation number five in your
14 TIAR, is that if the implementation of Island School
15 Master Plan is not prepared by the year 2020, prepare
16 an updated TIAR that incorporates revised project
17 completion year.

18 And I guess my question is: So what? You
19 provide an updated report, but is the implication or
20 your suggestion that -- and then the Petitioner
21 should follow any -- to implement any recommended
22 changes that might arise from an updated TIAR?

23 THE WITNESS: Yes, that's correct.

24 VICE CHAIR SCHEUER: Okay. I'm trying to
25 understand. The Petitioner -- you know, the

1 Petitioner -- the standard condition of the Land Use
2 Commission is that the Petitioner will abide by their
3 representations. So I'm trying to get what is the
4 representation here other than say, theoretically,
5 doing a report that says, well, things are worse than
6 we thought.

7 THE WITNESS: Right. Then you would have
8 additional mitigation associated with that, assuming
9 it would trigger any kind of improvement.

10 What I was alluding to earlier in response
11 to Commissioner Chang's questions was that based on
12 other studies I'm doing here, regardless of whether
13 we do a report or not, I'm very certain that there
14 are no additional mitigation measures that would be
15 implemented if the project is implemented even maybe
16 ten years beyond the 2020.

17 VICE CHAIR SCHEUER: Thank you very much.

18 CHAIRPERSON ACZON: Commissioner Cabral.

19 COMMISSIONER CABRAL: I just want to check
20 my memory.

21 Did you say that the main highway fronting
22 that -- when you did the study -- was one lane in
23 each direction, and now that's been expanded to two
24 lanes in each direction?

25 THE WITNESS: That is correct.

1 COMMISSIONER CABRAL: So that's why you're
2 making the statement, because it's already been
3 enlarged by the county or the state, so now it is
4 only at 70 percent of its capacity, so there would be
5 a 30 percent potential for the entire area to have 30
6 percent more traffic on that main highway?

7 THE WITNESS: That's correct.

8 COMMISSIONER CABRAL: Okay, thank you.

9 CHAIRPERSON ACZON: Thank you, Mr. Pascua.
10 Mr. Tabata.

11 MR. TABATA: Our last witness is Reginald
12 David.

13 CHAIRPERSON ACZON: Do you swear or affirm
14 that the testimony that you're about to give is the
15 truth?

16 THE WITNESS: Yes, I do, sir.

17 CHAIRPERSON ACZON: Please state your name
18 and address for the record.

19 THE WITNESS: Reginald David, P.O. Box
20 1371, Kailua-Kona.

21 CHAIRPERSON ACZON: Please proceed.

22 REGINALD DAVID

23 Was called as a witness by and on behalf of Island
24 School, was sworn to tell the truth, was examined and
25 testified as follows:

DIRECT EXAMINATION

BY MR. TABATA:

Q In preparation for our hearing today, did you prepare written testimony which is Island School Exhibit No. 16?

A Yes, I did.

Q Included with that was your curriculum vitae?

A Yes, it was.

Q And have you previously been qualified as an expert in the field of biology before the State Land Use Commission?

A Yes, I have.

MR. TABATA: Mr. Chair, we request Mr. David be qualified as expert in the field of biology, and avian and mammalian surveys.

CHAIRPERSON ACZON: Any objection?

MR. BRACKEN: No objection.

MS. APUNA: No objection.

CHAIRPERSON ACZON: There being no objections, Mr. David is accepted as expert in the field of biology and on mammalian and avian surveys.

Q (By Mr. Tabata): Could you please summarize for us your written testimony?

A Certainly.

1 We conducted a standard bird survey on the
2 property, which basically consisted of four 8-minute
3 point counts for birds pass /TER, small birds. And
4 because the reservoir is also on the property, we did
5 two, 30 minute time-dependent waterbird counts close
6 to the reservoir, because, of course, the reservoir
7 is the attractive nuisance bringing waterbirds onto
8 the property.

9 On the point counts we recorded at 221
10 individual birds of 22 species representing 16
11 separate families. Three of these species nene,
12 common gallinule, and Hawaiian Coot are listed as
13 endangered under both federal and State of Hawaii
14 endangered species statutes. And two additional
15 species, Pacific golden plover and Black-crown night
16 heron or 'auku'u were also recorded. Both of those
17 are indigenous.

18 The plover is a migratory shorebird species
19 and the 'auku'u is a resident water obligate species.

20 The other 17 avian species recorded on the
21 site are all alien species that are established in
22 the Hawaiian islands, and have been established over
23 the last probably 100 years.

24 I also conducted a mammalian survey of the
25 project. Basically what we do with that is that the

1 entire time biologists are on the property, we record
2 every single animal we hear or see or signs of those
3 animals and basically put together a list of what we
4 see, and identify what parts of the property these
5 individual animals are using.

6 As this is a very active school and highly
7 developed, we didn't see very many mammals. We had
8 one dead cat, no comment. We also had a dog and pig
9 signs, tracks, rooting and the like in many places on
10 the property. That's the avian and mammalian portion
11 of it.

12 Q Thank you. Mr. David is available for
13 cross.

14 CHAIRPERSON ACZON: Any questions?

15 MR. BRACKEN: No questions.

16 CROSS-EXAMINATION

17 BY MS. APUNA:

18 Q My son is an (indecipherable) birdnerd and
19 he said that (indecipherable) the 'Alea 'Ula, the
20 Hawaiian moorhen, that you found, said is on the
21 endangered is species.

22 A There's two pieces of information in that.
23 The bird that your son is correctly identifying is
24 the common moorhen or Hawaiian moorhen. Taxonomist
25 change the names officially on a regular basis. And

1 five years ago the name of the Hawaiian common
2 moorhen was changed back to common gallinule. This
3 is fourth time in the 40 years I've been doing this
4 work that birds name has been changed and they
5 obviously don't consult the bird.

6 The other species, mainland species, the
7 Hawaiian common moorhen is endemic to Hawaii not
8 found anywhere else. The mainland common gallinule
9 is not found in Hawaiian islands.

10 MS. APUNA: Thank you.

11 CHAIRPERSON ACZON: Commissioners?

12 Commissioner Chang.

13 COMMISSIONER CHANG: As you can see, I tend
14 to ask a lot of questions. Thank you, Mr. Reggie
15 David.

16 There is a conclusion from the studies that
17 the development may have an adverse impact on
18 threatened endangered or candidate species for flora
19 and fauna, and the recommendation -- is there a
20 specific recommendation that you would make? I know
21 we talked about -- asked the question about
22 shielding, if there is lighting for the sports
23 facilities. What would be the appropriate -- because
24 the OP counsel also made a comment about an
25 educational opportunity for students if they see one.

1 What's the appropriate response? What is an
2 appropriate recommendation or condition when you have
3 potential adverse affect?

4 THE WITNESS: In my technical report, or
5 our technical report we did make a series of
6 recommendations. I believe almost all, if not all
7 have been included in the OP's suggested approval
8 requirements.

9 Essentially anyplace on the island in the
10 lows of Kaua'i that you do any activities, you always
11 stand the chance of having deleterious impact on the
12 five endangered waterbird species which are very
13 common on this island, they're everywhere. If you go
14 to Burger King, you'll see nene in the parking lot.

15 So it's not anything particular being
16 proposed on this property, it's just the reality that
17 these are birds, though extremely rare elsewhere, are
18 relatively common and widely distributed on the
19 lowland of this island.

20 The activities that might be involved in
21 this development that specifically could harm these
22 birds one, obviously is lighting issues. We have the
23 same problem on our property that every other
24 property on this island has which is save our
25 shearwater and shearwater's fallout. I'm the person

1 that runs that program. We have a set of guidelines
2 that when we work with development where we shield
3 all of the lighting, down pointed, 100 percent
4 covered.

5 We're now looking at directing people
6 towards low voltage, LEDs. There are quite a few
7 properties on Kaua'i that have already gone that
8 route. Former Kaua'i Lagoons, Hokuala is a good
9 example of the kind of light that can be used in
10 urban settings that reduce potential impact to
11 seabirds.

12 We have also recommended in here that
13 because Hawaiian hoary bats are endangered and
14 endemic species and very, very common in the lowlands
15 of Kaua'i, that during the pupping season, that when
16 the female bats have pups that woody vegetation of 15
17 feet tall not be removed.

18 As to the nene and the other waterbirds,
19 essentially what most of the construction projects on
20 Kaua'i are doing nowadays, is that in the
21 construction, a special provisions in the
22 contractor -- what do you call those -- contracts --
23 that essentially that they have to have someone
24 prepare an appropriate endangered species awareness
25 program. And that all of their employees that work

1 on the property and all their managers and
2 supervisors be required to go through this training
3 so that they're aware of what the animals are; where
4 they most likely might be on the specific job site.

5 And then what they are not to do. And if
6 something untowards does happen, exactly what they're
7 supposed to do.

8 And we have many of those programs in
9 operation on Kaua'i right now, and remarkably on
10 Kaua'i I suspect that probably 90 percent of the
11 construction work force has been through one or more
12 of those.

13 I can think of five or six guys that I know
14 I've given training to, probably nine or ten
15 different jobs. So it's kind of a standard thing
16 now, and lot of the construction guys are really,
17 really good about on Kaua'i.

18 COMMISSIONER CHANG: Beyond the
19 construction, we've got an opportunity here. You've
20 got a great educational institution. Magoun talked
21 about their curriculum.

22 But if there is a way to integrate that
23 also into their curriculum, this awareness to be able
24 to have those species on their property, so beyond
25 just the construction workers, but really -- and I am

1 not going to micro manage how the school's curriculum
2 is, but there does appear to be a really good
3 opportunity beyond just construction when you've got
4 this great generation of students coming up to be
5 able to pass that onto them.

6 THE WITNESS: Well, Commissioner Chang, I
7 can't agree with you more. I'm a birdnerd. In other
8 words, teaching the kids is how the parents find out,
9 and the school is already doing remarkable Hawaiian
10 studies. Wonderful Hawaiian plants on the property.
11 To weave some of this into their curriculum would be
12 extremely easy, and definitely a value added rather
13 than perceived negative.

14 COMMISSIONER CHANG: And I think, Mr.
15 Tabata, your client would be comfortable with that?

16 MR. TABATA: Yes.

17 COMMISSIONER CHANG: Thank you.

18 CHAIRPERSON ACZON: Any other questions?
19 Thank you.

20 COMMISSIONER CABRAL: I do have to
21 question. It may be a compliment in order here. No
22 rodents, no rats, no mice, no chickens? I manage a
23 lot of properties, and I have very few that don't
24 have all the Fire Ants. I've got koki and everything
25 else. You didn't see any signs of rodents?

1 THE WITNESS: In my botanical report we did
2 say that some or more of the four established rodents
3 that are currently established on the Island of
4 Kaua'i.

5 COMMISSIONER CABRAL: Thanks. I did read
6 your report.

7 THE WITNESS: Yeah, doing rat and rodent
8 studies is very time consuming and it doesn't really
9 tell you anything. And chickens, unfortunately, at
10 least in my world, they're actually considered birds.
11 We just view them as part of the scenery.

12 THE WITNESS: There are several right
13 outside the window.

14 THE WITNESS: We had them this morning
15 where the Planning Director had to go out and have a
16 discussion with them.

17 COMMISSIONER CABRAL: Thank you.

18 CHAIRPERSON ACZON: Thank you, Mr. David.

19 MR. TABATA: Mr. Chair, we have one more
20 witness identified on our witness list, Eric
21 Guinther, our botanist. Unfortunately he's on Maui
22 right now under subpoena in another proceeding. His
23 portion of the report, which Mr. David co-authored
24 found that there were no endangered or threatened
25 botanical species on the property.

1 Mr. David did co-author our biological
2 report, I'm not -- if any Commissioners have any
3 questions regarding the flora on the property,
4 plants, Mr. David may be able to address those
5 questions.

6 CHAIRPERSON ACZON: Commissioners, any
7 questions? Any parties?

8 MR. BRACKEN: No questions.

9 MS. APUNA: No questions.

10 MR. TABATA: With that Mr. Chair,
11 Petitioner rests.

12 CHAIRPERSON ACZON: Thank you.
13 Commissioners, any question for Mr. Tabata or Mr.
14 Matsubara? Vice Chair Scheuer.

15 VICE CHAIR SCHEUER: Procedurally the small
16 concerns which may not end up being concerns at all
17 that came up about traffic impact analysis, would
18 this be the time to ask for clarification of the
19 landowner's willingness to abide by recommendations?

20 CHAIRPERSON ACZON: Yes.

21 VICE CHAIR SCHEUER: I can fully restate my
22 question if you'd like.

23 MR. MATSUBARA: Well, the question relates
24 to what if conditions warrant an updated TIAR is
25 done, what happens in that situation?

1 We would cooperate and do whatever was
2 required in regard to requests by Department of
3 Transportation or the County of Kaua'i in regard to
4 traffic increases.

5 And I imagine they would take that
6 information and do what is appropriate in regard
7 to -- before any permits are issued or anything like
8 that. But it is the client's intent to comply with
9 all rules, regulations and requirements that would
10 apply to the project and follow through on it.

11 VICE CHAIR SCHEUER: I guess the specific
12 issue that I believe arises is that the TIAR
13 recommendation 5 is that a new one be done in case
14 the development time exceeds the 2020 period, which
15 it certainly will.

16 MR. MATSUBARA: Which we said we would do.

17 VICE CHAIR SCHEUER: So if there is
18 recommendations, how would they be implemented and
19 does the --

20 COMMISSIONER CHANG: I guess I wanted to
21 posed that question actually to the county, because
22 assuming that LUC makes a determination, the county
23 is going to have to review all of the different
24 permits that come before them. So if the
25 condition -- I thought I would ask the county.

1 MR. MATSUBARA: Thank you.

2 CHAIRPERSON ACZON: Anybody else? Thank
3 you. Let's move on to the county, Mr. Bracken,
4 please proceed with presentation of your case.

5 MR. BRACKEN: So the Planning Department of
6 County of Kaua'i supports the reclassification
7 petition area. You will hear the County General Plan
8 designation for the petition area was amended from
9 Agricultural to Urban center 2013.

10 Part of the education section of the
11 General Plan also strongly encourages educational
12 system supports that.

13 According to Lihu'e Community Plan Petition
14 area lies within the Urban edge boundary. Under this
15 community plan it encourages a compact college town
16 setting as well as encourages this, the land use
17 district boundary amendment.

18 And so the county intends to just call one
19 witness. I'll call Lea Kai'aokamaile as the witness
20 and Planning Director is also here which might
21 address the traffic question.

22 CHAIRPERSON ACZON: I want to swear you in.

23 Do you affirm that the testimony that
24 you're about to give is the truth?

25 THE WITNESS: I do.

1 CHAIRPERSON ACZON: State your name and
2 address.

3 THE WITNESS: Leanora Kai'aokamaile. I
4 live at 4584 Aukuu in Kekaha.

5 LEANORA KAI'AOKAMAILE
6 Was called as a witness by and on behalf of the
7 County of Kaua'i Planning Department, was sworn to
8 tell the truth, was examined and testified as
9 follows:

10 DIRECT EXAMINATION

11 BY MR. BRACKEN:

12 Q What is your educational background?

13 A I received a Master's degree in Urban and
14 Regional Planning in 2000. At the same time I was
15 working at the State Office of Planning from about
16 1998 in their Coastal Zone Management Program and as
17 a GIS analyst, which is Geographic Information
18 Systems.

19 I went onto -- I was lucky enough to work
20 for County of Maui. I did everything from being a
21 plan tech to a zoning inspector, CZM planner and GIS
22 analyst. And I was involved in special projects
23 there.

24 I came home to Kaua'i to be the Open Space
25 Planner, and then worked on my own as a planning

1 consultant for a year before coming back to the
2 county again, and being the GIS analyst for the
3 county.

4 When a job opened up at the Planning
5 Department in the long-range division, I came back to
6 the Planning Department, and I've been here for about
7 nine or ten years as a long-range planner and GIS
8 analyst.

9 Q So as a long-range planner, did you work on
10 the Lihu'e Community Plan?

11 A Yes. I was the staff planner on this
12 project.

13 Q What is that plan?

14 A Well, on Kaua'i 6th are six districts,
15 Lihu'e being one of them. The community plans are --
16 they used to be called development plans, and
17 historically we had six of them on the island.

18 The Lihu'e Community Plan, as you
19 mentioned, was just adopted in 2015. And what it
20 does is updates the goals and objectives for the
21 Lihu'e District. It also provides direction as far
22 as land use, public facilities, and where growth
23 should be directed.

24 Q Does that plan directly address the
25 Petition parcel?

1 A Yes, it does.

2 Q In what way?

3 A Well, Island School is in Puhi, and
4 specifically the plan called -- well, Puhi, the plan
5 calls for Puhi to be intensified as far as mixed use
6 and residential and commercial zoning. And as far as
7 the community's, I guess, desire and wishes for Puhi
8 is to see it become identified as a college town.
9 And the plan supports amenities, housing,
10 walkability, connectivity, multimoto-type of
11 infrastructure to support this kind of character.

12 Plan also specifically recommended that
13 Island School and KCC seek out land use boundary
14 amendments to urban district that would further
15 facilitate the master plans and also help the
16 campuses to expand.

17 Q I'm going to direct your attention to
18 County of Kaua'i Exhibit 1. Can you tell me what
19 that is?

20 A This map shows the urban edge boundary that
21 is part of the Lihu'e Community Plan. I want to be
22 clear that this is not the land use map for Lihu'e
23 but basically provides the visual policy for where
24 urban should be contained.

25 It is a way to focus urban development and

1 growth within the boundary and keep the agricultural
2 lands from being, for lack of a better word, sprawled
3 upon. The Island School property is within the urban
4 edge boundary.

5 Q Can you tell us what the County General
6 Plan is?

7 A Well, the General Plan is a policy document
8 for the County of Kaua'i. It provides again like the
9 community plans, but islandwide level goals, vision
10 goals, and objectives for usually a 20-year horizon.
11 The General Plan -- let me go back and make sure.

12 So I just wanted to again reiterate that
13 Island School received their General Plan designation
14 an amendment from ag to urban in 2013. I was staff
15 planner for the project at that time. And this is --
16 the General Plan Amendment came as recommendation
17 from the Planning Commission in 2010, that if they
18 are to move forward, and wanted to further facilitate
19 the development of their schools master plan, that it
20 would be that that would make sense for them to
21 basically seek a boundary amendment versus going to
22 the special planning and variance process to do this.

23 Q Is the Petition parcel designated as
24 Important Agricultural Lands?

25 A No, it is not.

1 Q What is the likelihood of designation as
2 Important Agricultural Lands?

3 A Well, there is an agricultural lands
4 designation that was done in Lihu'e District by --
5 Petitioner was Grove Farm. It is not likely.
6 Actually when the Planning Department pursued the
7 Kaua'i Important Agricultural Land study that was
8 between 2009 and 2012, Island School had not yet
9 received its General Plan Boundary Amendment.

10 And so a small portion of that property was
11 scored as having characteristics basically that fit
12 the criteria of -- it was at the point Act 183 or HRS
13 20 5, part 3 IAL.

14 The likelihood at this point -- it's not
15 very likely because it did -- the parcel did receive
16 its General Plan Boundary Amendment. The county
17 would not look to pursue IAL designation because of
18 the size of it, and also it continues to function as
19 a school at this point.

20 Q I'm going to direct your attention to
21 County of Kaua'i Exhibit No. 2, and more specifically
22 the image on that page. What does that image
23 represent?

24 A The map shows -- in the hatched areas are
25 the lands that were already designated by this body

1 as Important Agricultural Lands. The area -- the
2 area in green are those lands that scored as far as
3 how well they meet the criteria of IAL. A score of
4 28 and above, according to the analysis that was
5 provided during the study process, would mean those
6 lands that potentially met all the criteria of IAL at
7 some point.

8 So it's not those lands that were
9 designated. It's just those lands that if the county
10 were to consider lands to put forward for designation
11 that may become likely candidates, but these are not
12 parcel specific. This is just a raw score of the
13 happened based on the criteria as set forth in the
14 legislation.

15 Q What is the Special Management Area?

16 A Special Management Area are those lands
17 from the shoreline moving inward. The Kaua'i County
18 Special Management Area map for -- I think they were
19 filed with the Planning Commission around 1977. And
20 our Planning Department basically regulates
21 development and activities in this area through
22 permitting processing.

23 Q Does the Petition parcel fall within that
24 SMA, Special Management Area?

25 A No.

1 MR. BRACKEN: Chair, I have no further
2 questions.

3 CHAIRPERSON ACZON: Any question for Lea?

4 MR. TABATA: No questions.

5 MS. APUNA: No questions.

6 COMMISSIONER ESTES: I'm just curious since
7 you live in Kekaha, do you ever have any trouble
8 getting through that intersection of Puhi Road and
9 the highway when you go home after work?

10 THE WITNESS: Definitely it seems the whole
11 island is done at 4:30 in the afternoon. So there is
12 traffic. And when there are emergencies on the road,
13 there is definitely a backup in traffic.

14 But from Lihu'e to Kekaha takes me about 40
15 to 45 minutes, that's standard usually, traffic or
16 not. Usually everybody is on the road at the same
17 time usually.

18 CHAIRPERSON ACZON: Commissioner Chang.

19 COMMISSIONER CHANG: Lea, I just want to
20 followup with the line of questioning that we had
21 with Mr. Pascua about the traffic study. The
22 projections were for 2020.

23 Assuming if LUC approves this, any kind of
24 permit that they require will go through DPP. For
25 purpose of enforcing that condition, if that's a

1 condition they have agreed that they would do one in,
2 if they don't implement their master plan by 2020 --
3 we are 2017 now.

4 So as a practical matter, how does the
5 county enforce or apply that condition for future
6 uses of Island School?

7 THE WITNESS: If it is okay with the
8 Commission, I would like to ask the director if he
9 would like to answer that question.

10 COMMISSIONER CHANG: Of course.

11 CHAIRPERSON ACZON: Do you swear or affirm
12 that the testimony that you're about to give is the
13 truth?

14 THE WITNESS: I do.

15 CHAIRPERSON ACZON: Please state your name
16 and address for the record.

17 THE WITNESS: Michael Dahilig, 444 Rice
18 Street, Suite A 473, Lihu'e.

19 MICHAEL DAHILIG

20 Was called as a witness by and on behalf of the
21 County of Kaua'i Planning Commission, was sworn to
22 tell the truth, was examined and testified as
23 follows:

24 DIRECT EXAMINATION

25 THE WITNESS: In response to your question,

1 Commissioner Chang, whatever conditions would be set
2 forth in the LUC approvals would naturally flow into
3 whatever zoning amendment, and consequently zoning
4 permit conditions, and county would follow through
5 with enforcement.

6 So if it is the will of the body here to
7 include a condition that requires TIAR be conducted
8 in 2020 as a consequence of zoning amendment, we
9 would be charged and follow through with that and
10 incorporate those conditions and enforce as such.

11 Our intention was once -- and if this body
12 were to approve urban designation, going to be moving
13 forward with something similar that Kaua'i has done
14 with respect to college campuses by adopting the
15 university, look at Island School being included as
16 part of that action. So if they were to seek a
17 change under our county zoning laws to move to this
18 zone versus their current ag and open areas that they
19 do have, we would peg that as part of a condition
20 that went before the County Council and incorporate
21 that into law.

22 COMMISSIONER CHANG: And assuming they
23 don't seek that designation, if they come in for
24 building permit, if there is any other trigger.
25 Would that likewise -- also the county would then

1 look at LUC condition and apply that to any of the
2 approvals?

3 THE WITNESS: So, this condition if it was
4 included as part of the LUC conditions, would be the
5 base for us. So everything would have to align with
6 whatever conditions this body would put forth.

7 However, I would also state that beyond,
8 let's say, a requirement to put in a condition for
9 TIR regardless of the development in 2020, we would
10 be -- probably would be required, if they were to
11 come through for a zoning permit for let's say
12 additional classroom buildings or dormitories, et
13 cetera, on the campus, that we would require them to
14 consult with the Department of Transportation as well
15 as county Public Works Department, upon which time
16 they typically do require updated or brand new TIAR
17 based on the development.

18 COMMISSIONER CHANG: That's what I meant.
19 And I know that they will look at the impact of their
20 project on traffic. But, you know, I'm assuming at
21 the time of 2020 there will be a lot of other
22 activity, so the county will take into consideration
23 all of those other activities in conjunction with
24 their particular application.

25 THE WITNESS: I would also say that

1 probably not unusual. It's not unusual for us to
2 have interim TIARs be conducted notwithstanding the
3 development in some of our permit approvals. So this
4 is pretty common place for us from an implemental
5 standpoint, departmental standpoint if that was the
6 case that the Commission was looking at including a
7 condition requiring TIAR in year 2020, that it may be
8 efficient to align with whatever comes on the next
9 docket concerning the college. Because it probably
10 wouldn't make sense to have conflicting TIAR's.

11 COMMISSIONER CHANG: Thank you very much.

12 CHAIRPERSON ACZON: Vice Chair Scheuer.

13 VICE CHAIR SCHEUER: Just to clarify where
14 I think we are is that, generally if the Land Use
15 Commission approves the redistricting, there is a
16 standard condition that the landowner will comply
17 with all the representations made. There's already
18 this representation in the TIAR that a new one should
19 be done, trying to figure out what is most useful for
20 the county and everybody involved.

21 What kind of language could be included to
22 clarify? I don't know if you have any thoughts or
23 suggestions.

24 THE WITNESS: I would say the clearer the
25 will of the body is in writing, the better it is to

1 align with our conditions of approval.

2 VICE CHAIR SCHEUER: Very briefly,
3 unrelated to the traffic issue. This docket proposes
4 excluding from redistricting the area of the
5 reservoir, I believe, if I understand the maps
6 correctly.

7 MR. TABATA: The reservoir is not within
8 our Petition area.

9 VICE CHAIR SCHEUER: Okay, great. And it's
10 also not within the Petition area of the subsequent
11 docket, I believe.

12 MR. TABATA: No, it's not.

13 VICE CHAIR SCHEUER: So it's a planning
14 question for either the planners. Does having these
15 non-urban sort of islands within the Urban District
16 create any planning issues for the Kaua'i Planning
17 Department? Because this will also occur with I
18 believe the cemetery is excluded in the next docket.

19 THE WITNESS: I would say that if we were
20 operating under the regime of 20 years ago, where we
21 didn't have the opportunity or access to geographic
22 information systems, probably stuff like that, we
23 would want to lump in because it makes it easier.

24 But Lea, who heads up our GIS program in
25 our office, things even on minute scale like that

1 really we can accommodate for and accurately identify
2 as either being within or outside of the boundaries
3 set forth by the LUC.

4 And just from a utility standpoint, again,
5 I would highly doubt that someone, or like the school
6 would want to drain the reservoir to put on a farm
7 dwelling unit. Those are the types of things that I
8 think we would not have any objection to in terms of
9 it remaining in the Agricultural District.

10 CHAIRPERSON ACZON: Commissioner Cabral.

11 COMMISSIONER CABRAL: I finally got a big
12 enough map that I can see what's going on.

13 So when it comes to the transportation or
14 roadway, you're talking how the school goes onto a
15 loop road, correct, is that what you're talking
16 about? Then from there it goes out onto the
17 highway, because --

18 THE WITNESS: Yes.

19 COMMISSIONER CABRAL: You don't have any
20 main highway coming on adjacent to the school
21 property; is that correct?

22 THE WITNESS: No.

23 COMMISSIONER CABRAL: Good, I'm on the
24 right path.

25 And then, I remember hearing earlier, the

1 school and community college put in -- I'm assuming
2 it's Loop Road as a shared roadway, and so they
3 actually have, both the school and the school, then
4 have two entrances and exits onto the main highway
5 through Loop Road. Just trying to make sure I've got
6 the right map.

7 And yet Loop Road is really appears to be
8 100 percent on the university -- the college
9 property; is that correct.

10 THE WITNESS: That's my understanding.

11 COMMISSIONER CABRAL: I just want that for
12 when it come up for future discussion. Thank you
13 very much.

14 CHAIRPERSON ACZON: Anybody else?

15 Commissioner Hiranaga.

16 COMMISSIONER HIRANAGA: A question, Mr.
17 Dahilig.

18 This discussion regarding the 2020 TIR
19 update. And I believe the expert witness assumed a
20 five percent increase in traffic annually, but the
21 Kaua'i population growth is averaging approximately
22 one to three percent annually.

23 THE WITNESS: A little over one percent a
24 year.

25 COMMISSIONER HIRANAGA: So my question is,

1 would it be more practical to not require a TIR
2 update on 2020 versus when the Petitioner comes in
3 for some type of improvements that will trigger the
4 TIR update, so that it's more timely? Because we
5 don't really know the implementation schedule for
6 this master plan. It could -- maybe the first
7 significant structure isn't built for another eight
8 years, and now you've got a TIR that's six years
9 outdated.

10 Just question from the county's
11 perspective, is it more practical or useful to have a
12 TIR update closer to the time of implementation?

13 THE WITNESS: I guess it's difficult for me
14 to second guess the expert opinion of an engineer
15 with respect to when a document is essentially stale.

16 Like some evidence that I've heard has come
17 out on the floor concerning the study being done when
18 there was two lanes of traffic, now there's four
19 lanes of traffic. Certainly those are items that
20 come into play.

21 So I would hesitate to again second guess
22 the recommendation of the traffic engineer. I will
23 always say though, as a planner, any time we have
24 access to up-to-date information and material to make
25 better assessments, we always welcome that.

1 I think really the question to the body
2 would be whether or not that is something that would
3 provide information to all decision-makers, including
4 Department of Transportation or not, in case there
5 may be, not necessarily concerns, but for instance a
6 reliance on the current TIR that was conducted at
7 that traffic light in that area versus something that
8 could provide better information.

9 So I wouldn't make a statement either way
10 and second guess the question, the recommendation of
11 the traffic engineer.

12 COMMISSIONER HIRANAGA: Just for clarity.
13 There are triggers within the county's jurisdiction
14 to require an updated TIR, be it building permit,
15 application, but there are triggers?

16 THE WITNESS: There are triggers that will
17 require at first referral to State Department of
18 Transportation, as well as the local Department of
19 Public Works.

20 And typically what those agencies do when
21 we get requests back, first thing is what does your
22 traffic study look like. If they are coming through
23 for, let's say, a new science building in the year
24 2020, I would almost be certain either one of those
25 agencies, upon a 363 review or higher class permits

1 would request some further information.

2 COMMISSIONER HIRANAGA: Or a science
3 building in 2020?

4 THE WITNESS: Same situation.

5 CHAIRPERSON ACZON: Anybody else, any
6 question for Dahilig?

7 MR. TABATA: No questions.

8 MS. APUNA: No questions.

9 MR. BRACKEN: The county has no further
10 witnesses and will rest.

11 CHAIRPERSON ACZON: Commissioners, any
12 further questions for Mr. Bracken?

13 Thank you, let's take a five-minute break.

14 (Recess taken.)

15 CHAIRPERSON ACZON: Back on the record.

16 Ms. Apuna, please proceed with your
17 presentation.

18 MS. APUNA: Thank you. Like to call Rodney
19 Funakoshi to the stand and here he is.

20 CHAIRPERSON ACZON: Do you swear or affirm
21 that the testimony you're about to give is the truth?

22 THE WITNESS: Yeah.

23 CHAIRPERSON ACZON: Thank you. Please
24 state your name and address for the record and
25 proceed.

1 THE WITNESS: Rodney Funakoshi, 235 South
2 Beretania Street, Honolulu, Hawaii.

3 RODNEY FUNAKOSHI

4 Was called as a witness by and on behalf of the State
5 Office of Planning, was sworn to tell the truth, was
6 examined and testified as follows:

7 DIRECT EXAMINATION

8 BY MS. APUNA:

9 Q Mr. Funakoshi, can you please state your
10 title and position at Office of Planning and your
11 planning background?

12 A I'm a planning program administrator with
13 Office of Planning Land Use Division, and I've been
14 at Office of Planning for the past five years.

15 Q And are you familiar with the Petition?

16 A Yeah.

17 Q What standards does Office of Planning
18 specifically by apply in evaluating a District
19 Boundary Amendment Petition?

20 A Basically OP reviews petitions under
21 Section 205-17 HRS and Chapter 15-15 Hawaii
22 Administrative Rules.

23 Q Under Section 205-17 HRS, did OP
24 specifically consider the extent to which the
25 proposed reclassification conforms to the policies

1 and priority guidelines as Hawaii State Plan, county
2 plans, and applicable district standards?

3 A Yes.

4 Q Can you please summarize OP's assessment to
5 the Petition's conformity to the Hawaii State Plan,
6 county plan and district standards?

7 A With appropriate mitigation proposed
8 reclassification is generally consistent with the
9 goals, objectives and policies of the Hawaii State
10 Plan, in particular the proposed of Economic
11 Opportunity and Sustainability Guidelines.

12 It is not consistent with the goals and
13 objectives seeking to protect productive agricultural
14 lands and promote diversified agriculture. However,
15 the property is largely developed and is within the
16 county's urban edged boundaries in Lihu'e Community
17 Plan and designated urban center in the current
18 General Plan.

19 Petition also meets the State Urban
20 District boundaries in that the project area is
21 adjacent to existing urban development, and basic
22 services are adequate.

23 Finally, relative to coastal zone
24 management, with appropriate mitigation with
25 appropriate mitigation with respect to stormwater

1 management, protection of endangered, threatened and
2 candidate wildlife, archaeological, historic and
3 cultural resources, the proposed project generally
4 conforms to the state Coastal Zone Management
5 objectives and policies.

6 Q Under Section 205-17 HRS, what issues of
7 concerns to the state are notable in the petition by
8 OP in terms of impacts and potential mitigation?

9 A Relative to water resources/drainage and
10 stormwater management, OP recommends mitigation
11 measures with the following conditions:

12 Essentially to maintain existing drainage
13 pattern and implement best management practices,
14 incorporate low impact development practices, for
15 reuse into the area site design and landscaping to
16 control water quality and mitigate nonpoint sources
17 of pollution.

18 Relative to flora and fauna there are
19 several endangered bird species transiting the site,
20 and various wetland birds that frequent the waterbird
21 area.

22 The Hawaii pueo and nene forage in the
23 area. The Hawaiian hoary bat was not observed, but
24 may be present. So in terms of mitigation, OP
25 recommends that conditions be imposed to mitigate

1 development impacts on these endangered wildlife.

2 And these would be in the form of
3 endangered species awareness program, nene nesting
4 during nene nesting season, having a biologist survey
5 and monitor on-site, exterior light shielding for any
6 nighttime work construction, and for long-term
7 operation of the proposed facility.

8 Prohibition on dense vegetation clearing
9 between June and September for hoary bats.

10 Relative to cultural and historic
11 resources, state Historic Preservation Division
12 points to two historic sites, including reservoir and
13 three earthen irrigation ditches.

14 The Archaeological Inventory Survey was
15 approved by the division in March 2014. Part of
16 mitigation and recommendation of the State Historic
17 Preservation Division, Petitioner shall prepare and
18 implement an archaeological monitoring plan subject
19 to approval by Historic Preservation Division and
20 report of activities, monitoring activities shall be
21 submitted upon the completion of field work. And
22 we're also including standard condition, cease
23 work --

24 COMMISSIONER CABRAL: Can you go to the
25 microphone? I can barely make out what you're

1 saying.

2 THE WITNESS: Also relative to incidental
3 fines that the Petitioner saw cease work in immediate
4 vicinity and consult with State Historic Preservation
5 Division and the Island Burial Council should any
6 burials be discovered.

7 Relative to transportation, based upon
8 consultation with State Department of Transportation,
9 airport impacts were identified and re required
10 mitigation, although located about three miles from
11 Lihu'e Airport and not be tracks for the airport,
12 there are potential impacts to wildlife and from the
13 PV facility. So as part of mitigation, we're
14 recommending that Petitioner conduct a glint and
15 glare analysis for the PV facility subject to
16 submittal and approval to the State Department of
17 Transportation.

18 And, finally, relative to the hazardous
19 substances, Petition area is former sugarcane lands
20 with potential for occurrence of release of
21 petroleum, hazardous substances, pollutants or
22 contaminants, and the mitigation recommended by
23 Department of Health is to conduct a statewide
24 environmental site assessment prior to the start of
25 construction.

1 Q So based on OP's review and evaluation,
2 what is OP's recommendation for the Petition?

3 A Office of Planning recommends approval of
4 Island School's Petition to reclassify land from
5 Agricultural District to Urban District, subject to
6 conditions as provided in our OP testimony.

7 Q And then as a followup to some of the
8 questions that the Commissioners had on the updating
9 of the TIR, are you familiar with -- actually this is
10 Exhibit 4, Office of Planning's Exhibit 4 of the KCC
11 Petition.

12 It's a letter from the Department of
13 Transportation regarding the Petition for KCC, and
14 could you perhaps discuss what the Department of
15 Transportation has recommended in terms of an updated
16 TIR and its relationship to the Island School?

17 VICE CHAIR SCHEUER: Should we introduce
18 that into evidence if it's being referred to?

19 MS. APUNA: This is Office of Planning
20 Exhibit 4 to KCC's Petition.

21 CHAIRPERSON ACZON: Let's take a two-minute
22 break.

23 CHAIRPERSON ACZON: Back on the record.

24 Ms. Apuna, you want to introduce that as an
25 exhibit?

1 MS. APUNA: Yes, Office of Planning would
2 like to introduce into the record our Exhibit 4 to
3 the KCC's Petition Docket No. 801 -- A16-801. And
4 it's a letter from the Department of Transportation
5 to Office of Planning dated March 3rd, 2017, that
6 mentions a proposed, or a recommendation that KCC do
7 an updated TIR.

8 So I would like to have Mr. Funakoshi talk
9 about the contents with regard to the TIR.

10 CHAIRPERSON ACZON: Any objection from the
11 parties?

12 MR. MATSUBARA: No objections.

13 MR. BRACKEN: No objections.

14 CHAIRPERSON ACZON: So it's going to be
15 Exhibit 9, so you have 1 to 8.

16 MS. APUNA: Exhibit 9, thank you.

17 CHAIRPERSON ACZON: Commissioners, any
18 objection?

19 COMMISSIONER HIRANAGA: Question, Mr.
20 Chair. Is that exhibit in the other docket?

21 MS. APUNA: Yes.

22 COMMISSIONER HIRANAGA: Okay, thank you.

23 CHAIRPERSON ACZON: Commissioners, any
24 objection? Hearing none, Exhibit 9 is admitted into
25 the record.

1 THE WITNESS: Department of Transportation
2 did not have a traffic-related recommendation for the
3 Island School project. However, there is reference
4 to Island School in their other response to comment
5 on the Kaua'i Community College Petition.

6 And I'll read it so everyone knows what it
7 is. It's a letter to our Director, March 3rd, 2017
8 from the State of Hawaii Department of
9 Transportation, and relative to traffic impacts,
10 their Highway Division, and I'll just read it into
11 the record.

12 2. We request KCC work with DOT to
13 satisfactorily address the traffic impacts of the KCC
14 expansion on the state's highway facilities in an
15 update to the 2010 traffic impact report that was
16 prepared for the KCC 2012 Final Environmental
17 Assessment.

18 The third item says that the TIR should
19 include KCC expansion plans, satisfactorily to
20 address our concerns in prior letters. And I would
21 go onto read some of the details.

22 But C, one of the things that is required
23 to be considered, the following projects in the area,
24 is the proposed construction and expansion of Island
25 School facilities located at TMK (4)3-8-002:016.

1 And so I raise that just in the context of
2 numerous questions that have been raised relative to
3 the TIR for the Island School. And so it does make
4 sense to do coordinated traffic study that combines
5 the impacts from both facilities, and they're
6 basically on the same side of the road.

7 But then the other consideration too is
8 that the Island School is really adding only a very
9 nominal amount of traffic given their expansion as
10 compared to KCC.

11 So based on, say 500 student projection,
12 they're only adding 100 more students.

13 Q (By Ms. Apuna): Is it conditioned,
14 proposed, incorporated as a proposed condition by the
15 Office of Planning?

16 A Yes.

17 Q In the KCC Petition?

18 A Yes.

19 Q No further questions.

20 CHAIRPERSON ACZON: Mr. Matsubara, any
21 questions for Mr. Funakoshi?

22 MR. MATSUBARA: No, thank you very much for
23 that insight and providing a logical basis that TIR
24 can utilize at the appropriate time. I think that's
25 a very useful condition. Thank you.

1 CHAIRPERSON ACZON: Mr. Bracken?

2 MR. BRACKEN: No questions.

3 CHAIRPERSON ACZON: Commissioners?

4 COMMISSIONER CHANG: One follow-up
5 question. I just want to confirm, OP has no
6 objection to the Petitioner's expert witness'
7 recommendation by Mr. Pascua, the representation
8 about the TI -- if they don't implement by 2020, that
9 they do an update.

10 You have no objection to that
11 recommendation, do you?

12 THE WITNESS: Typically updates are
13 triggered by the reviewing traffic agencies, say DOT
14 or say county Public Works or transportation agency
15 or planning departments, but no objection.

16 COMMISSIONER CHANG: Because you would see
17 this as being consistent with what DOT is also
18 asking?

19 THE WITNESS: DOT did not require -- did
20 not request a condition for traffic impact update.
21 DOT for the Island School Petition did not request
22 TIAR update.

23 COMMISSIONER CHANG: Other than to say that
24 it should take into consideration the impacts of the
25 Island School expansion with the KCC project?

1 THE WITNESS: The KCC -- as part of the
2 KCC's TIAR update, that they should consider the
3 Island School's expansion.

4 COMMISSIONER CHANG: You raise a good
5 point, there should be a coordinated effort, or it
6 should be coordinated with KCC and Island School?

7 THE WITNESS: Yes.

8 CHAIRPERSON ACZON: Okay. The Chair calls
9 for two-minute break.

10 (Recess taken.)

11 CHAIRPERSON ACZON: We're back on the
12 record. The Chair apologizes for the confusion.
13 Commissioner Cabral, I believe you have questions.

14 COMMISSIONER CABRAL: What I think I'm
15 hearing, is when this traffic study was done in 2010,
16 as I recall, there was the recommendation that if
17 nothing is done, it should be updated again in 2020,
18 which is only a few days away.

19 And I get the impression though that that
20 recommendation would be, you've done nothing, do
21 another study before you doing anything.

22 But what I think I'm hearing, and I'm not
23 quite sure, might be partly from the state, buy I
24 think from the county, once these folks, both the
25 Island School as well as the college, start to go in

1 for building improvements to get their building to
2 happen, once that action is generated, then the
3 requirement can come from the county to require the
4 new study. Is that correct?

5 MR. BRACKEN: That's correct.

6 COMMISSIONER CABRAL: As opposed to the
7 recommendation of Mr. Pascua, what the study was, if
8 you do nothing, come back for the study. Of course
9 that was seven years ago. So the question is whether
10 inaction requires action, or if action requires the
11 study?

12 I just want to make sure that you guys will
13 have to have some kind of clarification on it both
14 with potentially the Island School and/or the college
15 expansion. Is that clear?

16 MR. BRACKEN: That's correct.

17 COMMISSIONER CHANG: It's my understanding
18 that it would be helpful for the county if the LUC
19 made a condition, so that whether that happens or
20 not, because it does sound like you may end up doing
21 that anyway, but having the LUC condition specific
22 with the recommendation if the LUC condition that an
23 update be done, that the county as they review
24 permits that come before them, you'll be able to,
25 one, you're enforcing the LUC condition, as well as

1 independently you may have required it anyway, but
2 the LUC has put a condition on the petition.

3 Is that correct? Or is that not correct?

4 MS. KAI'AOKAMAILE: Needing clarification.
5 Usually these things are triggered. The next step
6 would be the zoning amendment, and it would -- we
7 would want to have this as requirement in particular
8 when KCC comes for that zoning amendment.

9 COMMISSIONER CHANG: But my question, in
10 the absence of having a LUC condition, are you going
11 to require them to do an update anyway?

12 MR. DAHILIG: It's hard for me to
13 anticipate what the legislative branch would want to
14 impose as conditions at the stage where the zoning
15 amendment is before them.

16 I can say in my professional opinion, in
17 creating conditions in the absence of a LUC condition
18 mandating something we thought in the year 2020, I
19 probably would not make the same recommendation. So
20 again, I believe it's up to this body how they wish
21 to handle this particular issue.

22 If there was an absence of such condition,
23 I would not recommend to my legislative body or my
24 commissioners that we would necessarily create a
25 study in the year 2020, knowing that if there is any

1 construction on either campus, it would probably
2 necessitate some type of further study. And my
3 suspicion is, given our senator and his current
4 position in the legislature, there will probably be
5 CIP projects coming towards that campus in the near
6 future.

7 So I would suspect, as part of a 343
8 document, that you would probably be already --
9 because expenditure of those funds are required for a
10 343 document, it would probably be advantageous for
11 university to conduct that study at that time when
12 that money is produced.

13 COMMISSIONER CHANG: Diplomatically said.

14 CHAIRPERSON ACZON: Any questions for Mr.
15 Funakoshi?

16 COMMISSIONER OKUDA: I'm looking at the
17 OP's recommendations. I think that was at pages 11
18 and 12 of your memorandum, and that list of
19 recommendations as to Island School does not include
20 a recommendation or request that an updated traffic
21 study be performed, correct?

22 THE WITNESS: Yeah.

23 COMMISSIONER OKUDA: I'm correct, no
24 recommendation for update of the traffic study as
25 condition, correct?

1 THE WITNESS: There is none in the Island
2 School's recommendation.

3 COMMISSIONER OKUDA: What were you
4 discussing, or that letter you were referring to was
5 a recommendation that I guess we will discuss when we
6 deal with the University of Hawai'i, Kaua'i Community
7 College's Petition, correct?

8 THE WITNESS: Yes.

9 COMMISSIONER OKUDA: And the reason why you
10 have a recommendation in KCC's case to have an
11 updated study, but don't have a recommendation with
12 the Island School's present Petition, what is the
13 basis for the difference?

14 THE WITNESS: The difference is that the
15 Department of Transportation did not recommend any
16 condition for such a TIR update for the Island School
17 Petition.

18 COMMISSIONER OKUDA: And you gave some
19 testimony about the common sense reason, yes, there
20 would be a difference that the impact a KCC project
21 would -- may or may likely be greater than what a
22 smaller educational institution like Island School
23 would have impacts, correct?

24 THE WITNESS: Right, that's an assumption.

25 COMMISSIONER OKUDA: It's a reasonable

1 conclusion or inference from the evidence, would you
2 say, right?

3 THE WITNESS: Yes.

4 COMMISSIONER OKUDA: Big institution
5 affects more than smaller?

6 THE WITNESS: Based on my experience, it's
7 a nominal increase in school population at Island
8 School being projected.

9 COMMISSIONER OKUDA: If a body like Land
10 Use Commission or any other type of commission were
11 to place conditions, we should be putting conditions
12 to address concerns that more likely will happen,
13 than something that might not happen, correct?

14 THE WITNESS: Yes.

15 COMMISSIONER OKUDA: Thank you. No further
16 questions.

17 CHAIRPERSON ACZON: Vice chair Scheuer.

18 VICE CHAIR SCHEUER: To further add to this
19 enlightening discussion. This is how I personally
20 understand where we're at.

21 The Petitioner in this case submitted a
22 TIAR. Recommendation 5 in that TIAR said -- which
23 was written in 2010 -- said if the project is not
24 completed in the proposed ten-year time frame, an
25 updated TIAR should be done. So this is the

1 Petitioner's own words.

2 We typically, as a body, adopt a blanket
3 condition that says we're going to require the
4 Petitioner to abide by all representations. One of
5 the representations is at this point they're going to
6 do a new traffic study in the next three years, which
7 I think there is general common sense saying that
8 might not actually be the best use of traffic study
9 right now. So unless we add some language that
10 reflects a couple of common or seemingly common sense
11 things, one is there is a proportionality between the
12 impact of Island School and impact of upcoming
13 docket. So we address that, and also address the
14 timing issue that TIR should be done when it's
15 actually useful.

16 We have to add some kind of condition to
17 the language, otherwise the default will be that
18 we're saying you're going to abide by your conditions
19 or your representations, and you're representing that
20 you're going to do a TIR in the next three years.

21 That's where I think we are at, and where
22 the parties could propose some kind of language that
23 we are not are requiring people do a TIR when it's
24 not required, but when it's useful and cost
25 proportionally some relationship to your -- the

1 contract is coordinated with other parties who are
2 doing development in the area.

3 MR. TABATA: I believe we can address that
4 in a proposed condition, off the top of my head, at
5 least propose that the representations condition
6 simply exclude the updated TIAR at 2020. That would
7 balance.

8 CHAIRPERSON ACZON: You agree with Vice
9 Chair Scheuer's thinking?

10 MR. TABATA: I believe I understand what
11 he's saying. If we don't have a condition that
12 requires a traffic study in 2020, and we also have a
13 condition saying we will abide by our
14 representations, then one of our representations is
15 that we will do an updated traffic study in 2020,
16 those conflict. But if we modify the representation
17 condition to exclude the traffic study in 2020, then
18 there will not be that conflict in the evidentiary
19 record or the conditions.

20 Then we can propose a condition, something
21 to that effect.

22 COMMISSIONER CHANG: I guess that's --
23 well, one, maybe we should leave this up to the
24 parties as you propose your proposed Findings of
25 Facts, because what I originally heard was the

1 traffic expert saying if you do not complete it by
2 2020, to do a traffic update, that was the
3 representation by the Petitioner.

4 I'm also hearing both OP saying KCC is also
5 doing their -- and we're going to hear that Petition.
6 That DOT is saying there should be some coordination
7 between KCC and Island School, and we look at that
8 proportionately.

9 But I'm also hearing the county saying it
10 really would be helpful if there is something very
11 specific in the LUC conditions that help guide the
12 county as they begin to make -- as they review all
13 the permits.

14 So I am very confident that the parties are
15 going to come up with some proposed recommendations
16 that will address that, because I'm not comfortable
17 with saying, well, we're just going to delete the
18 recommendation 5 and have no condition.

19 CHAIRPERSON ACZON: Is that something that
20 you can propose, our proposed D and O, and then we
21 can discuss it?

22 MR. TABATA: The parties will be seeing the
23 proposed Decision and Order, and they will have an
24 opportunity to object or not object.

25 CHAIRPERSON ACZON: So we can really hash

1 this out when the --

2 MR. TABATA: Yes.

3 CHAIRPERSON ACZON: Commissioner Hiranaga.

4 COMMISSIONER HIRANAGA: I had a couple of
5 questions. It might be to assistant attorney
6 general -- so the consultant for the Petitioner in
7 their report makes a recommendation. Is that
8 representation of the Petitioner unless they also
9 vocalize it, or put it in writing that they agree
10 with the recommendation of their consultant's
11 recommendation? Because it's a recommendation from
12 the Petitioner's consultant, not a representation
13 unless Petitioner agrees.

14 MS. ERICKSON: That's correct, but then you
15 have to go through the testimony you heard today to
16 see whether or not the Petitioner, in fact, agreed
17 with the representation of the condition and said he
18 would abide.

19 COMMISSIONER HIRANAGA: To the Petitioner,
20 did you represent to the Commission that you would
21 abide by the recommendation of your traffic
22 consultant regarding the 2020 TIR update?

23 MR. TABATA: With all due fairness to Mr.
24 Pascua, he did the traffic study back in 2010, now
25 seven years old. And I think he came forward with

1 best intention, and I believe it may be helpful if we
2 put Mr. Pascua back on the stand so we can supplement
3 the record and make clear what his recommendation is
4 for us. That might help.

5 COMMISSIONER HIRANAGA: I'll defer that
6 request. So just for clarity, OP, because Island
7 School's impact, which is basically I guess 100 more
8 students at full implementation of the master plan, I
9 don't know how long that time frame is for full
10 implementation of the master plan versus the
11 additional enrollment at Kaua'i Community College,
12 that's why DOT did not make the same comment for
13 Island School as it did for KCC.

14 We're talking 100 more students over what,
15 ten-year implementation period. Just for clarity.
16 I'm not sure who could answer that?

17 MR. TABATA: I believe that was Mr.
18 Funakoshi's testimony. What we have in our record is
19 perhaps what is, you know, conflicting evidence.

20 That being the case, this body does have
21 the adjudicatory powers to make decision which way to
22 go. If you believe testimony that has benefit of
23 today's information and certain expertise, perhaps
24 outweighs what was determined seven years ago, with
25 limited information, then that could be your decision

1 and order.

2 If few additional information would be
3 helpful, Mr. Pascua is here, and is ready to take the
4 stand again and answer further questions.

5 But I believe if we carve out the 2020
6 traffic study requirement, we will get rid of the
7 conflict that Commissioner, Vice Chair Scheuer
8 discussed.

9 Mr. Pascua is available to take the stand
10 if that will be okay.

11 MR. MATSUBARA: Just for your information,
12 Mr. Pascua is a traffic expert for KCC as well as for
13 Island School.

14 COMMISSIONER CABRAL: We will see him
15 tomorrow.

16 MR. MATSUBARA: We may not be here, and we
17 have a vested interest in terms of a condition. It's
18 a really simple question for him, considering what OP
19 raised as a condition relating to KCC doing updated
20 TIAR 2020 that could include Island School. It will
21 be tied in to an event, increase in enrollment or
22 building permits or significant things like that, as
23 opposed to an arbitrary date, no matter what you do
24 in 2020. It will be tied in to an event.

25 All we would want to ask of Mr. Pascua as a

1 traffic expert for both dockets, is what would his
2 professional opinion would be in regard to a
3 condition.

4 CHAIRPERSON ACZON: Will he be testifying
5 for KCC?

6 MR. MATSUBARA: We can do that on KCC.

7 COMMISSIONER HIRANAGA: Mr. Chair, although
8 the two dockets are closely located to each other, I
9 don't think we should be commingling testimony
10 between the two dockets. Whatever is put on the
11 record for this docket, should be stated today and
12 not tomorrow.

13 CHAIRPERSON ACZON: It looks like we're
14 getting into KCC issues, no matter what it's going to
15 be -- commingled no matter what. But we just need to
16 be -- kind of make sure all the record and decisions
17 is segregated.

18 Go ahead, Ms. Apuna.

19 MS. APUNA: The reason why OP brought this
20 issue up was we would hope you could resolve it
21 particular to Island School before they close the
22 record, so that they would have all Findings of Fact
23 in place before we move onto KCC. So it would be
24 helpful if there was some type of determination on
25 this issue before we finish this petition.

1 CHAIRPERSON ACZON: Have a two-minute
2 break.

3 (Recess taken.)

4 CHAIRPERSON ACZON: We're back on record.
5 We're not going to be calling back any testimony.
6 We're going let the record stand.

7 Ms. Apuna, can you make sure LUC got a copy
8 of your Exhibit 9 for our record?

9 MS. APUNA: Yes, and for the record, I
10 would like to clarify Exhibit 9 is originally
11 Exhibit 4 to our filing Office of Planning's
12 testimony in support of Petition with conditions in
13 the matter of Petition of University of Hawai'i
14 College, Docket No. A16-801, and it's within OP
15 Exhibit 4 and 7, but Exhibit 4.

16 CHAIRPERSON ACZON: That's correct. So
17 noted. Any more for Mr. Funakoshi?

18 COMMISSIONER HIRANAGA: I have one.

19 Mr. Funakoshi, in your oral testimony, you
20 mention a Phase I environmental assessment. Could
21 you clarify again what that is for?

22 THE WITNESS: It's to Department of Health
23 recommendation, and it's particularly to check for
24 the potential for hazardous substances that may be
25 harmful to future development. So you conducting

1 Phase I environmental assessment is basically a site
2 reconnaissance, and look at its historical review of
3 potential contaminants in the past.

4 And, you know, sugarcane could be potential
5 contaminate in terms of machinery and those kinds of
6 things that could have deposited -- left oils on the
7 surface or pesticides or herbicides.

8 So those kind of things are hazardous, and
9 Phase I would reveal the potential for that.

10 COMMISSIONER HIRANAGA: I understand that.
11 What is the trigger for the Phase I environmental
12 site assessment? Is it building permit application,
13 or just part of the change in boundary amendment?

14 THE WITNESS: It would be done prior to
15 construction. So one of the prerequisites to
16 starting construction.

17 COMMISSIONER HIRANAGA: For the entire
18 Petition area?

19 THE WITNESS: That I'm not sure, but
20 presumably the next major construction activity at
21 Island School. Let's say, if they're gonna -- I'm
22 not sure. I guess they're next -- if they going to
23 do a classroom building.

24 COMMISSIONER HIRANAGA: Is DOH saying they
25 should perform Phase I on the entire Petition area,

1 or near the building site or --

2 THE WITNESS: It wasn't specified. If you
3 want, we could get clarification on that.

4 COMMISSIONER HIRANAGA: Okay, thank you.

5 CHAIRPERSON ACZON: Commissioners, do you
6 have any questions for Ms. Apuna, final questions,
7 Commissioners? Thank you.

8 Mr. Tabata, do you have any rebuttal?

9 MR. TABATA: We have no rebuttal.

10 CHAIRPERSON ACZON: Thank you. Moving
11 along.

12 COMMISSIONER HIRANAGA: Mr. Chair, not sure
13 if it's proper protocol. May I ask a question of Mr.
14 Tabata?

15 CHAIRPERSON ACZON: Go ahead.

16 COMMISSIONER HIRANAGA: Discussion with Mr.
17 Funakoshi regarding Phase I environmental site
18 assessment, would you be okay with it if the DOH
19 requires it be on the entire Petition area?

20 MR. TABATA: Yes.

21 COMMISSIONER HIRANAGA: Thank you.

22 CHAIRPERSON ACZON: Okay, given that the
23 parties have completed their presentations before the
24 Land Use Commission, I declare that the evidentiary
25 hearing of these proceeding be completed subject to

1 the receipt of various follow-up reports and/or
2 answers that may have been requested during the
3 course of this hearing.

4 I direct that the parties draft their
5 individual proposed findings of fact, conclusions of
6 law and decision and order based upon the record in
7 this docket and serve the same upon each other and
8 the Commission.

9 The proposed findings of fact must
10 reference the witness as well as the date, page and
11 line numbers of the transcripts to identify your
12 facts. In addition to the transcript, the exhibits
13 in evidence should also be referenced. Please
14 contact Jean McManus, court reporter, to arrange for
15 copies of today's transcript.

16 I note for the parties that the Commission
17 has standard conditions, which we would like the
18 parties to consider in preparing the proposed orders.
19 A copy of the standard conditions may be obtained
20 from Commission staff.

21 Also, I request that the parties consult
22 with staff early in the process to ensure that
23 technical and non-substantive formatting protocols
24 observed by the Commission are adhered to.

25 Of course, should any of the parties desire

1 to stipulate to any portion or all of the findings of
2 fact, conclusions of law and decision and order, they
3 are encouraged to do so.

4 Regardless of whether the parties pursue a
5 partial or fully stipulated order, I direct that each
6 party file its proposal with the Commission and serve
7 copies on the other parties no later than the close
8 of business on April 20, 2017. All comments or
9 objections to the parties' respective proposals shall
10 be filed with the Commission and served upon the
11 parties no later than the close of business on May 4,
12 2017. Do the parties have any objections to this
13 schedule?

14 MR. TABATA: No.

15 MR. BRACKEN: No.

16 MS. APUNA: No.

17 CHAIRPERSON ACZON: Thank you.

18 Chair is proposing to expedite these
19 proceedings so that final arguments can be heard on
20 Thursday, June 15, 2017 due to conflicts with LUC
21 commitments and docket scheduling demands.

22 Are there any questions with respect to our
23 procedures?

24 MS. APUNA: Office of Planning would like
25 to waive it's right to prepare its D and O and then

1 just provide recommendation to the Petitioner's
2 draft.

3 CHAIRPERSON ACZON: That would be all
4 right.

5 MS. APUNA: Thank you.

6 MR. BRACKEN: County would like to do the
7 same as well.

8 MR. TABATA: That's how it usually happens.

9 MS. APUNA: I had a question as far as the
10 timing of deadlines and whether they will be aligned
11 exactly with KCC deadline for preparation, and so as
12 long as we have enough time to respond. I'm unclear
13 actually May 4th was the date that we must submit all
14 of our drafts to the Commission, the final draft, and
15 then the other deadline was final argument?

16 CHAIRPERSON ACZON: Okay. The proceedings
17 for this docket is now closed and we will continue to
18 the next docket. Let's have maybe three minute
19 break.

20 (Recess taken.)
21
22
23
24
25

CERTIFICATE

STATE OF HAWAII)
) SS.
COUNTY OF HONOLULU)

I, JEAN MARIE McMANUS, do hereby certify:

That on March 22, 2017, at 9:30 a.m., the
proceedings contained herein was taken down by me in
machine shorthand and was thereafter reduced to
typewriting under my supervision; that the foregoing
represents, to the best of my ability, a true and
correct copy of the proceedings had in the foregoing
matter.

I further certify that I am not of counsel for
any of the parties hereto, nor in any way interested
in the outcome of the cause named in this caption.

Dated this 22nd day of March, 2017, in
Honolulu, Hawaii.

/S/ Jean Marie McManus
JEAN MARIE McMANUS, CSR #156