

LAND USE COMMISSION

STATE OF HAWAI'I

Proceedings held on 12-6-17

Commencing at 9:30 a.m.

Maui Arts & Cultural Center

Alexa Higashi Meeting Room

One Cameron Way

Kahului, Maui, Hawai'i 96732-1137

I. Call to Order

II. Adoption of Minutes

III. Tentative Meeting Schedule

IV. Adoption of Order  
SP17-409 Hono'uli'uli Wastewater Treatment  
Plant - Secondary Treatment and Support  
Facility - State Special Use Permit No.  
2017/SUP-2

V. HEARING AND ACTION

A15-798 Waikapu Properties LLC, et al. (Maui)  
To consider Petition to Amend the Agricultural  
Land Use District Boundaries into the Rural Land Use  
District for certain lands situated at Waikapu,  
District of Wailuku, Island and County of Maui, State  
of Hawai'i, consisting of 92.394 acres and 57.454  
acres, and to Amend the Agricultural Land Use  
District Boundaries into the Urban Land Use District  
for certain lands situated at Waikapu, District of  
Wailuku, Island and County of Maui, State of Hawai'i,  
consisting of 236.326 acres, 53.775 acres, and 45.054  
acres.

BEFORE: Jean Marie McManus, CSR #156

1 APPEARANCES:

2 COMMISSIONERS:

ARNOLD WONG, Chair

3 NANCY CABRAL, Vice Chair

JONATHAN SCHEUER, Vice Chair

4 LEE OHIGASHI

AARON MAHI

5 EDWIN ACZON

GARY OKUDA

6 DIANE ERICKSON, ESQ.

7 Deputy Attorney General

8 STAFF:

9 DAN ORODENKER, Executive Officer

RILEY K. HAKODA, Chief Clerk/Planner

10 SCOTT A.K. DERRICKSON, AICP

BERT SARUWATARI, Planner

11 DAWN APUNA, ESQ.

12 LEO ASUNCION, Planning Director

LORRAINE MAKI, Planner

13 Office of State Planning

14 WILLIAM HOPPER, ESQ.

Deputy Corporation Counsel

15 WILLIAM SPENCE, Director

TARA FURUKAWA, Senior Planner

16 JAMES W. GEIGER, ESQ.

17 PAUL MANCINI, ESQ.

Attorneys for Waikapu Properties, LLC

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1 CHAIRPERSON WONG: Good morning. This is  
2 December 6th, 2017 Land Use Commission meeting.

3 First order of business is adoption of the  
4 November 21, 2017 minutes. Any corrections or  
5 comments on this? If not, is there a motion?

6 COMMISSIONER MAHI: I'll move.

7 VICE CHAIR SCHEUER: Second.

8 CHAIRPERSON WONG: Commissioner Mahi moved  
9 to adopt the minutes; Commissioner Scheuer seconded  
10 the minutes.

11 All those in favor, please say "aye", any  
12 opposed? None. The minutes are adopted unanimously.

13 The next agenda item is the tentative  
14 meeting schedule. Mr. Orodener.

15 EXECUTIVE OFFICER: Tomorrow we will be  
16 here for continued hearing on the matters before us  
17 today, if necessary.

18 January 24, we will be on the Big Island  
19 for National Park Service Lanikai and HHFD status  
20 reports. Also status report on Waikoloa Heights,  
21 that is January 24th.

22 February 21st, continued proceedings, if  
23 needed on this matter, and A04-751 Pulelehua, Maui  
24 Land & Pine motion to amend will be here on Maui.

25 February 28th, we will again be -- well, we

1 might be having a video conference to adopt the Order  
2 of the Pulelehua motion.

3 And that opens up the calendar for the rest  
4 of the year, although I would caution the  
5 Commissioners we do have a lot of things fermenting.

6 CHAIRPERSON WONG: Thank you, Mr.  
7 Orodenker.

8 Commissioners, any questions about the  
9 agenda? Thank you.

10 This is an Action meeting on Docket  
11 SP17-409, Hono'uli'uli Wastewater Treatment Plant  
12 -Secondary Treatment and Support Facility-State  
13 Special Use Permit No. 2017/SUP-2.

14 Let me update the record.

15 On November 21st, 2017, the Commission  
16 unanimously voted 6-0, 3 excused, to approve the  
17 Petition for Special Permit.

18 On November 28th, 2017, the Commission  
19 mailed a Notice of Agenda for the December 6-7, 2017  
20 LUC meeting to the Petitioner and Statewide, Maui,  
21 and Oahu mailing lists.

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

24 No one? Okay.

25 COMMISSIONER OHIGASHI: Mr. Chairman, I

1 wasn't present at the meeting but I reviewed the  
2 transcripts, and the necessary documents that were  
3 presented, and I believe I'm able to vote on this  
4 matter.

5 CHAIRPERSON WONG: Thank you, Commissioner.  
6 Commissioner Aczon.

7 COMMISSIONER ACZON: Mr. Chair, I also  
8 reviewed the record and November 21st transcript, and  
9 I'm ready to vote on this document.

10 CHAIRPERSON WONG: Thank you, Commissioner.  
11 Commissioner Okuda, did you also review the  
12 record?

13 COMMISSIONER OKUDA: Mr. Chair, I was also  
14 present at the hearing, but I reviewed the record and  
15 I can deliberate and vote on this matter.

16 CHAIRPERSON WONG: For the public, this is  
17 on Hono'uli'uli Wastewater on Oahu.

18 Is there anyone in the public that want to  
19 testify about this matter? Okay, if not, thank you.

20 Commissioners, before you is the Form of  
21 the Order granting Special Permit in Docket No.  
22 SP17-409. Chair will entertain a motion to approve  
23 the Form of the Order. Commissioner Okuda.

24 COMMISSIONER OKUDA: Mr. Chair, thank you.  
25 As the person who made the original motion, I move

1 that the Form of the Order, which has been made part  
2 of the record, be adopted.

3 And, again, I would like to state for the  
4 record that my motion previous and this motion is  
5 based on the specific facts and the specific  
6 circumstances of this specific Petition, and that's  
7 the basis for the motion. Thank you.

8 CHAIRPERSON WONG: Thank you. Is there a  
9 second? Commissioner Mahi.

10 COMMISSIONER MAHI: Second.

11 CHAIRPERSON WONG: Is there any discussion  
12 on this matter? Commissioner Scheuer.

13 VICE CHAIR SCHEUER: Mr. Chair, I'll just  
14 repeat for the record, even though there's nobody  
15 from the City and County here today, the general  
16 frustration we have with the manner in which this  
17 permit came to us.

18 And I do so partly that Wil Spence knows  
19 it's not only the County of Maui that we pick on.

20 MR. SPENCE: Fair enough.

21 CHAIRPERSON WONG: Thank you.

22 Is there any other discussion? If not, Mr.  
23 Orodenker, please poll the Commissioners.

24 EXECUTIVE OFFICER: Thank you, Mr. Chair.  
25 The motion is to Adopt the Order.



1 Commissioner Okuda?

2 COMMISSIONER OKUDA: Yes.

3 EXECUTIVE OFFICER: Commissioner Mahi?

4 COMMISSIONER MAHI: Aye.

5 EXECUTIVE OFFICER: Commissioner Aczon?

6 COMMISSIONER ACZON: Aye.

7 EXECUTIVE OFFICER: Commissioner Cabral is  
8 absent.

9 Commissioner Ohigashi?

10 COMMISSIONER OHIGASHI: Aye.

11 EXECUTIVE OFFICER: Chair Wong?

12 CHAIRPERSON WONG: Aye.

13 EXECUTIVE OFFICER: Commissioner Scheuer?

14 VICE CHAIR SCHEUER: Aye.

15 EXECUTIVE OFFICER: Sorry, jumping around  
16 there. The motion passes unanimously, six votes.  
17 Thank you.

18 CHAIRPERSON WONG: I'm going to pass on my  
19 coffee, so better for the next docket.

20 The next agenda item Docket A15-798 Waikapu  
21 Properties. This hearing and action meeting on  
22 Docket A15-798, a Petition for Land Use District  
23 Boundary Amendment to Amend the Agricultural Land Use  
24 District Boundaries into the Rural Land Use District  
25 for certain lands situated at Waikapu, District of

1 Wailuku, Island and County of Maui, State of Hawaii,  
2 consisting of 92.394 acres and 57.454 acres, bearing  
3 Tax Map Key No. (2)3-6-004:003 portion, and to Amend  
4 the Agricultural Land Use District Boundaries into  
5 the Urban Land Use District for certain lands situate  
6 at Waikapu, District of Wailuku, Island and County of  
7 Maui, State of Hawaii, consisting of 236.326 acres,  
8 53.775 acres, and 45.054 acres, bearing Tax Map Key  
9 No. (2)3-6-002:003 portion, (2)3-6-004:006 and  
10 (2)3-6-005:007 portion.

11 Will the parties identify themselves for  
12 the record?

13 MR. GEIGER: Good morning, Chair,  
14 Commissioners. My name is James Geiger here on  
15 behalf of the Applicant. Also present is Michael  
16 Atherton, who is the representative of the Applicant,  
17 and Paul Mancini, who is also with my law firm.

18 MR. HOPPER: Michael Hopper, Deputy  
19 Corporation Counsel for the County of Maui,  
20 Department of Planning. With me is Planning Director  
21 Wil Spence and Planner Tara Furukawa.

22 MS. APUNA: Good morning, Dawn Apuna,  
23 Deputy Attorney General, Office of Planning. Here  
24 with me today is Lorraine Maki, and Director Leo  
25 Asuncion.

1 CHAIRPERSON WONG: Let me update the  
2 record.

3 On January 20, 2017, the Land Use  
4 Commission mailed its Decision and Order Accepting  
5 Petitioner's FEIS dated January 2017.

6 On January 23, 2017, the Land Use  
7 Commission mailed OEQC a copy of its Decision and  
8 Order Accepting Petitioner's FEIS dated January, 2017  
9 and Public Notice publication correspondence.

10 Between May 1, 2017 and November 6, 2017,  
11 the Commission received various filings from the  
12 Parties, all of which have been posted to the  
13 Commission website including Petitioner's amended  
14 petition, various exhibit lists and position  
15 statements.

16 On November 28, 2017, the Commission mailed  
17 a Notice and Agenda for the December 6-7, 2017 LUC  
18 meeting to the Parties and Statewide, Maui and Oahu  
19 mailing lists.

20 Mr. Geiger, has our staff informed you of  
21 the Commission's policy regarding the reimbursement  
22 of hearing expenses?

23 MR. GEIGER: Yes.

24 CHAIRPERSON WONG: And you will respect  
25 that policy?

1 MR. GEIGER: Yes, we do.

2 CHAIRPERSON WONG: Thank you.

3 Let me describe our procedure for today.

4 First, I will call for those individuals desiring to  
5 provide public testimony on this matter to identify  
6 themselves. All such individuals will be called in  
7 turn to our witness box where they will be sworn in.  
8 A three minute time limit will be enforced.

9 The Commission will then consider the  
10 exhibits that the parties wish to offer into the  
11 record, starting with the Petitioner, followed by the  
12 County Planning Department and then the State Office  
13 of Planning.

14 The Commission will then begin proceedings  
15 on Docket No. A15-798 and the parties will present  
16 their cases in the same order.

17 The Chair will also note for the parties  
18 and the public that from time to time I will be  
19 calling for short breaks.

20 Are there any questions on this procedures?

21 MR. GEIGER: No questions from Applicant.

22 MR. HOPPER: No, Mr. Chair.

23 MS. APUNA: No.

24 CHAIRPERSON WONG: Commissioner Scheuer, do  
25 you have anything you wanted to state?

1 VICE CHAIR SCHEUER: Yes, Mr. Chair. I  
2 want to make a disclosure for the record.

3 As a volunteer, I serve on the board of the  
4 Hawaiian Islands Land Trust, which is an accredited  
5 land trust that can accept conservation easements on  
6 various kinds of properties.

7 One of the proposed mitigation measures in  
8 this project is the issuance of a conservation  
9 easement over a portion of the agricultural lands.  
10 It's my understanding that there have been informal  
11 discussions between the Applicant and the land trust  
12 over -- the Hawaiian Islands Land Trust's conditions  
13 where they might participate in the conservation of  
14 those lands.

15 So that's the issue -- I don't believe --  
16 first of all, I clearly have no financial interest in  
17 the matter; and second, I don't believe it will cause  
18 me to be anything but fair and impartial in this  
19 matter.

20 CHAIRPERSON WONG: Any issues, Mr. Geiger?

21 MR. GEIGER: No.

22 CHAIRPERSON WONG: Any objection from  
23 County?

24 MR. HOPPER: No objection.

25 MS. APUNA: No objection.

1 CHAIRPERSON WONG: Commissioner Okuda.

2 COMMISSIONER OKUDA: Thank you, Mr. Chair.

3 I would like to make two disclosures. The  
4 first disclosure is that I met one of the Applicant's  
5 consultants Hokuao Pellegrino, and this was the  
6 circumstance of my meeting with him. When the  
7 governor first nominated me to serve on the Land Use  
8 Commission during my first partial term, Mr.  
9 Pellegrino was suggested as a community resource who  
10 I might want to speak to on the issues of land use,  
11 cultural practices, and other things which may be of  
12 knowledge to help me get ready for confirmation, and  
13 if confirmed, my service on this Commission.

14 I don't believe my discussions with him  
15 will affect my decision or consideration of this  
16 matter in any way.

17 The second disclosure I would like to make  
18 is I have known Mr. James Geiger just in a  
19 professional manner in terms of cases that our law  
20 firm has handled in the Second Circuit here on Maui  
21 were involving cases within the County of Maui.

22 I do not socialize with Mr. Geiger. I  
23 found him to be an ethical, honest, well prepared  
24 attorney, but I do not believe that my knowledge of  
25 him will influence me one way or the other in terms

1 of this matter.

2 CHAIRPERSON WONG: Any issues?

3 MR. GEIGER: No objection from Applicant.

4 And thank you very much for the compliment.

5 MR. HOPPER: No objection.

6 MS. APUNA: No objection.

7 CHAIRPERSON WONG: Commission Ohigashi.

8 COMMISSIONER OHIGASHI: Well, I live here.

9 Let me start off with, Paul Mancini was the  
10 person who hired me when I first came out of law  
11 school, however, I don't necessarily socialize with  
12 him, and from our conversation today, I haven't seen  
13 him in many years and we grow old together.

14 I don't believe my relationship with him  
15 will in any way affect my decision in this matter.

16 I also know Mr. Geiger, but only as a  
17 professional manner. I know one of the lobbyist, I  
18 believe, for Mr. Atherton is Senator Tanaka. He  
19 sometimes visits my office and drinks coffee with me.

20 I have not discussed this matter with him,  
21 and I don't believe my relationship of over 40 years  
22 with him -- 30-something years with him, would affect  
23 my decision in this matter.

24 Finally, I know Al Perez, Maui Tomorrow.  
25 He used to come before and sit down and sometimes

1 talk story with me and my wife about different  
2 things. However, he hasn't done so since I've become  
3 a commissioner, and therefore, I don't believe my  
4 knowledge with him would affect my relationship --  
5 would affect any of my decisions in this matter.

6 CHAIRPERSON WONG: Thank you.

7 MR. GEIGER: No objection from Applicant.

8 MR. HOPPER: No objection.

9 MS. APUNA: No objection.

10 CHAIRPERSON WONG: Mr. Mancini, you look  
11 much younger than he does.

12 MR. MANCINI: Thank you.

13 COMMISSIONER OHIGASHI: I'll remember that.

14 CHAIRPERSON WONG: Mr. Orodenger, if you  
15 please -- public testimony. Sorry, Dan.

16 EXECUTIVE OFFICER: The first testifier  
17 signed up is Albert Perez, followed by Robert Park.

18 CHAIRPERSON WONG: May I swear you in,  
19 please?

20 THE WITNESS: Yes.

21 CHAIRPERSON WONG: Do you affirm that the  
22 testimony that you're about to give is the truth?

23 THE WITNESS: Yes.

24 CHAIRPERSON WONG: Thank you. Please state  
25 your name for the record.



1 THE WITNESS: Albert Perez.

2 CHAIRPERSON WONG: Please proceed.

3 ALBERT PEREZ

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

6 DIRECT EXAMINATION

7 THE WITNESS: I'm Albert Perez, and I'm  
8 Executive Director of the Maui Tomorrow Foundation.

9 Maui Tomorrow supports the subject  
10 redistricting request.

11 This Waikapu Country Town Project is  
12 unusual for several reasons:

13 Number one, the developer has modified the  
14 project in response to community concerns over the  
15 years. For example, he agreed to limit the use of  
16 stream water to leave more for natural flows.

17 His initial designs had rural lots  
18 ascending the mauka slopes above Maui Tropical  
19 Plantation. When community input said that this was  
20 a bad idea, the design changed, and the rural/ag lots  
21 were limited to a more compact area much further  
22 downslope.

23 This developer is actually complying with  
24 the land use approval process instead of trying to  
25 skirt it. So it's unusual in that regard.

1           The Final EIS for this project was far  
2       better than most of the others that we have seen.  
3       Rather than the usual self-serving recitation of the  
4       benefits, it actually discloses impacts and does a  
5       fair job of evaluating secondary and cumulative  
6       impacts of other developments in the surrounding  
7       area.

8           This developer committed to placing 800  
9       acres into an agricultural preserve, and has  
10      encouraged regenerative and organic farmers on the  
11      existing Maui Tropical Plantation to move across  
12      Honoapiilani Highway and expand their operations.

13           Maui Tomorrow Foundation supports this  
14      project, and hope other developers will learn from  
15      the example of Mr. Atherton and sincerely work with  
16      the community instead of just going through the  
17      motions.

18           CHAIRPERSON WONG: Any questions?

19           MR. GEIGER: No questions.

20           MR. HOPPER: No questions.

21           MS. APUNA: No.

22           CHAIRPERSON WONG: Commissioners?  
23      Commissioner Okuda.

24           COMMISSIONER OKUDA: Thank you, Mr. Chair.

25           Mr. Perez, if I may ask, has Maui Tomorrow

1       opposed other developments in the county?

2               THE WITNESS:   Yes, we have.   Yes, we have.

3               COMMISSIONER OKUDA:   And just so that the  
4       record is clear, could you give an approximate number  
5       of how many oppositions you're aware of, or can you  
6       give us an estimate for that?   Maybe quite a few?

7               THE WITNESS:   I would say over the years  
8       since 1989, probably in the hundreds, but I'm not  
9       sure.   It's been a long time.

10              COMMISSIONER OKUDA:   Given that context,  
11       can I ask you this question then.

12              Much of our -- or a lot of property here  
13       has been rated A and B soils conditions, and land  
14       will be taken out of agriculture probably in  
15       perpetuity.   Does that raise any concern for you or  
16       your foundation?

17              THE WITNESS:   Well, it does.   But on  
18       balance, we think it's not a perfect project, you  
19       know, it's not perfect, but given what else is going  
20       on in the county, and we're trying to encourage  
21       people to be more conscious of the environment.

22              There's 800 acres that are dedicated if  
23       perpetuity to agriculture.   So given the fact that  
24       the population is growing, and people need somewhere  
25       to live, this is probably the best that we have seen

1 in terms of a proposal of this nature.

2 COMMISSIONER OKUDA: Thank you very much.

3 CHAIRPERSON WONG: Anyone else,  
4 Commissioners? If not, thank you.

5 EXECUTIVE OFFICER: Next witness is Robert  
6 Pahia.

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

9 THE WITNESS: Yes, I do.

10 CHAIRPERSON WONG: Please state your name  
11 for the record.

12 THE WITNESS: My name is Robert H. Pahia.

13 CHAIRPERSON WONG: Please proceed.

14 ROBERT H. PAHIA

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

17 DIRECT EXAMINATION

18 THE WITNESS: Good morning. I come today  
19 to testify on behalf of Mr. Atherton and partners and  
20 the development project that they're putting forth to  
21 you.

22 Presently I'm a manager of Hoaloha Farms.  
23 As of last year and for the last five years, we  
24 farmed up on the slopes of Waikapu. And recently we  
25 have expanded our operations to across Honoapiilani

1 Highway, where I was granted a 310-acre lease to do  
2 farming on that parcel of land described as that  
3 800 acres.

4 I'm totally supportive of the project that  
5 is before you today. Governor Ige is talking about  
6 food security in the next couple of years, you know.  
7 Everybody knows that we are 90 percent we bring in  
8 all our food. And Governor Ige has mandated that we  
9 have food security within a couple of years.

10 Now, to obtain food security, we're going  
11 to need farm land. And I don't know of anybody else,  
12 any other developer that is trying to meet the  
13 community's needs for affordable housing and at the  
14 same time donating 800 acres of land to put in  
15 perpetuity for agriculture.

16 I'm currently what you might call a farmer,  
17 I'm a farmer of farmers. Currently I have about 12  
18 different farmers that farm with me on that 300-acre  
19 parcel. So as far as promoting agriculture, as far  
20 as trying to meet the governor's standards, I think  
21 that this development and project is in direct  
22 alignment with what he's trying to achieve.

23 And I ask from you, you know, that land has  
24 been farmed corporately for 144 years. And now  
25 putting it in a land trust, putting in perpetuity.

1 Now, really what I'm trying to achieve is build the  
2 family farmers, giving family farmers an opportunity  
3 to farm, because you know what? If you're going to  
4 farm on HC&S, A&B lands, a small time farmer cannot  
5 get in, because they're only leasing land to people  
6 who can farm 100-plus acres, large acreage.

7 Okay, so the small time family farmer  
8 doesn't have a chance. And with this kind of  
9 project, he has given me the latitude to help the  
10 family farmer, to give them smaller parcels. And  
11 especially the young farmers, because it's hard for  
12 the young farmer. Being a farmer is tough. And to  
13 succeed as a farmer, especially if you're a family  
14 farmer, it's even more tough.

15 So because of this opportunity that was  
16 given to me, I in turn is helping the rest of our  
17 agricultural community, and in turn helping meet  
18 Governor Ige's mandate of creating food security in  
19 Hawai'i.

20 And I think we need more people doing these  
21 kind of projects. I mean, if we're going to have  
22 developers and development in Hawai'i, and they have  
23 large acreage, I think that this development sets a  
24 precedent for the rest of everybody else coming into  
25 Hawai'i, and wanted to help the community, build

1 affordable housing, but there has to be give and take  
2 and I think they displayed that.

3 Again, I ask you to consider that, and I  
4 ask you for your support in this project.

5 CHAIRPERSON WONG: Thank you, sir. Is  
6 there any questions?

7 MR. GEIGER: No questions.

8 MR. HOPPER: No questions.

9 MS. APUNA: No questions.

10 CHAIRPERSON WONG: Commissioners?  
11 Commissioner Aczon.

12 COMMISSIONER ACZON: You mentioned you have  
13 300 acres on this lease right now.

14 THE WITNESS: Yes.

15 COMMISSIONER ACZON: How long is that?

16 THE WITNESS: The lease is for 30 years.

17 COMMISSIONER ACZON: You mentioned you have  
18 12 other farmers.

19 THE WITNESS: Yes, I do.

20 COMMISSIONER ACZON: Is that sublease?

21 THE WITNESS: Yes.

22 COMMISSIONER ACZON: How long is that  
23 lease?

24 THE WITNESS: That's the greatest thing. I  
25 feel that I was blessed with 300 acres, and I didn't

1 try to grab the land just for myself, because I know  
2 how it is being a farmer, and how to get land, and  
3 how to get land security and water security.

4 Basically all I'm doing -- I was fortunate  
5 enough to get it, so now I'm helping others, that's  
6 basically how it is.

7 COMMISSIONER ACZON: How long are their  
8 leases?

9 THE WITNESS: 30 years. I don't charge  
10 them a penny more for the lease rate that I receive,  
11 and I don't charge them any more, just straight  
12 across-the-board.

13 COMMISSIONER ACZON: As long as you have  
14 the lease, they have the lease, is that what you're  
15 saying?

16 THE WITNESS: Yes.

17 COMMISSIONER ACZON: Thank you.

18 CHAIRPERSON WONG: Anything else?  
19 Commissioner Scheuer.

20 VICE CHAIR SCHEUER: We visited your  
21 property, part of your farm during our site visit. I  
22 wanted to make that sure that was on the record. And  
23 thank you for hosting us.

24 Very briefly, have you had -- can you  
25 describe or contrast your current land arrangement



1 here with some of your previous efforts to secure  
2 land here on Maui to farm?

3 THE WITNESS: Yes.

4 Number one, to get even a small parcel with  
5 a long-term security is tough. And on top of that as  
6 to get water security is even tougher.

7 I'm sorry, can you repeat that again?

8 VICE CHAIR SCHEUER: No problem.

9 I believe you used to farm on more Waihe'e  
10 side, yeah? So you've been through this process  
11 before.

12 Can you contrast your arrangements  
13 currently with some of your previous efforts to  
14 secure long-term secured places for farming?

15 THE WITNESS: It's very tough getting  
16 long-term lease with water security. I have farmed  
17 on Maui all over this island, because I've bounced  
18 around from one parcel to another parcel to another  
19 parcel, whether the landowner sold the land, they  
20 didn't want to give me long-term leases. It's really  
21 hard. It's very, very difficult.

22 And what I did was, I first started farming  
23 about five years ago up in Waikapu. And it really  
24 was just on a verbal agreement. You know, we have a  
25 written agreement, but really it was just a trust

1 issue.

2 It took me five years to create a  
3 relationship with Mr. Atherton and his partners, but  
4 in that time, I showed them that, you know, I was  
5 credible, and that the people that support me are  
6 credible.

7 So in that term he saw that I was  
8 trustworthy, then he extended the lands across  
9 Honoapiilani to me. But it's really, really tough.

10 So this these other farmers that I help, I  
11 just don't want to see them go through the same road  
12 that I have, being bounced all over this island  
13 trying to find land and water security.

14 So in my eyes, Mr. Atherton is really  
15 perpetuating agriculture in a solid way, because when  
16 he give me the lease, he gave me the latitude to help  
17 other farmers. He gave me the latitude to sublease.

18 And in turn, like I said, I got a 30-year  
19 lease, they get a 30-year lease. I pay X amount of  
20 dollars for my water, they pay X amount, not a penny  
21 more. Yeah, I'm helping them, but without their  
22 help, this could never happen.

23 VICE CHAIR SCHEUER: Thank you.

24 CHAIRPERSON WONG: Anyone else? Thank you,  
25 sir.

1 THE WITNESS: Thank you.

2 EXECUTIVE OFFICER: Next person signed up  
3 to testify is Mike Foley followed by Kent.

4 CHAIRPERSON WONG: Do you swear that the  
5 testimony you're about to give is the truth?

6 THE WITNESS: I do.

7 CHAIRPERSON WONG: Thank you. Please state  
8 your name for the record.

9 THE WITNESS: My name is Mike Foley.

10 CHAIRPERSON WONG: Please proceed with your  
11 testimony.

12 MIKE FOLEY

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

15 DIRECT EXAMINATION

16 THE WITNESS: I'm a retired planner and  
17 environmental consultant. I worked for 42 years,  
18 including four years as Maui County Planning  
19 Director, and I'm here today in a kind of unique  
20 position.

21 I've testified many times before the State  
22 Land Use Commission, but I believe this is the first  
23 time that it has been in favor of a project.

24 My support for this -- and I'm speaking as  
25 an individual not as a member of any board -- my

1 support for this project is because this project as  
2 has been stated is unique.

3 First of all, it's within the growth  
4 boundary of the Maui Island Plan. It's in Central  
5 Maui where growth is most appropriate because it's  
6 near existing infrastructure.

7 The other thing that makes this unique is  
8 that the Applicant, as has been described, not only  
9 met with the community numerous times, but he  
10 actually revised the project to address their  
11 concerns.

12 Another reason that this is unique is that  
13 the Applicant prepared a comprehensive Environmental  
14 Impact Statement rather than fighting for an  
15 Environmental Assessment. I support the agricultural  
16 preserve of 800 acres, and I won't go into that  
17 because it's already been discussed. There's a  
18 variety of housing proposed in the project.

19 A total of 1433 units, variety of types of  
20 units, also including affordable units.

21 The infrastructure improvements include  
22 elementary school in the very essential extension of  
23 Waiale Road. Thank you.

24 CHAIRPERSON WONG: Mr. Geiger?

25 MR. GEIGER: No questions, thank you.

1 MR. HOPPER: No questions.

2 MS. APUNA: No questions.

3 CHAIRPERSON WONG: Commissioners?

4 Commissioner Okuda.

5 COMMISSIONER OKUDA: Very briefly, Mr.  
6 Chair.

7 Mr. Foley, similar question that I asked  
8 earlier. Does it concern you that lands that are  
9 rated A and B are being taken out of agriculture if  
10 we approve this Petition?

11 THE WITNESS: I would have to respond in a  
12 similar manner as Albert Perez. It does concern us  
13 whenever good agricultural land is converted to  
14 development. But as you know, there's a tremendous  
15 amount of undeveloped or available agricultural land,  
16 most of it owned by A&B and Maui Land & Pine.

17 In this particular case, the Maui Island  
18 Plan recognized that the most appropriate location  
19 for development was within the Urban Growth Boundary,  
20 and this project is within the Urban Growth Boundary.  
21 It doesn't have the constraints that we have in West  
22 Maui and South Maui. So it's considered by the  
23 County to be the most appropriate location for Urban  
24 development.

25 COMMISSIONER OKUDA: Thank you.

1 CHAIRPERSON WONG: Any other questions? If  
2 not, thank you, sir.

3 EXECUTIVE OFFICER: Final testifier, Kent  
4 Hiranaga.

5 CHAIRPERSON WONG: May I swear you in,  
6 please?

7 THE WITNESS: Yes.

8 CHAIRPERSON WONG: Do you swear that the  
9 testimony you're about to give is the truth?

10 THE WITNESS: I do.

11 CHAIRPERSON WONG: Can you please state  
12 your name for the record?

13 THE WITNESS: My name is Kent Hiranaga. I  
14 have a prepared statement.

15 KENT HIRANAGA

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

18 DIRECT EXAMINATION

19 THE WITNESS: Good morning, Chairman Wong  
20 and Commissioners. Welcome to Maui. My name -- I  
21 already stated my name. I want to thank all of you  
22 for serving on this very important State Commission.

23 I am here to testify in support of the  
24 Waikapu Property LLC application for District  
25 Boundary Amendment for the proposed Waikapu Country

1 Town project.

2 I was born on Maui, and raised in Wailuku  
3 Town. I served on the Maui Planning Commission  
4 during the Maui Island Plan Review Process.

5 The proposed Waikapu Country Town Project  
6 is located within the Urban Growth Boundaries of the  
7 Maui Island Plan that was adopted by the Maui County  
8 Council. The proposed Waikapu Country Town Project  
9 will provide needed housing for residents of Maui.

10 This project is not targeted for  
11 nonresidents, for the nonresident housing market.

12 I urge you to respect the Maui Island Plan  
13 and approve the proposed District Boundary Amendment  
14 Application. Thank you.

15 CHAIRPERSON WONG: Thank you, sir.

16 MR. GEIGER: No questions.

17 MR. HOPPER: No questions.

18 MS. APUNA: No questions.

19 CHAIRPERSON WONG: Commissioners? Go  
20 ahead, Commissioner Scheuer.

21 VICE CHAIR SCHEUER: Aloha, Mr. Hiranaga.

22 THE WITNESS: Good morning.

23 VICE CHAIR SCHEUER: I only ask this  
24 because it's been less than one year with your  
25 service for us. We remain very grateful for --

1     you're not employed by the Applicant, correct?

2             THE WITNESS:   Correct.

3             VICE CHAIR SCHEUER:   Thank you very much.

4             CHAIRPERSON WONG:   Last chance to give him  
5     a hard time, if not, thank you.   Next person, please.

6             EXECUTIVE OFFICER:   We have four more  
7     people signed up to testify.   Mr. Dick Mayer.

8             CHAIRPERSON WONG:   Good morning, sir.

9             THE WITNESS:   Good morning.

10            CHAIRPERSON WONG:   May I swear you in?

11            THE WITNESS:   Yes, please.

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

14            THE WITNESS:   I do.

15            CHAIRPERSON WONG:   Can you please state  
16     your name?

17            THE WITNESS:   My name is Richard, usually  
18     known as Dick, Mayer.

19            CHAIRPERSON WONG:   Please proceed.

20            THE WITNESS:   Thank you.

21                         RICHARD MAYER

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

24                         DIRECT EXAMINATION

25            THE WITNESS:   I was vice chair of the Maui



1 Island Plan General Plan Advisory Committee Group  
2 2025. This plan came before the Island Plan  
3 committee, and it received a strong endorsement all  
4 the way through the process. Other projects were  
5 very controversial, this one went through, and I  
6 think overall everything I've read, seen and studied  
7 the EIS in detail, I believe it's a very good  
8 project, but do I have three issues that I would like  
9 to bring to your attention.

10 Number one, ohanas. In the EIS it mentions  
11 146 ohana units, but the studies that were done,  
12 traffic and other ones, do not include those ohana  
13 units in their analysis, therefore, there will be a  
14 lot more traffic from those units than might  
15 otherwise be expected. They only considered the  
16 actual units.

17 So I would urge you in your discussion, and  
18 when you put your conditions down, that you make a  
19 statement about ohana units.

20 I think it's also important to realize that  
21 they even though they say in the EIS 146 units, they  
22 do not mention all the other single-family homes in  
23 the project 6, 7, 8, 900 -- don't know the exact  
24 number of units that will be single-family homes  
25 where they make no statement about ohanas, will they

1 be allowed or not allowed? So I think that will have  
2 a huge impact on traffic in this area on school  
3 enrollments, wastewater, water needs, et cetera.

4 So I think it needs to be very much  
5 clarified exactly how many ohana units will be in the  
6 project, whether it be zero, as some of the traffic  
7 and other studies have indicated, 146 as the EIS  
8 indicated, or many more because there are no  
9 restrictions on all those single-family homes putting  
10 ohana units on their property. That needs to be  
11 clarified in your conditions.

12 Secondly, with regard to traffic itself,  
13 your DOT letter exhibit that came in made several  
14 statements about an agreement that will need to be  
15 still produced between DOT and the Applicant before  
16 it goes to subdivision approval. And I would hope  
17 that you strongly state that in the conditions that  
18 you will attach to any approval that you may be  
19 giving.

20 This is particularly important because I  
21 think the traffic study has not done as good a job as  
22 could have been done in analyzing the impacts of  
23 other surrounding developments which have already  
24 been entitled. A&B has already been entitled for  
25 2,550 units nearby. Maui Lani still has somewhere in

1 the order of 900 more units that they will be able to  
2 put in. Kea Lani roughly 900; Pu'unani, even though  
3 it's been held back right now it still has optional  
4 entitlements for 600-plus units and several other  
5 developments on Waiale Road which could be developed.

6 The sum total of these around 6,000 units,  
7 including this project, means that the traffic on  
8 Waiale Road and Waiko Road in particular, as well as  
9 on State Highways will be considerable.

10 Those are all one lane in each direction  
11 roads at present. Those roads cannot handle the  
12 traffic. There will be a need by DOT and the County  
13 to require, and I would urge you in your conditions  
14 to make sure that the traffic situation in that area  
15 is up to par. You did not put those conditions on  
16 the other projects which already were entitled, but  
17 at least at this stage that has to be done.

18 The financing be available, otherwise all  
19 of those projects will be at gridlock cumulative, a  
20 serious issue.

21 CHAIRPERSON WONG: Sir, can you --

22 THE WITNESS: I'll -- one last comment.

23 Regards to the financial page on your  
24 Exhibit 24 that was submitted, I urge you to examine  
25 it. There are four or five different owners of these

1 properties who have put their financial down, and all  
2 have used largely the land value as their basic  
3 asset, not a capital or other monies available to  
4 build the project.

5 I would like you to determine what the  
6 financial situation is for the Applicant's  
7 cumulative.

8 Thank you. Generally I'm very much in  
9 favor of the project with the conditions I mentioned.

10 CHAIRPERSON WONG: Any questions?

11 MR. GEIGER: No questions.

12 MR. HOPPER: No questions.

13 MS. APUNA: No questions.

14 CHAIRPERSON WONG: Commissioners? Thank  
15 you, sir.

16 THE WITNESS: Thank you.

17 EXECUTIVE OFFICER: Michael Takahara,  
18 followed by Stan Franco

19 CHAIRPERSON WONG: May I swear you in,  
20 please? Do you swear that you'll tell the truth in  
21 your testimony?

22 THE WITNESS: Yes.

23 CHAIRPERSON WONG: Please state your name  
24 for the record.

25 THE WITNESS: Mike Makaiana Takahara,

1 Wailuku Sugar.

2 MIKE TAKAHARA

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

5 DIRECT EXAMINATION

6 THE WITNESS: I come here in support of Mr.  
7 Atherton. And I'll tell you a little story why.

8 I grew up in Wailuku in little camp called  
9 Stable Camp, and people before, they very different  
10 from now. The people, when they made a promise,  
11 their word was their word, like what Mike has  
12 promised. There is an almost 1000 acres of  
13 agriculture land. You know me, I go fishing about  
14 three times a week, and I pass by, and I'm very  
15 touched. I miss my plantation life.

16 When I saw the farmers along Honoapiilani  
17 Highway, mahiai, banana, taro, papaya, sunflower, it  
18 tells me and shows me that the man is a man for his  
19 word. And when a person makes a promise, where I  
20 come from, it's a wholly covenant. It's a promise  
21 from the heart. It's not just words.

22 And then when you see the work being taking  
23 place, there is integrity, you know. It's not too  
24 much people that understand that, but I understand  
25 that. I grew up very simple. And when I was growing

1 up, my teacher told me the simple thing, and I grew  
2 up in a very old school where the principal still had  
3 the paddle. And my teacher, math teacher told me one  
4 time, Michael, how do you know that this answer is  
5 the solution to this problem? Show me the work.

6 And I'll tell you what is the solution.  
7 When a person has integrity, the future is pono.  
8 That's the answer. And that's what I really wanted  
9 to share. My mana'o is yours, yeah.

10 CHAIRPERSON WONG: Thank you, sir.

11 MR. GEIGER: No questions.

12 MR. HOPPER: No questions.

13 MS. APUNA: No questions.

14 CHAIRPERSON WONG: Commissioners? Thank  
15 you, sir.

16 EXECUTIVE OFFICER: Next testifier Stan  
17 Franco.

18 CHAIRPERSON WONG: May I swear you in, sir?  
19 Do you swear or affirm that the testimony  
20 that you're about to give is the truth?

21 THE WITNESS: Yes.

22 CHAIRPERSON WONG: Please state your name.

23 THE WITNESS: Stan Franco.

24 CHAIRPERSON WONG: Please proceed.

25 -o0o-

1                                   STAN FRANCO

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

4                                   DIRECT EXAMINATION

5                   THE WITNESS:   My name is Stan Franco, born  
6       and raised on Maui.   I've been actively involved in  
7       an organization here called Face Maui for the last  
8       nine years.   And for the last nine years our  
9       congregations and our churches that belong to Face  
10      has been saying that affordable housing is the  
11      primary issue facing our island, and they wanted us,  
12      the leadership of Face Maui to work on that issue.

13                   So I was very surprised, very happy to hear  
14      a call from Coach, Mike Atherton invited us to meet  
15      with him and his staff.   We've met with him over five  
16      or six meetings talking about what the people of Maui  
17      need from our point of view.

18                   As Michael was talking just right now, and  
19      it touched me a lot, it's about people.   It's about  
20      people.   I think Mike has the right form of it.   He  
21      has talked to us and the rest of the community over  
22      and over again to get the right formula as to what  
23      the people of Maui need and want in his development.  
24      He has community trails.   He has affordable homes for  
25      people.   He has integrated, he has mixed a community

1 which we are very much in favor of.

2 It is also -- the mix is market and  
3 affordable together. So we think this is a wonderful  
4 community. I was part of the GPAC, General Plan  
5 Advisory Committee when this project was proposed.

6 We really, as an organization, have been  
7 advocated for the last nine years for affordable  
8 housing on this island, believe this is the answer.  
9 This is what we need to do.

10 Every developer needs to be like Coach. He  
11 needs to come to the community and say I want to do  
12 this. What do you think? What kind of changes  
13 should I make to make it better for this community?

14 So I wholeheartedly support Coach in what  
15 he's doing, and I ask you to support him too. Thank  
16 you.

17 CHAIRPERSON WONG: Thank you. Any  
18 questions?

19 MR. GEIGER: No questions.

20 MR. HOPPER: No questions.

21 MS. APUNA: No questions.

22 CHAIRPERSON WONG: Commissioners?  
23 Commission Okuda.

24 COMMISSIONER OKUDA: Just for  
25 clarification, Mr. Franco, why do you call him Coach?



1 THE WITNESS: That's his nickname. That's  
2 what he told me to call him, so that's what I call  
3 him.

4 COMMISSIONER OKUDA: Thank you.

5 EXECUTIVE OFFICER: Next person signed up  
6 to testify is Mercer Vicens.

7 CHAIRPERSON WONG: May swear you in?

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

10 THE WITNESS: I do.

11 CHAIRPERSON WONG: Please state your name  
12 for the record.

13 THE WITNESS: Mercer Vicens.

14 CHAIRPERSON WONG: Please proceed.

15 THE WITNESS: Thank you.

16 MERCER VICENS

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

19 DIRECT EXAMINATION

20 THE WITNESS: My story on Mike Atherton  
21 goes about 11 years ago when he and three other  
22 partners purchased about 1927 acres along  
23 Honoapiilani Highway. And actually it was -- they  
24 purchased the land on good faith. They thought that  
25 it was the right thing to do.

1           They were all mainland investors at the  
2 time. Mike chose to move to Maui at that time to  
3 represent his company here, along with one of his  
4 other partners. I've known him for all period of  
5 time.

6           I, in my previous career, was vice  
7 president of development for A & B Properties here on  
8 Maui, and spent about 30 years with Matson and A&B in  
9 management positions.

10          So I've been around the development arena.  
11 I've seen developers come; I've seen developers go.  
12 I've seen people come in and take the money and run.  
13 That's the thing that drew me to Mike. Mike met with  
14 the community many, many times, and sold himself  
15 first and then the project later.

16          And I think that you heard Mike earlier,  
17 one of our testifiers, speak of integrity. And  
18 that's where I come from. I'm old school. If  
19 somebody says we're going to do this, and we're going  
20 to do it in the right way, I take them for their word  
21 and let them prove me wrong.

22          I think Mike has done that. He's gone to  
23 the community many, many times. He's done things for  
24 the community without being asked, cleaning up  
25 automobiles, cleaning up lots. Just doing things

1 that made sense to him, not as a developer, but as a  
2 member of the community.

3 And I think that's the thing that has  
4 impressed me most about Mr. Atherton, his willingness  
5 to listen, which many, many developers, as you well  
6 know, don't.

7 You also know that many developers come in  
8 and promise you affordable housing, and the numbers  
9 are staggering as to the number of homes that have  
10 not been built today, yet they were promised.

11 I have total faith in Mr. Atherton and his  
12 partners, primarily because of Mr. Atherton.

13 I believe that he comes from the old  
14 school, if I give you my hand and I give you my word,  
15 that's what we're going to do. And I believe you're  
16 going to see this come true.

17 It's one of the best projects that I've  
18 seen in my many years in land development including  
19 A&B projects.

20 So I come to you today to ask you to allow  
21 someone who has made Maui his home for the last  
22 11 years, has become an integral part of our  
23 community, has supported the Maui Native Hawaiian  
24 Chamber and the Foundation by giving us a venue to  
25 hold our meetings at no charge. He has done this for

1 many community groups.

2 But we let them tell their story. I'm here  
3 today just to tell you what I know about Mr. Atherton  
4 and what I know about the project, and I believe that  
5 it will be good for our community. It will serve the  
6 needs of a mixed use of the community.

7 And today you've seen a wide spectrum of  
8 people testify, not only on one side of the ledger,  
9 but you've heard Dick Mayer and you've heard the Maui  
10 Tomorrow people come in support. Yes, there probably  
11 needs to be a few conditions, but let's not make it  
12 such a magnitude that you can't make the project  
13 work, because in the end, it's all about numbers.

14 CHAIRPERSON WONG: Can you please wrap up?

15 THE WITNESS: With that I would like to  
16 again reiterate that I support the project. The Maui  
17 Native Chamber Foundation supports the project, and  
18 we would like to see it go forward.

19 CHAIRPERSON WONG: Thank you. Any  
20 questions?

21 MR. GEIGER: No questions.

22 MR. HOPPER: No questions.

23 MS. APUNA: No questions.

24 CHAIRPERSON WONG: Commissioners? Thank  
25 you, sir.

1 THE WITNESS: Thank you very much.

2 CHAIRPERSON WONG: Anyone else wants to  
3 testify on the Waikapu? If not, we're closing the  
4 public testimony at this time.

5 Mr. Geiger, please describe the exhibits  
6 you wish to have admitted to the record.

7 MR. GEIGER: We have previously submitted  
8 to the Commission 1 through 35, which we have  
9 identified on our exhibit list. And we would offer  
10 in exhibits 1 through 35. I would note that Exhibits  
11 12 and 13 have been revised and revised exhibits have  
12 been submitted.

13 CHAIRPERSON WONG: Any objections from  
14 County?

15 MR. HOPPER: No objection.

16 MS. APUNA: No.

17 CHAIRPERSON WONG: Commissioners? Hearing  
18 none, Petitioner's Exhibits 1 through 35 are admitted  
19 into the record with the revisions of 12 and 13.

20 (Petitioner's Exhibits 1 through 35, with  
21 revised Exhibits 12 and 13 were received into the  
22 record.)

23 CHAIRPERSON WONG: County, any exhibits?

24 MR. HOPPER: Chair the County of Maui has  
25 filed a list of exhibits identified as Exhibits 1

1 through 4. Exhibit 3 the direct testimony of Wil  
2 Spence was submitted at a later date, but we would  
3 move all four exhibits be admitted into the record.

4 MR. GEIGER: No objection from the  
5 Applicant.

6 MS. APUNA: No objection.

7 CHAIRPERSON WONG: Commissioners?

8 So County's exhibits 1 through 4 are  
9 admitted to the record.

10 (County of Maui Exhibits 1 through 4 were  
11 received into evidence.)

12 Ms. Apuna any exhibits?

13 MS. APUNA: Office of Planning has exhibits  
14 1 through 11 to admit to the record.

15 CHAIRPERSON WONG: Any objection?

16 MR. GEIGER: No objection from Applicant.

17 MR. HOPPER: No objection, Mr. Chair.

18 CHAIRPERSON WONG: Commissioners? State  
19 Office of Planning Exhibits 1 through 11 are admitted  
20 to the record.

21 (Office of Planning Exhibits 1 through 11  
22 were received into the record.)

23 Thank you. At this time we're going to  
24 take a short recess.

25 (Recess was taken.)

1 CHAIRPERSON WONG: Mr. Geiger, can you  
2 please proceed with the presentation of your case?

3 MR. GEIGER: Yes, Chair. We have already  
4 been before the Commission on the EIS. What we would  
5 like to do is move right into testifying, if that's  
6 okay with the Commission. We'll call -- our first  
7 witness will be Mike Atherton or Coach.

8 CHAIRPERSON WONG: Can I please swear you  
9 in? Do you swear that the testimony you're about to  
10 give is the truth?

11 THE WITNESS: I do.

12 CHAIRPERSON WONG: Thank you. Please state  
13 your name.

14 THE WITNESS: My name is Michael Warren  
15 Atherton.

16 CHAIRPERSON WONG: Please proceed

17 MICHAEL ATHERTON

18 Was called as a witness by and on behalf of the  
19 Petitioner, was sworn to tell the truth, was examined  
20 and testified as follows:

21 DIRECT EXAMINATION

22 BY MR. GEIGER:

23 Q Coach, are you familiar with the Waikapu  
24 Country Town Project?

25 A Yes, sir.

1           Q       Have you provided written direct testimony  
2 in connection with that?

3           A       Yes.

4           Q       I'm going to hand you what is a document  
5 that says Direct Testimony of Michael Atherton.

6                   Is that your written direct testimony?

7           A       Yes, sir.

8           Q       Look at the last page. Is that your  
9 signature on the last page?

10          A       It is.

11          Q       Do you have any corrections or  
12 modifications you need to make to your testimony?

13          A       No, I don't.

14          Q       I don't want you to read your testimony,  
15 but I would like you to talk to the Commissioners and  
16 tell them what you believe is important from your  
17 testimony with regard to their decision today.

18          A       Thank you, Jim.

19                   Good morning, Chair, Commissioners. My  
20 name is Mike Atherton. They call me Coach. And I'm  
21 here today to talk to you about the District Boundary  
22 Amendment on Waikapu Country Town. What was before  
23 you back in February when we talked about the EIS and  
24 now it's an FEIS, thank you very much.

25                   I'm very proud of that EIS. And maybe --



1 you asked a question why they called me Coach. It  
2 was a fraternity name. I've had it all my life. I  
3 had a team and we would put together these kind of  
4 things, and try to end up in the World Series. So  
5 anyway, thank you very much, aloha.

6 Before I describe the project, I would like  
7 to tell you a little bit about us and about who we  
8 are and where we came from.

9 I grew up in California in a farming family  
10 li, and I am a farmer and have been growing coffee  
11 since 1974. 1979 I started buying lots and formed a  
12 construction company called Atherton Homes.  
13 Currently I billed with my partners -- Albert Boyce  
14 is here today -- we build affordable housing. We've  
15 been doing it for a long time, over 30 years in  
16 affordable housing market.

17 But to be able to do affordable housing, I  
18 had to be able to go out and find a piece of property  
19 well in advance. You didn't buy lots down at the  
20 supermarket, you had to develop those lots yourself,  
21 you had to create entitlement to be able to have a  
22 future for your construction company to be able to  
23 build on.

24 So I did that in California for many, many  
25 years. I drumped up many master plans and I've been

1 doing this for a long time. So when I came to Maui,  
2 I told you that when we were at the EIS hearing. I  
3 came from Molokai, Coffees of Hawai'i. I came to  
4 Maui, and here we are today to talk about the  
5 District Boundary Amendment.

6 One of the first things I did was I noticed  
7 that this piece of property is concentric to the  
8 Central Maui growth. And in my business, you need to  
9 be concentric because the infrastructure and the cost  
10 of the infrastructure to expand them into new areas.

11 So I thought the geographic location was  
12 wonderful. When I met Avery and I went down and  
13 looked at the Maui Tropical Plantation. I had a  
14 vision, and I had a vision that there was a  
15 possibility to do what I did in California here on  
16 Maui. And this gave me that opportunity to be able  
17 to do that.

18 And we came and sat down and worked out a  
19 deal, bought the land. And the very first place I  
20 went was the community. And I've always done it that  
21 way. I've been in this business 45 years. The very  
22 first thing I do before I go do anything, I find out  
23 where I'm going before I go there. I meet the  
24 community, go back and forth, back and forth, get a  
25 lot of their input.

1           In this plan we have a very popular and  
2           very successful agricultural open space easement.  
3           850 acres. That was not my idea. That was the idea  
4           of the Waikapu Community Association. I was  
5           listening to them, and trying to talk about how we  
6           were going to mitigate, and trying to go find support  
7           from the community. And it was the easement that  
8           really started me down the road to where we are  
9           today.

10           Then I get all that input and then I go  
11           meet the environmental community. We have a strong  
12           environmental community here on Maui, and I would  
13           mitigate with them and do the same thing. And then I  
14           would incorporate their concerns into my plans.

15           Then I go and I met Mike Summers and Bill  
16           Mitchell and we created the plan that we have put  
17           together. It's not my plan; it's our plan. It's '  
18           everybody's plan. It's the community's plan. I  
19           think that's shown today by the amount of support  
20           that this project has had.

21           I'm proud of this plan. I'm proud of  
22           everything that we've been able to put together as a  
23           group. I have never done it any other way. In the  
24           whole 50 years I've been in business, first thing we  
25           do after we buy land is we go and communicate with

1 everybody who is going to be involved in what we're  
2 planning on doing.

3 I get my consultants and we create a map.  
4 We take that map and go down to the county. We meet  
5 with the county and get their concerns. So it's a  
6 group effort. They call me Coach because I run with  
7 the team. This is my team. Everybody who comes here  
8 today is part of my team.

9 We have been able to take that idea, and  
10 I've been able to use it for many, many years, and  
11 I've been able to create lots. And I've been able to  
12 expand several different communities that I'm very  
13 proud of. I did a lot of building in a little town  
14 called Manteca, California.

15 Atherton Homes has a website. You're  
16 welcome to take a look, it's hiding. I want to be  
17 able to do that here in Central Maui. I had a vision  
18 and I want to be able to complete that vision.

19 So I'm very proud of this project. This is  
20 a community project. This is our project. And with  
21 that, I would humbly ask you for your support.

22 If you have any questions, I'm here to  
23 answer them.

24 MR. GEIGER: Thank you, Mike, we would  
25 offer Mr. Atherton's written testimony which has been

1 previously provided to the Commission as our next  
2 exhibit in number which is 36.

3 CHAIRPERSON WONG: Thank you.

4 MR. GEIGER: With that I pass the witness.

5 CHAIRPERSON WONG: County.

6 MR. HOPPER: No objection to the submission  
7 of the exhibit.

8 CROSS-EXAMINATION

9 BY MR. HOPPER:

10 Q I just have a couple of questions.  
11 You're familiar with the document known as  
12 Maui Island Plan?

13 A Yes.

14 Q Could you briefly -- first of all, the  
15 project known as Waikapu, I think it's called  
16 Plantation Town in the document, is actually  
17 specifically referenced in the Maui Island Plan  
18 document, correct?

19 A Yes, sir.

20 Q Could you talk a bit about the efforts that  
21 you made during the creation of the Maui Island Plan  
22 to have your project considered and made part of the  
23 Maui Island Plan?

24 A I attended over five years of hearings and  
25 meetings putting together the Maui Island Plan with

1 my friend Reid, as representative of the community.  
2 And we were be able to communicate, and we were able  
3 to take a lot of those old ideas that I told you  
4 earlier about, concentric growth, infrastructure and  
5 location and mitigation and open space.

6 So we spent a lot of time working with Wil  
7 and County of Maui on the Maui Island Plan, and we  
8 fortunately were able to be included in the Maui  
9 Island Plan. So when I was included in the Maui  
10 Island Plan, I moved to the next position, and we  
11 commenced to do the Environmental Impact Statement,  
12 and we brought that before you, and now we're before  
13 you with the District Boundary Amendment.

14 Q Are you generally familiar with the  
15 conditions that the County of Maui has recommended to  
16 the Land Use Commission for approval?

17 A Yes.

18 Q In general, are you amenable to the  
19 conditions, I guess, subject to working out the  
20 specific wording?

21 A Yes.

22 Q Thank you very much. I have no further  
23 questions.

24 CHAIRPERSON WONG: OP.

25 MS. APUNA: Thank you Mr. Atherton for your

1 testimony, I have a few questions.

2 CROSS-EXAMINATION

3 BY MS. APUNA:

4 Q Are you authorized to commit and make  
5 representations on behalf of the Petitioners?

6 A I didn't understand. I'm sorry, I have a  
7 hearing issue.

8 Q Are you authorized to commit and make  
9 representations on behalf of the Petitioners?

10 A Yes, I am.

11 Q And do you commit to the representations  
12 made in the Petition?

13 A Yes.

14 Q Are you able to commit to generally the  
15 conditions presented by OP?

16 A Yes.

17 Q On page 34 of the Petition it states that  
18 possible uses of the remaining 300-plus acres are  
19 subdivided into larger, large ag lots for development  
20 into the private ag park.

21 Do you know how large those lots might be?

22 A There's only four lots, so they're  
23 different -- they differ in size. I would say the  
24 first one is the biggest one. It's about 700 acres.  
25 Then we have several that are 300 acres.

1           Q       I'm sorry, I'm referring to the 300-plus  
2 acres that are, I guess, the remaining lands outside  
3 the rural.

4           A       Would this be the area here (indicating)?  
5                    Would that be the area here, the combined  
6 300 acres right here (indicating)?

7           Q       I believe so. That would be the remaining  
8 acreage.

9           A       What was the question?

10          Q       So I was wondering what -- it's proposed to  
11 be used as ag lots or a private ag park? So I wanted  
12 to learn more about what your vision was for that  
13 300-plus acres?

14          A       The area there is primarily the open space  
15 that surrounds the town, and not an ag park because  
16 I've been able to put an ag park here (indicating)  
17 below the Honoapiilani Highway. Maybe we put that  
18 together before HC&S left, and we were able to move  
19 down there. But that will primarily -- it's grazing  
20 land now. It's in pasture. I've been able to reach  
21 an agreement with Na Wai Eha about how much water we  
22 use in the Waikapu Stream for the cows. So right now  
23 we would just have ag lots, and those ag lots would  
24 have pasture.

25          Q       Okay, thank you.



1           What is the current status of talks with  
2 the County for interconnection with the county's  
3 water system?

4           A     Well, we have always had a desire to do a  
5 regional system in the area, and the reason is cost.  
6 And the reason those costs could be passed back in  
7 the form of affordable housing.

8           Currently we have an understanding with  
9 Alexander & Baldwin, and we're approaching the county  
10 now with the proposal in an attempt to see if it's  
11 possible to build a regional system in the area.

12          Q     Okay. And as far as -- have you had any  
13 experience developing a project that included a  
14 private wastewater system?

15          A     No, I have not.

16          Q     On page 48 of the Petition it states that  
17 Petitioner expects to finalize an agreement  
18 concerning traffic mitigation cost sharing before the  
19 LUC completes action.

20                Is there agreement with the county yet on  
21 that?

22          A     Yes, we have. My counsel, Mr. Mancini has  
23 met with David Goode on several meetings putting  
24 together a mitigation plan.

25          Q     Thank you.

1           A       Thank you.

2                   CHAIRPERSON WONG:  OP, just for the record,  
3 do you have any of objections to Exhibit 36?

4                   MS. APUNA:  No, no objection.

5                   CHAIRPERSON WONG:  Commissioners?  Before I  
6 ask for questions, any objections regarding  
7 Exhibit 36?  If not, Exhibit 36 is put into the  
8 record.

9                   (Petitioner's Exhibit 36 was received into  
10 evidence.)

11                   Commissioners, do you have any questions?  
12 Commissioner Scheuer.

13                   VICE CHAIR SCHEUER:  Good morning, Mr.  
14 Atherton.

15                   THE WITNESS:  Good morning.

16                   VICE CHAIR SCHEUER:  Thank you for being  
17 here today.

18                   THE WITNESS:  You're welcome.

19                   VICE CHAIR SCHEUER:  A bunch of the public  
20 testimony, the very supportive public testimony had  
21 to do with people's faith in the word that you've  
22 given to them on various commitments.

23                   Only because it came up during the  
24 testimony that people distinguished your presence on  
25 Maui and your commitment to Maui as opposed to other

1 developers.

2 I just wanted to ask you on the record: Do  
3 you have any plans or intent at this point to divest  
4 yourself of your interest after receiving your  
5 entitlement for this project?

6 THE WITNESS: No, do I not.

7 VICE CHAIR SCHEUER: You intend to remain  
8 and follow through with the commitment?

9 THE WITNESS: Yes, I plan to.

10 VICE CHAIR SCHEUER: Thank you very much.

11 (Commissioner Cabral present.)

12 CHAIRPERSON WONG: I want to state for the  
13 record that Commissioner Cabral has joined us today,  
14 just for everyone's 's information.

15 Commissioner Ohigashi.

16 COMMISSIONER OHIGASHI: You mention  
17 regional water system. Could you define to me what  
18 that is? Probably fuzzy brain today, and not able to  
19 determine what that really means, regional water  
20 system.

21 THE WITNESS: There an ordinance in Maui  
22 County. We needed to identify a source for water.  
23 We would fortunate when we purchased the land from  
24 Wailuku Agribusiness we were able to purchase  
25 groundwater rights on the mauka side of Honoapiilani

1 Highway, and I drilled five wells. And we tested the  
2 tells. The water quality is good. We have a water  
3 consultant in the audience, and he would be able to  
4 back that up.

5 So we put together a plan that would build  
6 a private water system and serve the project. We put  
7 together in our Draft EIS and in the proposal that it  
8 would be a dual water system, a system that I've done  
9 before in the West Coast.

10 And a dual water system is we only use  
11 potable water where potable water is necessary,  
12 because water is a very precious resource these days.  
13 Then we would be using ag water for all of our  
14 landscape irrigation and all the other areas.

15 Dual water system is a very successful  
16 endeavor that we have been on before. And that's  
17 more or less my proposals that's in my Draft EIS.

18 Now, at the same time for costs and  
19 expense, I have always had an intent or have an open  
20 mind to build a regional system. And if we did build  
21 a regional system, we were successful with Maui  
22 County, then the wells would become part of Maui  
23 County wells.

24 And we have an understanding that the wells  
25 are in good enough condition to where they would be

1 accepted by Maui County. Not all five, just Wells 1  
2 and 2.

3 COMMISSIONER OHIGASHI: When you mentioned  
4 regional system, that's separate from the private  
5 system you're proposing?

6 THE WITNESS: Right. We're a long ways  
7 away of trying to be successful here and come before  
8 you with a regional system. And if there's a change,  
9 we will have to let you know about it. In the  
10 meantime, I said in order for the opportunity to be  
11 able to build this affordable project in my lifetime,  
12 I wanted to come up with mitigation that would allow  
13 us to advance and move forward in case we weren't  
14 successful with a regional system.

15 My main desire on a regional system is a  
16 situation that creates a better deal for everybody  
17 because we'll be able to take that cost savings and  
18 pass it back in the affordable housing.

19 CHAIRPERSON WONG: Any other questions?  
20 Commissioner Okuda.

21 COMMISSIONER OKUDA: Thank you, Mr. Chair.  
22 Thank you for your testimony, Mr. Atherton,  
23 if I can just ask a few questions here.

24 In your moving documents there's the use of  
25 the term, and I quote, "workforce housing".

1           Can you tell me how you define workforce  
2     housing? Is that by price point, or what type of  
3     definition with more specificity do you have with  
4     respect to defining the term "workforce housing" as  
5     it's used in your Petition?

6           THE WITNESS: Workforce housing is a phrase  
7     that's common in our industry. And it's used quite a  
8     bit in the Maui Island Plan. It's another word for  
9     affordable housing. In workforce housing, we have  
10    workforce housing, affordable housing in Maui County  
11    of 25 percent.

12           So my intent is to try to come in with the  
13    best cost I can. We do all the construction, so we  
14    are able to take some of the construction savings and  
15    pass that back to the buyers. And that was the term  
16    we put, workforce housing is affordable housing.

17           COMMISSIONER OKUDA: Are you using that  
18    term "workforce housing" in the same context as used  
19    with respect or used in ordinances passed by Maui  
20    County Council?

21           THE WITNESS: Yes.

22           COMMISSIONER OKUDA: Do you have -- of the  
23    number of units that you plan or propose to build,  
24    what percentage would be workforce housing?

25           THE WITNESS: Well, I don't know anything

1 over the 25 percent requirement I have today. I'm  
2 still premature in finding out the cost. So I would  
3 have to answer that truthfully today that we were  
4 25 percent today, and we hope to be able to increase  
5 that number by being able to bring this project in  
6 for decent amount of cost. So I still have a long  
7 ways to go before I could define actually how much  
8 percentage of the project will be workforce housing  
9 or affordable housing.

10 So I'm committed to 25 percent now, and I'm  
11 committed in telling you today that I'll do  
12 everything I can to continue that upwards of  
13 25 percent. And I just need a little bit more time,  
14 little bit more facts to be able to put the whole  
15 thing together and answer that question properly.

16 COMMISSIONER OKUDA: Thank you.

17 CHAIRPERSON WONG: Commissioner Scheuer.

18 VICE CHAIR SCHEUER: I want to follow up on  
19 some of the points raised in the testimony of Dick  
20 Mayer regarding ohana units and the property and your  
21 proposal.

22 If I understood his testimony correctly, he  
23 stated that your Petition indicates that somewhere  
24 around a 140 ohanas units are actually anticipated  
25 and occurring as a result of this District Boundary

1 Amendment; is that correct?

2 THE WITNESS: Yes.

3 VICE CHAIR SCHEUER: He also stated that  
4 there's going to be a number of other parcels which  
5 may be eligible, at least under county ordinance, for  
6 ohana units; is that also correct?

7 THE WITNESS: Yes.

8 VICE CHAIR SCHEUER: So are there going to  
9 be restrictions placed on those units when they're  
10 sold by you or successor companies to prohibit the  
11 building of ohana units?

12 THE WITNESS: I have no problem with that.

13 VICE CHAIR SCHEUER: Because my  
14 understanding is the EIS did not anticipate the  
15 additional impacts associated with those potential  
16 units.

17 THE WITNESS: The EIS is an extensive  
18 document. We did our best to cover all the cost.  
19 And a 140 units is all we want. We don't have a  
20 problem with putting the numbers 140 and giving me  
21 some type of restriction I can't have any more. And  
22 if I ever sold any lots that they couldn't build any  
23 more.

24 So to answer Mr. Mayer's concern, we have  
25 1,433 units, plus 140 ohanas.



1 VICE CHAIR SCHEUER: Thank you.

2 THE WITNESS: You're welcome.

3 CHAIRPERSON WONG: Any other questions?  
4 Commissioner Cabral.

5 VICE CHAIR CABRAL: Thank you, and my  
6 apologies for being late. I had a subpoena in court  
7 in Hilo today, so certainly not at a party.

8 Speaking of water, and what I read -- and I  
9 live in Hilo, so I have lots of water in my life. I  
10 live on catchment, no problem. But I'm very  
11 interested because I realize that water is such a  
12 necessity for all housing, and you have a lot of  
13 information here about potable and nonpotable water,  
14 and you're talking about a dual water system.

15 And I don't have all of the details from  
16 what I've read, so I'm not sure I understand that  
17 there's clearly agricultural and different things and  
18 the fire system would be for the non-drinkable water.

19 But have you had any considerations, and  
20 because you're talk I think 960,000 gallons a day of  
21 water and just 690 of nonpotable water. Just a huge  
22 amount of water that is going to be used on a daily  
23 basis when this project gets built out.

24 If there is any thought of having in each  
25 of the houses, which I know plumbing is really

1 expensive, but if there -- would there be anything  
2 there which would benefit the community, benefit the  
3 homeowner, benefit everybody of having like your  
4 toilet to be serviced by non-drinkable water? You  
5 could have your faucets outside. You could have  
6 options. Obviously your kitchen needs to be  
7 drinkable water.

8 Have there been any considerations as we  
9 reduce our natural resources by population growth of  
10 any consideration in that regard with a dual system  
11 or is that being considered, or is that just outside  
12 and too expensive to think about?

13 THE WITNESS: No, the dual system, we only  
14 provide potable water where it's necessary. So your  
15 spigots outside, all your landscaping water, all the  
16 areas that are nonpotable, would be on what we call  
17 "ag water".

18 So it would be very specific, and as we get  
19 down into the development process, we will be able to  
20 answer that question exactly by how many units and  
21 how many different gallons a day that means. 900,000  
22 comes from the county standard per household per day  
23 times the amount of units we have.

24 VICE CHAIR CABRAL: Thank you for the  
25 consideration in that regard. Thank you.

1 CHAIRPERSON WONG: Any other questions?  
2 Mr. Geiger, redirect?

3 REDIRECT EXAMINATION

4 BY MR. GEIGER:

5 Q You were asked the question by State Office  
6 of Planning about whether or not there was a plan in  
7 place or agreement in place with the County  
8 concerning traffic.

9 I just want to clarify that testimony.  
10 There's been discussions, but it's my understanding  
11 that there's no agreement in place, correct?

12 A No, discussions only.

13 Q And you were also asked if you were in  
14 agreement with the conditions that the State had  
15 proposed generally, correct?

16 A Yes.

17 Q And you recognize one of the conditions is  
18 that there has to be some memorandum of understanding  
19 or memorandum of agreement about the traffic,  
20 correct?

21 A Yes.

22 MR. GEIGER: Thank you.

23 CHAIRPERSON WONG: Thank you, Mr. Atherton.  
24 Next witness, please.

25 MR. GEIGER: We would call Bill Mitchell.

1 CHAIRPERSON WONG: May I swear you in,  
2 please?

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

5 THE WITNESS: Yes.

6 CHAIRPERSON WONG: Can you please state  
7 your name?

8 THE WITNESS: My name is Bill Mitchell.

9 CHAIRPERSON WONG: Mr. Geiger, please  
10 proceed.

11 BILL MITCHELL  
12 Was called as a witness by and on behalf of the  
13 Petitioner, was sworn to tell the truth, was examined  
14 and testified as follows:

15 DIRECT EXAMINATION

16 BY MR. GEIGER:

17 Q How are you familiar with the Waikapu  
18 Country Town Project?

19 A I am project landscape architect.

20 Q Did you have any other familiarity, or what  
21 else did you do?

22 A Also land planner as well as landscape  
23 architect.

24 Q Did you prepare written direct testimony in  
25 this matter?

1           A       Yes, I did.

2           Q       I'm going to hand you a document, which is  
3       entitled your written testimony, is that correct?

4           A       Yes.

5           Q       Does your signature appear on the last  
6       page?

7           A       Yes, it does.

8           Q       Do you have any modifications or  
9       corrections or additions to the testimony?

10          A       No.

11          Q       Again, as with the last witness, I don't  
12       want you to read your testimony, but tell the  
13       Commission the important parts of the testimony from  
14       your perspective as to their decision-making process.

15          A       Certainly, thank you.

16                   Good morning, Mr. Chair, Members of the  
17       Commission. I appreciate the opportunity to share  
18       with you a little bit about the project.

19                   I think Mr. Atherton and the other  
20       testifiers have done an excellent job in sort of  
21       summarizing many of the qualities and the attributes  
22       of the project.

23                   We do have a copy -- I think you're  
24       familiar with the project master plan up here on the  
25       board. And just, again, orienting you to the project

1 located here in the existing Waikapu Corridor along  
2 the Honoapi'ilani Highway. To the north is Wailuku,  
3 to the south is Maalaea. Two lopes to the project, a  
4 mauka and makai portion, you can see here separated  
5 by the agricultural lands to the south, and then the  
6 rural lands and agricultural areas to the west of the  
7 mauka portion of the project.

8 What really has made this project unique as  
9 you -- if you read my testimony, is the ability to  
10 incorporate a lot of open space and walkability, open  
11 space corridors to make the community really  
12 accessible to people without having to get into their  
13 automobiles to get to services, to get to  
14 recreational portions of the project.

15 A couple things I might point out is we  
16 have the main corridor from what is the existing Maui  
17 Tropical Plantation, right here (indicating), a main  
18 street corridor that runs east/west. Then we have a  
19 parkway corridor that runs north and south.

20 And the uniqueness of this project also is  
21 set up by Mr. Atherton's vision to take what is now a  
22 really wonderful amenity to Maui County, Maui  
23 Tropical Plantation, and really build the town center  
24 around that.

25 And that town center would then occur in

1 the master plan here (indicating) that's where the  
2 Maui Tropical Plantation is.

3 As you can see, and as described in my  
4 testimony and the master plan and the FEIS documents,  
5 the housing surround these open space corridors, and  
6 really creates not only a walkable community, but a  
7 community that's desirable to live in, just because  
8 there is open space around it, which is not always  
9 the case in new developments. And Mr. Atherton's  
10 vision of creating landscape and open space and park  
11 space has made this project pretty exciting for  
12 myself as a landscape architect and planner to see  
13 and be involved in.

14 So we appreciate that opportunity, and I'd  
15 be happy to take any of your questions.

16 Q Thank you, Bill. No further questions. We  
17 would offer again the same thing as with Mr.  
18 Atherton, his written direct testimony, offer it as  
19 next exhibit in order which would be 37.

20 CHAIRPERSON WONG: County?

21 MR. HOPPER: No objection, and we don't  
22 have questions.

23 MS. APUNA: No objection to the exhibit and  
24 no questions.

25 CHAIRPERSON WONG: Commissioners, do you

1 have any objections to Exhibit 37? If not, it needs  
2 to be put in the record.

3 (Petitioner's Exhibit 37 was received into  
4 evidence.)

5 Commissioners, any questions? Commissioner  
6 Cabral.

7 VICE CHAIR CABRAL: Have to make up for  
8 lost time.

9 In your -- in this concept that I'm  
10 envisioning from what I've read and what I've seen  
11 when we did our site visit, in your efforts to be  
12 able to move people on foot or on bicycle or non-car,  
13 non-automobile type methods, is there a way to be  
14 able to -- in your area, not knowing what is mauka  
15 and makai, so that lower portion then you've got that  
16 main roadway that kind of bisects your entire  
17 project, is that your pathway, but is there a way to  
18 get across that main highway of yours, without having  
19 to go through a stoplight or a round-about, is there  
20 a way under or over?

21 If I was on my bicycle, could my kids  
22 bicycle across there without me thinking they're  
23 going to get run over by a speeding bullet?

24 THE WITNESS: That's a good question, and  
25 it is being studied. I don't have an answer. That



1 is something we will work with DOT in options, if  
2 possible, to create a way to get either under or over  
3 the highway.

4 We do anticipate that section of highway to  
5 be much slower design speeds. But that is part of  
6 the plan is to be able to easily access the mauka and  
7 makai portions on foot or bicycle.

8 VICE CHAIR CABRAL: I think I read some of  
9 it, but it's hard to keep it all straight,  
10 considering a lot of roundabouts as opposed to  
11 stoplights.

12 THE WITNESS: That's correct. They're  
13 effectively proven. They work well. They're traffic  
14 calming, and they're also a landscape amenity. So  
15 it's kind of a win/win. So we're using those and  
16 incorporating those in the project where we can.

17 CHAIRPERSON WONG: Any other questions,  
18 Commissioners? Redirect, Mr. Geiger?

19 MR. GEIGER: No redirect.

20 CHAIRPERSON WONG: Thank you, sir. Next  
21 witness, please.

22 MR. GEIGER: Our next will be on traffic,  
23 Mr. Netai Basu.

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

1 THE WITNESS: I do.

2 CHAIRPERSON WONG: Can you please state  
3 your name?

4 THE WITNESS: Netai Basu.

5 CHAIRPERSON WONG: Please proceed.

6 NETAI BASU

7 Was called as a witness by and on behalf of the  
8 Petitioner, was sworn to tell the truth, was examined  
9 and testified as follows:

10 DIRECT EXAMINATION

11 BY MR. GEIGER:

12 Q Good morning. How are you familiar with  
13 the Waikapu Country Town Project?

14 A I've been engaged since 2013 in traffic  
15 planning and traffic impact analysis to this project.

16 Q The court reporter may want you to talk  
17 into the microphone, since she's already busted me  
18 twice this morning.

19 A I've been engaged since 2013 in traffic  
20 planning and traffic impact analysis for this  
21 project.

22 Q Did you prepare written direct testimony  
23 for this project?

24 A I did.

25 Q I'm going to hand you a document and ask

1       you:   Is that your written direct testimony?

2           A       It is.

3           Q       And does your signature appear on the last  
4       page?

5           A       It does.

6           Q       And this was already submitted to the  
7       Commission but do you have any additions or  
8       corrections you need to make to the written direct  
9       testimony?

10          A       I don't.

11          Q       Again, as with the other witnesses, just  
12       asking you to please highlight for them your  
13       testimony, the things that you believe will be  
14       helpful in making their decision on this District  
15       Boundary Amendment.

16          A       Well, very good.

17                   Thank you and good morning.  I appreciate  
18       the chance to come before you today.  I trust you can  
19       hear me.

20                   Traffic impacts associated with this  
21       project in connection with the other developments in  
22       the area and the existing level background traffic is  
23       plainly of interest to the community and to your  
24       group, and it was to me professionally.

25                   In the testimony I've laid out all the

1 steps we took as the project manager, leader of our  
2 company since the project, and we took through the  
3 analytical process, so I won't go through all that  
4 right now. I'll give you a quick overview of some of  
5 the steps we took, and if you want to talk about any  
6 of that further, go ahead and ask questions.

7           The first thing we did was look at trip  
8 generation overall of the proposed development  
9 because that gives us an idea of the magnitude of  
10 traffic.

11           And then we looked at the site plan working  
12 with Bill and Mike Summers, we provided comments on  
13 access and circulation, and as they described it went  
14 through several iterations as the project developed  
15 over the years.

16           I visited the site. Traveled through  
17 Central Maui. Looked at the neighboring areas which  
18 are under development or planned for development to  
19 get a sense of the context in which this new  
20 development in this neighborhood would be built.

21           Arranged for new baseline traffic data to  
22 be collected at the study intersections. Wrote a  
23 detailed memorandum to Planning and Public Works and  
24 DOT, laying out what we thought was the right scope  
25 of the traffic study, enumerating the assumptions

1 regarding background growth for different  
2 development.

3 Roadway improvements, what plans had been  
4 funded. What should be assumed in regards to both of  
5 those. And what the horizon years for the study. So  
6 all of this we did an early pre-consultation, laying  
7 out the parameters of the study before we did it.

8 Then we went through and executed that. We  
9 were fortunate that we were able to obtain the  
10 State's travel, the main forecasting model for the  
11 island.

12 Islandwide computerized traffic model. We  
13 looked at that. We added detail, both in terms of  
14 the land use and the network in the Central Maui  
15 area, because like any countywide model, it may not  
16 have sufficient detail right in the area where we  
17 what to look.

18 So we added that network detail. Compared  
19 the volumes in there against the baseline volumes,  
20 and we were convinced that this tool would do a good  
21 job of projecting traffic and analyzing traffic.

22 Cumulative development projects. Comments  
23 was made about some of the other projects nearby  
24 which were planned and the magnitude of. Based on  
25 the detailed review of information from County

1 Planning and the other TIAR's, TA's, and TIS's that  
2 we were able to obtain, we included roads from over  
3 40 projects in the Central Maui area, as well as  
4 other ones elsewhere in the islands.

5 Among those are Waiale, Maui Lani, Kea  
6 Lani, and Pu'unani residences -- and this is all  
7 documented in the traffic impact analysis report, but  
8 each one is included in its entirety except for  
9 Pu'unani residences which we assumed to be 40 percent  
10 built out by 2026, because that's a long-term project  
11 as we understood it, so we didn't include all of  
12 that.

13 The County has a level of service standard  
14 D, seeking to maintain or achieve ALISH D as a metric  
15 of operational efficiency for traffic.

16 So we took that as a threshold of  
17 significance. If an intersection is projected to  
18 operate at E or F, we look for ways to mitigate that  
19 back to D or better.

20 There's a limited number of tools in the  
21 toolbox to do this, because the level of service is  
22 based on traffic volume at a certain intersection  
23 with certain characteristics. So we looked at  
24 roadway widening, whether it's additional through  
25 lanes or turning lanes, signal timing, techniques or

1 phasing techniques, introducing a protective  
2 left-turn lane, for instance, can reduce overall  
3 delays if that's one of the critical moves.

4 So there's certain things that can be done.

5 In the Draft EIR -- I'm sorry, Draft EIS,  
6 the assumption was that the Waiale bypass would be in  
7 place. It was assumed to -- we talked to a lot of  
8 different people. There was not concrete certainty  
9 but it seemed like that's an assumption when we get  
10 our study.

11 So the forecast in the Draft EIS are based  
12 on that bypass being constructed.

13 There were six intersections which were  
14 found to be operating ALISH at E or F. Of those,  
15 even without the addition of the Waikapu Country Town  
16 Project, five were forecasted to be operating at --  
17 (indecipherable).

18 So it's the combined effect, the existing,  
19 cumulative development and this project together  
20 which leads to forecast conditions.

21 This is the way these studies are done.

22 We identified a series of mitigations which  
23 could achieve ALISH D or better at each one of the  
24 impacted locations, documented those, and recommended  
25 certain ones to be made by this development, certain

1 other ones to be made by other developments based on  
2 fair share calculations we made.

3 That was the recommendation, not  
4 conclusion. It was a point of discussion to carry  
5 this further.

6 Following review of public comments from  
7 the Draft EIS, it was decided that it was appropriate  
8 to go ahead and do a whole new analysis scenario  
9 without that extension of Waiale Road in place. So  
10 what did that. That's included in the Final EIS.

11 And found that instead of six intersections  
12 which would need mitigation, there were nine. Now of  
13 those nine, there were four which require more  
14 mitigation. One which requires less. And four for  
15 which the improvements would be the same, similar.

16 I'll take a moment to go through the four  
17 which require more mitigation. Would you like to see  
18 a slide pointing to these?

19 CHAIRPERSON WONG: If the Commissioners  
20 don't mind, I wouldn't mind seeing a slide, please.

21 While we are waiting for the slide, sir,  
22 what's -- can you explain what level D, E and F mean?

23 THE WITNESS: Back to grade school or  
24 college, there is a letter grade that was assigned  
25 for many years, it's used in transportation planning



1 assessment, A through F. A being free flow,  
2 uncongested, minimal delay for all approaches. F  
3 being overcapacity. At least one approach will have  
4 to wait for more than one cycle for all the vehicles  
5 to clear. And it's based on average vehicle delay at  
6 the intersection whether it's stop controlled or  
7 signalized.

8 So A, B, C, D, comfortable, E and F, more  
9 delay for parties traveling on the road.

10 CHAIRPERSON WONG: Thank you.

11 THE WITNESS: Thank you, Jim, for putting  
12 this up.

13 VICE CHAIR SCHEUER: Can we clarify what  
14 exhibit we are looking at?

15 THE WITNESS: This is Figure A from the  
16 TIAR, which is appended to the EIS. I think also  
17 Figure 1, I put it in the Executive Summary as well.

18 In this figure north is up. And this road  
19 is Honoapiilani Highway, Route 30, and this is  
20 Kuihelani. Here's the project site (indicating).

21 So we analyzed four intersections along  
22 Maui Lani Parkway and along Waiale Road, and several  
23 within and adjacent to the site and further down here  
24 (indicating).

25 So we tried -- we scoped this out in a way

1 that we were looking for impacts, where we thought  
2 they might occur and be directly related to this  
3 project.

4 This is (indecipherable) -- where the  
5 Waiale bypass would be.

6 VICE CHAIR CABRAL: Can you point that out  
7 again?

8 THE WITNESS: (Indicating.)

9 VICE CHAIR CABRAL: Okay, thank you.

10 THE WITNESS: Today Waiale Road stops at  
11 the creek, at Waiko Road it T's off. The bypass will  
12 be just about a mile long. But what it would do  
13 effectively is create a third corridor for northbound  
14 traffic through the central part of the island.  
15 Because today there are two arterials, and this would  
16 be a major collector, a third route.

17 It's been in many plans over the years and  
18 it seemed like the right thing to assume.

19 So to come back to where I left off, thank  
20 you for suggesting I put up this figure.

21 Four intersections which would need more  
22 mitigation are at each end of the Waiale bypass. The  
23 assumption is that if the Waiale bypass were built,  
24 each end of it would be signalized. We reviewed the  
25 EIS and prepared for that. And that was a part of

1 that project, that the roadway would be built along  
2 that approximate alignment, and each end of it would  
3 be signalized. So in the width bypass scenario, that  
4 was a baseline condition.

5 If the Waiale bypass is not built to  
6 achieve ALISH D or better, those intersections would  
7 still need to be signalized. Those are two locations  
8 where more mitigation would be needed without the  
9 bypass in place.

10 The other two, one is at Kuihelani and  
11 Honoapiilani, the northern most intersections  
12 (indecipherable) -- and Honoapiilani. The TIAR  
13 recommended modifying the eastbound and westbound  
14 approaches to provide a single left through and a  
15 right from the conditions that had been in place in  
16 2013, and dual southbound left-turn lanes to go into  
17 the new development makai side of the road.

18 Since that time, the County has improved  
19 the east and westbound approaches to provide a single  
20 left through and a right, but the dual left-turn lane  
21 has not been implemented.

22 If the bypass were not there, to achieve  
23 ALISH D we identified certain other improvements, a  
24 northbound dual right-turn lane and also  
25 modifications to the westbound approach, dual turn

1       lanes, plus the through lane.

2               And that we felt -- we looked at available  
3 maps and identified a likely need to acquire  
4 right-of-way at that point to fully implement that.  
5 If that right-of-way couldn't be obtained, then that  
6 improvement couldn't be fully made. But if it were  
7 ALISH D would be achieved.

8               The last location where there is more  
9 mitigation is just north of the project site at Waiko  
10 Road and Honoapiilani. If the bypass were in place,  
11 no improvement would be needed to that to achieve or  
12 improve ALISH D, there was no impact. But without  
13 the Waiale bypass in place, the traffic which that  
14 would be carrying would have to travel on one of the  
15 other available parallel routes, leading to a finding  
16 of a deficit there.

17              So we have I identified improvements to the  
18 eastbound and westbound approaches to reconfigure the  
19 westbound/eastbound, and then to widen the westbound  
20 approach. And also to widen the northbound approach  
21 and departure to carry a second through lane.

22              The right-of-way there on the east leg, the  
23 makai lane, is 47 to 50 feet wide, and we don't think  
24 that is sufficient for that improvement.

25              So that's the other place where it looks

1 like right-of-way would be needed if that were to be  
2 fully implemented.

3 And I can talk about the other improvements  
4 if you like, or any other aspect of the traffic  
5 study.

6 One other thing I wanted to, based on  
7 comments I heard this morning, and it's already been  
8 spoken to, but I wanted to point out, in the TIAR we  
9 assumed 146 ohana units were developed, and treated  
10 them as apartments, rather than as single-family  
11 homes, so second units.

12 I'm available for questions if you like.

13 Q (By Mr. Geiger): I have a couple of follow  
14 ups.

15 I think it's in your testimony, but is it  
16 correct that in your traffic studies you also  
17 analyzed these other projects, the Maui Lani, Kea  
18 Lani, Pu'unani and Waialae project?

19 A Yes, indeed.

20 Q And I think there was a question of an  
21 earlier witness about handling pedestrian crossing  
22 over Honoapiilani Highway. Any consideration into  
23 that?

24 A Yes, and before we get to that, let me  
25 augment my answer just now.

1           As part of the consideration of those four  
2 projects spoken of, we reviewed the EIS's,  
3 Environmental Assessment TIARs for them as the case  
4 may have been, and pulled out as much detailed  
5 information about each of the projects as proposed or  
6 approved as we could find in terms of location of  
7 that development within the project area, roadway  
8 improvements right in that neighborhood.

9           So we did our best to accurately represent  
10 them based on the information available to us.

11           To answer your second question, yes. And I  
12 have some slides that I can share with you.

13           Commissioner Cabral, I think you asked the  
14 question about helping people get across the road.  
15 Why don't we? Here we do. Come back to this one,  
16 please.

17           I hope everyone can see, this is a figure  
18 of the site plan where we lettered five locations, A,  
19 B, C, D and E. A, B and D are among the three -- 14  
20 analyzed intersections in our study. They're  
21 proposed to be fully signalized. Intersection E off  
22 to the east is proposed to be a round-about; and  
23 intersection C -- B -- C, intersection B is not. So  
24 that would be a mid-block crossing. So that would be  
25 the kind of thing that I think you're speaking to

1 especially.

2           Let's skip ahead to the next slide. This  
3 is an aerial photograph of a fully-improved  
4 signalized intersection showing crosswalks, and there  
5 would be pedestrian head walk/don't walk signals, and  
6 pedestrian movements would be controlled by the  
7 signal. We're all familiar with this. This is in a  
8 lot of ways considered the highest level of  
9 pedestrian protection. There are certain timing  
10 techniques and other things that can be done, but  
11 this is typical.

12           Three of those five locations are proposed  
13 to be signalized. At mid-block crossing  
14 Honoapi'ilani Highway this would not be. There is  
15 certain things that can be done, and we definitely  
16 recommend and intend to work with DOT to find the  
17 right solution for this.

18           High visibility crosswalk with advance  
19 warning signs, yield markings on the pavement,  
20 potentially a pedestrian refuge. If there were four  
21 six-lane roads, we would definitely recommend  
22 considering that, not necessary for two-lane road.  
23 Skip ahead.

24           Here we see the sharks teeth indicating  
25 pedestrian crossing up. There is the crosswalk, and

1 here's a solar powered rapid repeating rectangular  
2 beacon, which is one of the pedestrian enhancements  
3 that can be made to improve safety.

4           It's basically a pedestrian signal.  
5 Pedestrian presses the button and the lights will  
6 flash yellow alerting drivers that there is some  
7 activity there and they should be extra caution.

8           There is another pedestrian signal called a  
9 hawk where there's two red balls above the yellow,  
10 and this is used in many locations for the same  
11 purpose. It's not a full traffic signal, but it's a  
12 pedestrian warning signal. And it tells the drivers  
13 that there's pedestrians there and they have  
14 priority.

15           These are among the treatments that we  
16 would expect to work with DOT and the County to get  
17 to -- to find the right solution for this location.

18           The suggestion was made about an  
19 under-crossing or over-crossing, and it's been my  
20 experience that pedestrians will take their choice  
21 path, and if there is an over-crossing available and  
22 at grade crossing available, unless there's a fence  
23 or some insurmountable barrier, the grade separation  
24 will go unused largely.

25           But it's a possibility too. It's another



1 treatment, but based on what I know now, it doesn't  
2 seem necessary there.

3 MR. GEIGER: I have nothing further. I  
4 think we've already offered the testimony in.

5 CHAIRPERSON WONG: County?

6 MR. HOPPER: So the testimony, we have no  
7 objection to the testimony, obviously.

8 MR. GEIGER: It's the next exhibit in order  
9 would be his written testimony which we would offer  
10 as 38.

11 MR. HOPPER: I have no objection. I just  
12 had a few questions on cross-examination.

13 CROSS-EXAMINATION

14 BY MR. HOPPER:

15 Q Could you point out again Waiale bypass  
16 road that you discussed in your plan? Where the  
17 bypass would be?

18 A This is a good figure. It's on the eastern  
19 or the makai perimeter of the project site of the  
20 developed area. It forms essentially the boundary  
21 between the ag land and developed area. I can point  
22 to that if you like.

23 Q Just for the Commissioners benefit.

24 A The northern edge of the site is Waiale  
25 Street.

1           Q       Thank you.

2                   And then in your discussion you said in the  
3 Draft EIS you had assumed that that road would be  
4 constructed at the time of the project build out, but  
5 that in your receiving comments and Final EIS, you  
6 had decided to create an alternative where that road  
7 would not be built at the time the project was  
8 constructed; is that correct?

9           A       That's correct.

10          Q       To do this -- in doing so, though, you  
11 assumed a sort of a worse-case scenario where if that  
12 road was not built, that there would be adequate  
13 mitigation measures at least to deal with that road  
14 not being there?

15          A       In the second scenario we assumed all of  
16 the growth within this project and surrounding area,  
17 all of the other network improvements elsewhere, the  
18 only thing different was the lack of this connection  
19 so that Waiale would continue to T-off as it does  
20 today. We developed an alternative mitigation  
21 program for that scenario, yes.

22          Q       And I don't know if you're familiar with  
23 the County's proposed conditions, but it sounds like  
24 in general the plan is going to be to have the  
25 specific improvements that will be done by the

1 developer memorialized in agreement with the County  
2 for County roadways, and the State or State roadways,  
3 generally speaking; is that your understanding?

4 A Understanding and expectation, yes, both.

5 Q And those would be appropriate conditions  
6 to have on the project to require those agreements to  
7 be entered into?

8 A Yes.

9 Q And then also the issue has been discussed  
10 a bit about comprehensive review of Central Maui  
11 traffic with not just this project, but other  
12 projects.

13 Do you think that that would be an  
14 appropriate endeavor in order to study for sort of  
15 the various projects as a group in conjunction with  
16 the State, County and perhaps the Maui Metropolitan  
17 Planning Organization to do a comprehensive review of  
18 the Central Maui traffic issue; do you think that  
19 would be a worthwhile endeavor?

20 A Do it comprehensively at not just this  
21 project but several others that are mentioned, but  
22 everything all taken together?

23 Q Yes.

24 A Yes. I think that it could be difficult to  
25 tie some of the improvements back to projects which

1 may be fully entitled already, if there are any of  
2 those, but certainly for projects in the pipeline, as  
3 it were, this is a way too tie those improvements to  
4 those projects.

5 Q Thank you. I have no further questions for  
6 the witness.

7 CHAIRPERSON WONG: OP.

8 MS. APUNA: No questions.

9 CHAIRPERSON WONG: Okay, for Exhibit 38?

10 MS. APANA: No objection to Exhibit 38.

11 CHAIRPERSON WONG: Commissioners, any  
12 objections to Exhibit 38? Exhibit 38 is moved into  
13 the record.

14 (Petitioner's Exhibit 38 was received into  
15 the record.)

16 Commission, do you have any questions? No.  
17 Thank you. Do you have redirect?

18 MR. GEIGER: No redirect.

19 CHAIRPERSON WONG: Thank you. Let's take a  
20 one-hour break for lunch now so we can warm up and  
21 have lunch.

22 (Noon recess taken.)

23 CHAIRPERSON WONG: We're back on record.  
24 Mr. Geiger, do you have your next witness, please?

25 MR. GEIGER: We do, but I understand you

1 wanted to hear from the last witness.

2 CHAIRPERSON WONG: That's okay.

3 MR. GEIGER: Then our next witness would be  
4 Michael Summers.

5 CHAIRPERSON WONG: Mr. Summers, may I swear  
6 you in, please?

7 THE WITNESS: Sure.

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

10 THE WITNESS: Yes.

11 CHAIRPERSON WONG: Will you please state  
12 your name for the record?

13 THE WITNESS: Michael Summers.

14 CHAIRPERSON WONG: Mr. Geiger.

15 MICHAEL SUMMERS

16 Was called as a witness by and on behalf of the  
17 Petitioner, was sworn to tell the truth, was examined  
18 and testified as follows:

19 DIRECT EXAMINATION

20 BY MR. GEIGER:

21 Q Good afternoon, Mike. How are you familiar  
22 with the Waikapu Country Town Project?

23 A I've been working on this project since  
24 about 2008, and have been involved in the master  
25 planning, but also the EIS or that document and the

1 agricultural impact assessment and the sustainability  
2 plan.

3 Q Did you prepare a written direct testimony  
4 in this matter. Yes, I did?

5 Q I'm going to hand you a document. Is that  
6 your written direct testimony?

7 A Yes, it is.

8 Q Does your signature appear on the last  
9 page?

10 A Yes, it does.

11 Q You signed that back in late October, early  
12 November. Do you have any additions, corrections or  
13 modifications to that?

14 A No, I do not.

15 Q As with the other witnesses, I don't want  
16 you to read the testimony, but please address the  
17 Commissioners and let them know the information you  
18 think is important for their decisionmaking.

19 A Thank you very much.

20 Let me begin by thanking you all for your  
21 service, and thank you for the time you've invested  
22 into this project.

23 I'm going to really just touch on two  
24 issues. One would be providing some kind of rational  
25 or justification for the proposed urbanization; and

1 then I'm going to speak briefly to the project  
2 sustainability plan.

3 And as you're familiar, the whole process  
4 of getting a District Boundary Amendment from  
5 Agricultural land to Rural or Urban land is a very  
6 rigorous process, and there are a number of criteria  
7 that need to be addressed, so I'm just going to speak  
8 to kind of four of these very major kind of criteria,  
9 they cross different paths and different sections of  
10 various HRS statute.

11 Of the four really significant criteria  
12 would be: Does this request conform with State and  
13 County policies?

14 And the second one would be: Is the  
15 request going to have a very significant impact on  
16 the availability of agricultural lands?

17 Third important criteria would be: Will  
18 this request have significant impact upon the  
19 agricultural industry?

20 And finally: Is the request appropriate in  
21 the context of planning for future urban growth? Is  
22 it suitable for urbanization?

23 Let me just kind of briefly touch upon  
24 those four criteria. With respect to conformance  
25 with State and County policy, as you're familiar in

1 the FEIS there's a very, very thorough assessment of  
2 how the project complies with the Hawaii State Plan  
3 and the various Functional Plans, and as noted, the  
4 project will result in the urbanization of ALISH  
5 Agricultural lands.

6 But in doing so the Urbanization, the  
7 proposed Urbanization is addressing some very  
8 important needs of the community, namely providing  
9 for housing and economic development.

10 So then the issue becomes, when carrying  
11 out this development of housing, providing for  
12 economic development, are you doing it in a manner  
13 that protects the environment? And are you doing it  
14 in a manner that preserves natural resources?

15 Those are very, very important components  
16 for the Hawaii State Plan and the Functional Plan.  
17 And I think in the FEIS document, while acknowledging  
18 we are impacting our agricultural land, we're serving  
19 as very important goals in the jacket of the Hawai'i  
20 State Plan.

21 With respect to County policy, one of the  
22 most important criteria would be: Does this request  
23 comply with the Maui Island Plan. The Maui Island  
24 Plan was adopted in December of 2012, and it  
25 establishes a directed growth strategy for the County



1 of Maui. I don't know if we have a slide of that.

2 So if you look at this, the Maui Island  
3 Plan is really very instrumental from a policy  
4 perspective with respect to this project, because it  
5 does a couple of things.

6 One, it establishes the planned growth.

7 CHAIRPERSON WONG: Excuse me. What is this  
8 document? Where is it from?

9 THE WITNESS: This is actually from the  
10 Maui Island Plan.

11 CHAIRPERSON WONG: Is it part of an  
12 exhibit?

13 THE WITNESS: Yeah, and it's incorporated  
14 into our FEIS.

15 CHAIRPERSON WONG: What number or  
16 Exhibit 1?

17 THE WITNESS: I don't recall the exact  
18 figure in the FEIS, but we can find that out for you.

19 This is a planning map that is in the Maui  
20 Island Plan. I added a few -- essentially this is  
21 the planned growth area that was established in the  
22 County of Maui for the project, for both the Urban  
23 land and Rural land.

24 And this is important because this is  
25 actually the Agricultural Preserve that was

1 established by the County of Maui for this project.

2 So as you can see, this project is  
3 implementing the Maui Island Plan both in the context  
4 of addressing development needs for Urban and Rural  
5 lands, and also for protecting Agricultural lands.

6 Now, the Maui Island Plan is also important  
7 for the fact that it really represented a major  
8 effort over about six years of rigorous technical  
9 analysis and community outreach.

10 Now, the second issue as far as criteria  
11 would be concerned would be to look at how would this  
12 impact the availability of Agricultural lands. And  
13 so, you know, we did prepare an Agricultural Impact  
14 Assessment, and obviously the project will lead to  
15 Urbanization of Agricultural lands.

16 But then will the project essentially limit  
17 the availability of Agricultural lands to an extent  
18 where it would have a negative impact for future  
19 generations?

20 And in our ag impact assessment we looked  
21 at a variety of different factors. One of the  
22 factors was the availability on Maui Island of LSB  
23 ALISH A, B and C lands, which is high quality  
24 Agricultural land. We found the proposed request  
25 represents about one half of one percent of currently

1 undeveloped A, B and C lands.

2 Now, relative to State Agricultural  
3 District lands, we found that the proposed  
4 Urbanization represents about one-fifth of one  
5 percent of Agricultural District lands on Maui.

6 So clearly Urbanization of the land are not  
7 significantly impacting the availability of resource  
8 land for future generations.

9 So then the third question becomes: Well,  
10 are you impacting the Agricultural industry? And as  
11 discussed in the Agricultural Impact Assessment, the  
12 project will not impact the Agricultural industry for  
13 a variety of reasons, most important being that there  
14 are approximately 1,077 acres that will remain in  
15 Agriculture, and of this land, approximately  
16 800 acres is being set aside as Agricultural Preserve  
17 that will be protected in perpetuity. The other 77  
18 acres, which are kind of the mauka land -- so this  
19 red line here (indicating) shows the 800 acre  
20 Agricultural Preserve. And these other lands in here  
21 (indicating) represent the 277 acres of ag lands.

22 Now, as the Applicant noted, the Applicant  
23 is committed to limiting the subdivision potential on  
24 those mauka ag lands to know more than five lots.  
25 And bear in mind, there's no proposition to subdivide

1 those lots anyway, but the ag preserve lands, there  
2 will be no development of housing on those lands.

3 Now, the reason it's important to establish  
4 an Agricultural Preserve is because what it does is  
5 it reduces or eliminates the pressure for  
6 Urbanization.

7 When you take away the pressure for  
8 Urbanization, you allow the land owner to not only  
9 feel comfortable making a long-term lease, but  
10 generally you take away the pressure that might build  
11 upon a landowner to have higher lease rents.

12 Essentially farmers become much more  
13 interested in investing in agriculture, because that  
14 is essentially the only available economic use for  
15 those lands. That's very important for the  
16 agricultural industry.

17 So then the final question becomes: Is  
18 this location appropriate for Urbanization? And  
19 quite clearly the County of Maui in its development  
20 of its Maui Island Plan felt this was an important  
21 location for Urban development.

22 To the north you have the town of Waikapu,  
23 and to the east, you have lands that were recently  
24 acquired by the County for a large regional park and  
25 community facilities. Just beyond the county land,

1 you have the approved already entitled Waiale  
2 Community, and to the west you have the West Maui  
3 mountains, which will remain undeveloped and largely  
4 open space. And to the south beyond the proposed  
5 urbanization, you have the 800-acre Agricultural  
6 Preserve.

7 And you also have created essentially a  
8 nice separation between the community of Ma'alaea and  
9 Waikapu, and that was a policy that, not only is in  
10 the Maui Island Plan, but it's also something that  
11 the community felt very strongly about.

12 So in summary, while the request will  
13 result in the Urbanization of Agricultural land, the  
14 proposed change in land use is in conformance with  
15 State and County policies. It will not significantly  
16 impact the availability of Agricultural resource  
17 lands. It will facilitate agricultural development.  
18 And the location as determined by the County through  
19 the Maui Island Plan process is appropriate for  
20 Urbanization.

21 Let me just quickly speak to the  
22 Applicant's Sustainability Plan. The Applicant is  
23 very much committed to implementing sustainability  
24 practices. And the Sustainability Plan essentially  
25 looks at energy conservation, water conservation,

1 protecting surface and groundwater resources,  
2 reducing solid waste generation, protecting  
3 agricultural resource land, and promoting health and  
4 wellness.

5           Some of the major actions that the  
6 Applicant will proceed with include mitigating  
7 automobile use through smart community design,  
8 promoting walking, bicycling, and transit use by  
9 investing in those facilities. Establishing the  
10 Agricultural Preserve. Establishing a riparian  
11 buffer along the Waikapu River. Developing a dual  
12 water system for potable water irrigation uses.

13           Implementing renewable energy programs  
14 which may include rooftop solar and ground solar  
15 farms; and implementing BMP's to capture and treat  
16 runoff, including bio-retention to facilitate  
17 groundwater recharge.

18           So anyway, that's my testimony, but I  
19 have -- do have a few other little points I would  
20 like to make with respect to prior testimony.

21           And one of those just has to deal with the  
22 issue of the ohana units. And I know this was raised  
23 by Dick Mayer in his testimony.

24           So just to add a little bit more  
25 explanation there. We are dealing with a 146 ohana

1 units. That is what was presented in the EIS. The  
2 ohana units were addressed in the traffic study, and  
3 they were addressed in the assessment of water demand  
4 and wastewater demand, the infrastructure kind of  
5 demand.

6 Now, in the Draft EIS, the population  
7 impact of the ohana units was not addressed, and we  
8 agreed with Dick's comment that they should have been  
9 addressed. So we incorporated that into the Final  
10 EIS, and we also updated our assessment of the ohana  
11 units impact of parks and community facilities like  
12 police and fire.

13 Now, the ohana units, in our Project  
14 District Ordinance, we will have a limit of 146  
15 permitted ohana units, and there will be standards  
16 most likely that replicate the County standards, for  
17 which lots qualify ohana units.

18 So that's how that will be addressed. I  
19 don't believe I have anything else to speak to.

20 Q For the Commission's reference, the first  
21 slide was Figure 1B in Appendix G. And I don't have  
22 any further questions. Thank you, Mike.

23 CHAIRPERSON WONG: What is this one going  
24 to be?

25 MR. GEIGER: This one is actually Figure

1 16, it looks like 16, but I think --

2 THE WITNESS: It's in the FEIS. All those  
3 figures are listed in the FEIS. Maybe I didn't speak  
4 to that. That is our agricultural kind of master  
5 plan, and that was in the FEIS.

6 CHAIRPERSON WONG: Just wanted to say that  
7 because we have a court reporter, we have to state  
8 what figure is being shown. And I'm looking at -- I  
9 think it's Figure 26.

10 MR. GEIGER: While Mike is checking on  
11 that, I would offer as our next exhibit, which would  
12 be Exhibit 39, Mike's direct written testimony.

13 CHAIRPERSON WONG: While we are waiting,  
14 County, any objection to the exhibit?

15 MR. HOPPER: No objection.

16 MS. APUNA: No objection.

17 CHAIRPERSON WONG: Commissioners, any  
18 objection on this exhibit? So Exhibit 39 is now put  
19 into the record. Thank you.

20 (Petitioner's Exhibit 39 was received into  
21 evidence.)

22 THE WITNESS: So, yeah, in the FEIS that  
23 would be -- in the Final FEIS, this is Figure 26A.

24 CHAIRPERSON WONG: Thank you.

25 County, do you have any questions?



1 MR. HOPPER: Just a few, Mr. Chair.

2 CROSS-EXAMINATION

3 BY MR. HOPPER:

4 Q Could you go back to the directed growth  
5 map that showed the growth boundaries? Could you  
6 explain a bit about what the growth boundaries mean  
7 for the Land Use Commission's benefit?

8 A Sure. And I'm sure Mr. Spence can add to  
9 this, you know, but essentially the growth boundaries  
10 that were developed, and in this case this is  
11 actually a small town growth boundary, were developed  
12 by Maui County in an attempt to understand where the  
13 most suitable locations for future Urban and Rural  
14 development would be in the context of population  
15 growth that was projected through 2030.

16 So they have an entire chapter that deals  
17 with establishing land use policies and guidelines to  
18 help make those kinds of decisions, but what they did  
19 was, they identified the growth boundaries, and then  
20 they developed an allocation of units to those growth  
21 boundaries based upon, you know, standards for  
22 livability.

23 And our project, or this project, is a  
24 portion, accommodates a portion of the projected  
25 growth on Maui, in this case 1433 units. The area of

1 the island -- let me just say, the population that  
2 needed to be accommodated outside of already entitled  
3 areas was about 10,500 units, if I recall correctly.  
4 So we're accommodating about 1433 of those 10,500  
5 units.

6 And this was a process that Maui County  
7 went through for a number of years involving  
8 technical studies and community outreach. I don't  
9 know if that makes sense, is that addresses your  
10 question.

11 Q I also wanted to identify, for the record,  
12 the map Figure 1B from Appendix 9G -- I'm sorry,  
13 Appendix G, as previous stated, just for the court  
14 reporter. We have all seen it, but just for the  
15 court reporter.

16 So essentially the growth boundaries would  
17 mean, according to the plan, this area is approved  
18 for the development as proposed?

19 A Well, it's approved in the context of the  
20 Maui Island Plan, but there are entitlement changes  
21 that we need to go through with the County, including  
22 a community plan amendment and a change in zoning.

23 Yes, it's from a policy perspective, we're  
24 implementing the policy of the Maui Island Plan.

25 Q Just for the purposes of the document Maui

1 Island Plan, this project is recognized as a project  
2 that's in the plan, that's been put into the plan,  
3 essentially?

4 A That's correct.

5 Q The County of Maui provided, in its  
6 exhibit, I believe Exhibit 2, the other additional  
7 excerpts from the Maui Island Plan -- actually  
8 Exhibit 1, additional exhibits from the Maui Island  
9 Plan, and in that plan there is actually a reference  
10 to a project called The Waikapu Tropical Plantation  
11 Town. Is that this project?

12 A Yes, that's correct. Well, that  
13 description would describe the Island Plan's vision  
14 for this project area.

15 Q Thank you.

16 So not only is -- does the plan include  
17 district growth boundaries, but actually specific  
18 reference to the plan itself?

19 A That's right.

20 Q Additionally, could you expound a bit on  
21 the additional entitlement the project will need  
22 should the District Boundary Amendment be approved?

23 A Yes. So should we be approved for this  
24 District Boundary Amendment, then the next step would  
25 be to essentially get a Community Plan Amendment,

1 because the project area for the most part is in  
2 Agriculture and Project District 5, which is Maui  
3 Tropical Plantation, so we would need to get  
4 Community Plan Amendment, and then need to get a  
5 change in zone, and we will be pursuing a Project  
6 District Application for the change in zoning.

7 And that will be a process or require us to  
8 go to the Maui Planning Commission and the Maui  
9 County Council.

10 Q And are you familiar with the proposed  
11 conditions by the County of Maui for this project?

12 A Yes.

13 Q Condition one, I just wanted to read that,  
14 as proposed states that: The Petitioner shall  
15 develop the project in substantial compliance with  
16 the planned growth area rational and goals and  
17 objectives, policies and implementing action  
18 described in the Maui Island Plan for the project  
19 known as Waikapu Tropical Plantation Town.

20 Do you believe that's an appropriate  
21 condition for this project?

22 A Yes.

23 Q The last question. You stated that in your  
24 Proposed Project District Ordinance, you had planned  
25 to actually limit the ohana units allowed to 146, so

1 that even if normal county zoning for residential,  
2 for example, would allow ohana units, Project  
3 District Ordinance would not allow more than  
4 146 units?

5 A We're acceptable to that.

6 Q I just wanted to make sure that was a  
7 representation you made?

8 A Ohana units, yes. We represented that we  
9 would have a 146 ohana units, and that's what we plan  
10 on implementing.

11 Q Thank you. I have no further questions.

12 CHAIRPERSON WONG: OP.

13 MS. APUNA: We don't object Exhibit 39.

14 I do have questions.

15 CROSS-EXAMINATION

16 BY MS. APUNA:

17 Q Thank you for your testimony, Mr. Summers.  
18 I have a few questions.

19 For the record, can you state the ag  
20 quality of the petition land?

21 A Sure. I don't have my study in front of  
22 me, but the great bulk of the land is ALISH land, and  
23 Land Study Bureau A and B.

24 Q And for the 800-acre ag preserve, what is  
25 the ag quality for that, or is it the same?

1           A       Yeah, it's the same ALISH for the most  
2 part, A and B.

3           Q       And then you said that there would be no  
4 housing within the 800-acre ag preserve. Does that  
5 include farm dwellings?

6           A       There will be no farm dwellings in the ag.

7           Q       Thank you.

8           CHAIRPERSON WONG: Commissioners, do we  
9 have any questions for the witness? Commissioner  
10 Cabral.

11           VICE CHAIR CABRAL: I'm confused, I'm sure,  
12 because you just referenced it, but I made notes on  
13 some of it -- that's part of why I'm confused.

14                   My understanding, as you just referenced  
15 that the petition area is located in what you call  
16 Wailuku-Kahului Community Plan, and that was from  
17 2002 or something. And you're within the community  
18 plan, but you're not in compliance with the region  
19 community plan. Yet earlier you said that this  
20 project is in compliance with the Island Plan.

21           THE WITNESS: Yes.

22           VICE CHAIR CABRAL: Those are two different  
23 groups, different plans, different entities?

24           THE WITNESS: That's correct. Island Plan  
25 essentially is the Island's directed growth strategy.

1 Like a land use plan for the entire Island of Maui.  
2 And the Community Plan is a more -- it's a separate  
3 document, has not been updated. The Island Plan was  
4 completed in 2012, like you mentioned, the Community  
5 Plan in 2002.

6 At some point in time the County of Maui  
7 will update the Wailuku-Kahului Community Plan. As  
8 we go through this process in a sense we will be  
9 updating the Wailuku-Kahului Community Plan to  
10 conform to the Maui Island Plan.

11 VICE CHAIR CABRAL: Thank you for the  
12 clarification.

13 CHAIRPERSON WONG: Commissioner Scheuer.

14 VICE CHAIR SCHEUER: Aloha. I have some  
15 questions about the Sustainability Plan.

16 Conceptually I'm trying to understand what it is.

17 This is not a normal -- not that it's a bad  
18 practice, but it's not a normal practice for a  
19 developer to propose a Sustainability Plan.

20 So like what actual function will it have  
21 during the course of developing the area?

22 THE WITNESS: That's a very good question.

23 You know, essentially the Sustainability  
24 Plan is taking a look at the project from kind of a  
25 different lens. How can we develop this project to

1 mitigate the project's impacts on natural resources  
2 and the environment as we obviously develop the  
3 project, but also as implemented over time, right.

4           So by proactively looking at these issues  
5 and putting forth a vision what specific policies and  
6 actions that you intend to implement or evaluate the  
7 implementation, then just like the master plan in the  
8 context of developing housing, you're moving forward  
9 on a concurrent track to minimize the other project's  
10 impacts.

11           So for example, energy use, right? You can  
12 use energy in the context of driving, and you can use  
13 energy in the context of heating or cooling your  
14 building. You can offset those energy demands by how  
15 you design your project to try to minimize automobile  
16 use, or how you design your buildings to try to limit  
17 the amount of energy that the structure consumes.

18           Likewise, you can say, okay, well, we can  
19 preserve energy through conservation, but might we  
20 also develop energy. So you can design your project  
21 develop energy through rooftop solar, or you can  
22 identify areas of the land that might be suitable for  
23 things like solar and develop -- that would just be  
24 one kind of direction looking at the energy side.

25           Now, you would do the same thing for water



1 use. You would do the same thing in the context of  
2 developing the project footprint in areas that  
3 minimizes impacts to cultural resources and natural  
4 resources.

5 But essentially, as we move through this  
6 process with the county, we will have a Project  
7 District Ordinance and Design Guidelines, and one of  
8 our chapters in the Design Guidelines will be the  
9 Sustainability Plan broken into more specific actions  
10 that we're going to be pursuing.

11 So, it's just recognizing the importance of  
12 environmental sustainability, and taking actions to  
13 mitigate your impact on the environment and natural  
14 resources.

15 VICE CHAIR SCHEUER: So I think at the very  
16 end of your explanation you got to what I think I was  
17 asking about, some version of the Sustainability Plan  
18 will be proposed as being incorporated into the  
19 Project District Guidelines and then adopted by  
20 ordinance by the Council?

21 THE WITNESS: Yeah, there will be a  
22 reference to the Design Guidelines in the Project  
23 District ordinance. They will be incorporated into  
24 the project's Design Guidelines and used as a daily  
25 kind of an implementation tool by the developer as

1 they move forward with the project.

2 VICE CHAIR SCHEUER: So to get a little  
3 more specific, I observed that because this is  
4 partially my professional work, a number of the  
5 proposed goals and objectives are non-quantified and  
6 aspirational rather than quantified and specific.

7 Could you comment on why you developed the  
8 Sustainability Plan without a sort of substantial set  
9 of quantified goals?

10 THE WITNESS: I think we do have a few  
11 quantified goals in the Sustainability Plan, but some  
12 of them are aspirational. And I think, you know, as  
13 we move forward and we look at -- look specifically  
14 at some of the implementing mechanisms to move  
15 forward with the Sustainability Plan, for example,  
16 low flow fixtures and things like that, we'll have a  
17 better understanding from a design perspective, you  
18 know, what that quantifiable kind of metric might be.

19 We can set a standard like let's try to  
20 mitigate our energy use by 25 percent, or let's  
21 conserve 30 percent of our water over traditional  
22 practice.

23 I don't think we are quite there yet in the  
24 context of the details to be able to make that kind  
25 of a statement at this time, but, you know, as we

1 move forward with the development of our Design  
2 Guidelines, et cetera, we will be developing more  
3 specific details.

4 VICE CHAIR SCHEUER: I mean some places  
5 where there are quantified guidelines, for instance,  
6 your objective on page 18 of the Sustainability Plan,  
7 "Reduce the overall project demand for potable water  
8 use by 30 to 50 percent."

9 THE WITNESS: Let me just say the idea of  
10 using nonpotable water for irrigation, right. The  
11 County of Maui acknowledge that just doing that would  
12 limit your water demand by about 30 percent, so that  
13 992,000 gallons per day would be 30 higher if we  
14 weren't committed to using nonpotable water.

15 Now, we say 30 to 50 percent because, might  
16 there be other things that we can do to further  
17 mitigate our water demand.

18 VICE CHAIR SCHEUER: 30 to 50 percent of  
19 what?

20 THE WITNESS: Of your 992,000 gallons times  
21 1.3.

22 VICE CHAIR SCHEUER: Regarding the  
23 irrigation, and if you want to defer to a later  
24 witness, my understanding from reading the Petition  
25 is that the dual-water system will actually rely on

1 groundwater for both systems; is that correct? Or is  
2 that incorrect understanding? Because they're five  
3 wells, two of which are being proposed for use in the  
4 potable system. My understanding the other three  
5 wells are providing groundwater to the nonpotable  
6 system.

7 THE WITNESS: Yeah, that's a good question.  
8 This is where you kind of get into the details. If  
9 you look at our study, we have a variety of different  
10 sources of water. One being the nonpotable wells,  
11 one being potable wells for potable water use.

12 We have also looked at, in the context of  
13 private wastewater reclamation facility, what might  
14 be the availability of reclaimed water for the site.  
15 And then for the agriculture lands, we've taken a  
16 look at stream water. We have an application in for  
17 stream water.

18 So there is a variety of different water  
19 sources that would be used for nonpotable irrigation  
20 use, including the agricultural land. I wouldn't  
21 really feel comfortable going into much more detail  
22 than that. We might have somebody here that might be  
23 able to answer your questions.

24 VICE CHAIR SCHEUER: Will there be somebody  
25 later?

1 MR. GEIGER: Yes, there will.

2 VICE CHAIR SCHEUER: Then just a final  
3 question about the Sustainability Plan. Correct me  
4 if I'm wrong and I missed it. It sort of does not  
5 consider cultural issues as part of sustainability  
6 issues?

7 THE WITNESS: Well, I think that's a good  
8 question. I think our FEIS is very, very much  
9 grounded in protecting cultural resources. And, you  
10 know, I can't say that we have a specific cultural  
11 resources plan that we've developed separately for  
12 cultural resources. We talked about developing a  
13 cultural resources plan.

14 VICE CHAIR SCHEUER: This is more of a  
15 comment perhaps, but I think one of the reasons why  
16 testimony has been very supportive of this project is  
17 because despite the -- I mean, Waikapu is part of Na  
18 Wai Eha, it's a hugely cultural important area. At  
19 least conceptually, what is being proposed is an  
20 attempt to modernizing, try to have the Waikapu  
21 Country Town really engage and respect the cultural  
22 history of that area.

23 So I find it odd that in the Sustainability  
24 Plan it's as if the Sustainability Plan could exist  
25 for development in California or somewhere else. It

1 doesn't really explicitly integrate the place.

2 THE WITNESS: Well, I think your comment is  
3 a very good comment. And, you know, we have a  
4 consultant who lives in Waikapu, who's been working  
5 with us on cultural issues. I think we kind of  
6 envisioned a stand-alone cultural resources plan. I  
7 don't know that we have gotten there yet developing  
8 it, but we certainly wouldn't be opposed to  
9 incorporating a section into our Sustainability Plan  
10 that memorializes some of those recommendations.

11 VICE CHAIR SCHEUER: Not do go even farther  
12 beyond what I should have said, but just to make my  
13 final point clear. I think across Hawai'i where we  
14 have started to view cultural and natural resources  
15 not as distinct categories, but as an integrated  
16 whole, we have gotten a lot farther.

17 CHAIRPERSON WONG: Any other questions? If  
18 not, do you have any redirect?

19 MR. GEIGER: No redirect. Thank you.

20 CHAIRPERSON WONG: Next witness please.

21 May I swear you in, please?

22 THE WITNESS: Yes.

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

25 THE WITNESS: Yes.

1 CHAIRPERSON WONG: Please state your name  
2 for the record.

3 THE WITNESS: Lisa Rotunno-Hazuka.

4 LISA ROTUNNO-HAZUKA

5 Was called as a witness by and on behalf of the  
6 Petitioner, was sworn to tell the truth, was examined  
7 and testified as follows:

8 DIRECT EXAMINATION

9 BY MR. GEIGER:

10 Q Hi, Lisa, how are you?

11 A Good, thank you.

12 Q You're familiar with Waikapu Country Town  
13 project?

14 A Yes.

15 Q You're familiar because you were the  
16 archaeologists on the project?

17 A Yes.

18 Q Did you prepare a written direct testimony?

19 A Yes, we did.

20 Q And you also prepared the archaeological  
21 report?

22 A Yeah.

23 Q I'm going to hand you what I hope is your  
24 written direct testimony.

25 A Yes.

1 Q Is that your signature on the last page?

2 A Yes, it is.

3 Q Did you have any modifications -- you  
4 signed it about a month ago. Did you have any  
5 modifications or changes or amendments?

6 A Yes, I did.

7 Q Identify by page number and line, if you  
8 would.

9 A On page three -- sorry, page 12, line 3  
10 after the word "preserved", we would like to add in:  
11 "and with the implementation of monitoring", and then  
12 the rest, "as recommended in our report".

13 Q Thank you, Lisa.

14 As with the other witnesses, please don't  
15 read your testimony, but highlight for the  
16 Commissioners the portions of your work that you  
17 believe will be of assistance to them in making their  
18 decision.

19 A Good afternoon, Commissioners. We  
20 conducted an Archaeological Inventory Survey in 2013.  
21 And during our survey, we found four sites -- there  
22 was a total of five sites. One was a portion of  
23 Waihe'e Ditch, which was already present. And then  
24 we found four new sites that were comprised of sugar  
25 plantation, irrigation complex, a World War II



1 bunker, a retaining wall, and historic artifact  
2 scatter. And those sites were designated Site 7881  
3 through 7884.

4 And the sugar plantation irrigation complex  
5 is a series of auwai or ditches. There's sluice  
6 gates and a reservoir.

7 Slight 7882 was the retaining wall, it's  
8 just a little L-shaped rock retaining wall that  
9 supports the soil along the slope.

10 Site 7883 was a World War II military  
11 bunker. And Site 7884 was the historic artifact  
12 scatter.

13 When we prepared our survey, for an area  
14 that's as large as this project as well as with all  
15 the sugarcane cultivation and some of the  
16 development, the first thing that we do is we go and  
17 do a real intensive background research. And what we  
18 try to do is focus the information that we've  
19 obtained from the background, and help decide where  
20 we're going to do testing in the project area.

21 And during the background research, we look  
22 at previous archaeological studies in the area, where  
23 they found their sites; what type of sites they  
24 found. And then we look at the historic information,  
25 where there are former Land Commission Awards,

1 Grants, and how the land was utilized.

2 And once we have that information, we try  
3 to compile everything onto a development map. And so  
4 we'll look at where development is going to occur;  
5 and what we found in our background research. Then  
6 we'll go out and we'll walk the area and see if  
7 there's remaining surface sites left. And if there's  
8 not, then we'll utilize that background research to  
9 try to decide where to do testing. And we focus the  
10 testing in areas where we hope to obtain the most  
11 positive results.

12 So during our background information we  
13 decided to focus most of the testing where the LCAs  
14 were. And we did about 150 trenches, and had maybe  
15 three that contained historic artifacts. So it was  
16 some broken bottle glass, and metal and some ceramic  
17 shards.

18 So that the backhoe trenching was primarily  
19 negative. Most of the sites that we found were the  
20 ones I discussed before, and they were on the  
21 surface.

22 So we do walk the whole area proposed for  
23 development. Everybody lines up, we're spaced maybe  
24 ten, 20 feet apart, and we just walk the entire  
25 project area. And, again, we only found those

1 surface sites.

2 That's basically about it. Because we had  
3 the negative results of testing, we will do intensive  
4 monitoring. So during construction, any time you  
5 have ground altering activities, we'll have one  
6 archaeological monitor per piece of equipment. So  
7 they'll stand by that person the whole time they're  
8 digging to make sure that no inadvertent finds are  
9 recovered.

10 Q Just a couple follow ups.

11 We don't have a monitoring plan developed  
12 written yet, but there is going to be a monitoring  
13 plan, correct?

14 A Yes. We will submit an archaeological  
15 monitoring plan as we proposed in the report. Once  
16 that's accepted, then we can proceed with the  
17 construction and the monitoring activities.

18 Q I have nothing further. But we would offer  
19 Lisa's written testimony as Exhibit 40. Again, that  
20 has been previously provided to the Commission.

21 CHAIRPERSON WONG: County, any objection?

22 MR. HOPPER: No objection, Mr. Chair.

23 CHAIRPERSON WONG: OP, do have any  
24 objection?

25 MS. APUNA: No objection.

1 CHAIRPERSON WONG: Commission, any  
2 objection to Exhibit 40 with the changes that were  
3 stated today? No objection. Exhibit 40 is submitted  
4 to the record.

5 (Petitioner's Exhibit 40 was received into  
6 evidence.)

7 CHAIRPERSON WONG: County do you have any  
8 questions?

9 MR. HOPPER: No questions.

10 CHAIRPERSON WONG: OP?

11 MS. APUNA: Yes.

12 CROSS-EXAMINATION

13 BY MS. APUNA:

14 Q Thank you for your testimony. I have a  
15 couple questions.

16 Were any burials found in the Petition  
17 Area?

18 A No.

19 Q And first Site 7881, the irrigation  
20 features, and 788, bunker, will a Preservation Plan  
21 be in place prior to grading and construction?

22 A Yes. So we will develop the Monitoring  
23 Plan as well as the Preservation Plan, and those must  
24 be accepted before any permits can pulled, grading or  
25 building.

1           Q       Thank you.

2                   CHAIRPERSON WONG: Commissioners, do you  
3 have any questions? Commissioner Scheuer.

4                   VICE CHAIR SCHEUER: Aloha. Can you  
5 explain briefly for us what your methodology was in  
6 selecting your trenching sites, particularly in  
7 reference to the Proposed Development Plan?

8                   THE WITNESS: So we do look at the areas  
9 where there is proposed development. We also put  
10 trenches -- it's like an overlay. We look at the  
11 development, where the LCAs were, and we would focus  
12 our trenching in those areas, where there is LCA, and  
13 where a proposed development is. But we also want to  
14 get a representative sample of areas outside. If  
15 there weren't any LCAs or grants, we still wanted to  
16 test the area so that we could get a representative  
17 sample.

18                  VICE CHAIR SCHEUER: Did you look at areas  
19 where people applied for Land Commission Awards but  
20 were not awarded them?

21                  THE WITNESS: Yes. All the LCAs and grants  
22 that we saw listed, it didn't matter if they were  
23 awarded or not, we still tried to test those.

24                  VICE CHAIR SCHEUER: So you went through  
25 the records applications?

1 THE WITNESS: Yes.

2 VICE CHAIR SCHEUER: Which is better than  
3 many firms do, they only look at actual awards even  
4 though one out of ten or fewer were awarded.

5 THE WITNESS: Right, very few were awarded.

6 VICE CHAIR SCHEUER: Was there consultation  
7 with any recognized cultural descendants for other  
8 properties in this area during your work?

9 THE WITNESS: We did consultation with some  
10 people in the area, not recognized descendants or  
11 anything, but I believe someone else conducted that  
12 research, Jill -- oh, Hokuao Pellegrino did the  
13 cultural assessment.

14 MR. GEIGER: Who will be testifying next.

15 CHAIRPERSON WONG: Any redirect?

16 MR. GEIGER: If there are no other  
17 questions from the Commissioners, no.

18 CHAIRPERSON WONG: Thank you.

19 THE WITNESS: Thank you very much.

20 MR. GEIGER: We would call Hokuao  
21 Pellegrino.

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

24 THE WITNESS: Yes.

25 CHAIRPERSON WONG: Please state your name

1 for the record.

2 THE WITNESS: My name is Hokuao Pellegrino.

3 CHAIRPERSON WONG: Mr. Geiger, please  
4 begin.

5 HOKUAO PELLEGRINO

6 Was called as a witness by and on behalf of the  
7 Petitioner, was sworn to tell the truth, was examined  
8 and testified as follows:

9 DIRECT EXAMINATION

10 BY MR. GEIGER:

11 Q Thank you for coming to testify.

12 How are you familiar with the Waikapu  
13 Country Town Project?

14 A I was asked to conduct a Cultural Impact  
15 Assessment in 2012. And I've known the Applicant for  
16 about ten years now.

17 Q And did you prepare written direct  
18 testimony in this matter?

19 A Yes, I did.

20 Q Also did you prepare any reports in this  
21 matter?

22 A Yes. I prepared two reports, Cultural  
23 Impact Assessment and Ka Pa'akai analysis.

24 Q I'm going to hand you what is your written  
25 direct testimony. Is that testimony you prepared in

1 this?

2 A Yes.

3 Q And does your signature appear on the last  
4 page?

5 A Yes.

6 Q You signed this about six weeks ago. Do  
7 you have any additions, corrections, modifications  
8 you wish to make to the testimony?

9

10 A No.

11 Q Thank you.

12 Again, as with the other witnesses, we  
13 don't want you to read the testimony, but please  
14 speak to the Commissioners about the items within  
15 your area of expertise that you believe is helpful to  
16 their decisionmaking.

17 A Sure, no problem, thank you.

18 Again, aloha mai kakou. My name is Hokuao  
19 Pellegrino. As was mentioned earlier, I was a  
20 consultant. I was contracted to put together the  
21 Cultural Impact Assessment beginning in 2012, and  
22 final completion in 2014.

23 I am also resident of Waikapu, and all my  
24 life born and raised there. And I have an extensive  
25 background in research around cultural landscapes,



1 and in particular, Waikapu and the Na Wai Eha region.  
2 I've been conducting research and published articles  
3 and documents in regards to this region for about  
4 20 years now.

5 I'm not going to read all my testimony, but  
6 I have a couple maps that I would like to show that  
7 references the different areas that I notated within  
8 my testimony, beginning with an exhibit that is  
9 included in the Cultural Impact Assessment. And this  
10 is, I believe it was Figure 4 within the Cultural  
11 Impact Assessment, and titled Palapala Aina O Waikapu  
12 Ahupua'a, and it's a cultural landscape map for  
13 Waikapu Ahupua'a, which was a critical piece in  
14 understanding the overall scope of this ahupua'a.

15 When I was asked to conduct this Cultural  
16 Impact Assessment, I made it clear that on my part  
17 that this would be a very extensive and in-depth  
18 research document that would include all aspects of  
19 the ahupua'a as it relates to the greater region of  
20 Na Wai Eha, and in particular this project.

21 And so within this Cultural Landscape Map,  
22 it incorporates all of the major important sites  
23 within the ahupua'a boundaries, beginning with the  
24 pae aina (phonetic) or actual traditional boundary of  
25 the Waikapu Ahupua'a, which is the second largest

1 ahupua'a in the Na Wai Eha region.

2 And I apologize if this is not super clear.  
3 I'm not going to be referencing any particular names,  
4 but more so just the highlighted portions.

5 And as you can see in the Waikapu Ahupua'a  
6 in yellow, start off with that, is part of one of the  
7 most expansive sand dune systems in Hawai'i.

8 And these remnant sand dune systems are at  
9 this point in 2017 quite sporadic and are found in  
10 places in Waihe'e, Wailuku and in Waikapu.

11 The areas highlighted in red are where over  
12 120 Land Commission Awards were awarded within this  
13 region, both in mauka portion, and also in the makai  
14 area near Ma'alaea Bay.

15 It is important to notate this, because  
16 about 30 percent of the Land Commission Awards that  
17 were claimed in Waikapu are actually within the  
18 Applicant's land asset, not necessarily within the  
19 development plan, but within the overall scope of the  
20 land that is owned by the Applicant.

21 I think at this point we can go to the --  
22 so in the project area, and again, I apologize,  
23 probably have to minimize this all the way to the  
24 overall scope of this map. This is a map that was  
25 also provided within the Cultural Impact Assessment

1 and the Ka Pa'akai analysis. However, I did recently  
2 do a few modifications just to show an overlay of the  
3 boundaries as well as particular references to  
4 mitigation measures that were provided within my  
5 analysis.

6 So in pink or red, however you see it, I'm  
7 somewhat color blind, that is the overall scope of  
8 land for the Applicant. And this is -- let me step  
9 back. This is actually an 1882 map, one of the  
10 earliest, if not the earliest map of the overall  
11 ahupua'a of Waikapu that was done by Monserrat. This  
12 particular map provides all of the Land Commission  
13 Awards and Grants that were awarded at the time of  
14 the Mahele and after the Mahele.

15 It also includes, because this is obviously  
16 after Western contact, lands that were in cultivation  
17 at that time 1882 which was under the Waikapu Sugar  
18 Plantation prior to the purchase of that plantation  
19 by Wailuku Sugar Plantation.

20 What you see in blue, dark blue coming all  
21 the way down that is the Waikapu Stream. What you  
22 see in yellow are the sand dune systems that are  
23 within this particular map. What you see in light  
24 blue which is -- Jim, at this time, you can zoom into  
25 that.

1           Those parcels of land in blue are privately  
2 owned and are the only remaining kuleana lands that  
3 are intact today of what was once about 1200 acres of  
4 land -- 120-plus land claims that were at the time  
5 Mahele awarded.

6           What is interesting to note is that there  
7 are 52 claims of Land Commission Awards and Grants  
8 within the Applicant's parcel. Of those 52 Land  
9 Commission Awards, of which I conducted about a 400  
10 page report that included every single Land  
11 Commission Award, Royal Patent Grant, foreign  
12 testimony, native register, as well as the original  
13 survey maps.

14           In analyzing all those, we were able to  
15 determine exactly what the land use was at that time  
16 and the impact that Waikapu Sugar and eventually  
17 Wailuku Sugar had of those lands. Of the 52 Land  
18 Commission Awards that were documented within the  
19 Applicant's overall land base, 36 of those were  
20 impacted prior to the Applicant under the management  
21 of both Waikapu and Wailuku Sugar Company.

22           And those impacts -- we don't need to go  
23 into detail -- those remaining parcels that are  
24 intact within the Applicant's area is outside of the  
25 Development Plan and are located in the mauka region

1 -- Jim, if you could scroll up to the top -- so the  
2 pink is the land base for the Applicant, not  
3 necessarily where the project is, but just showing  
4 you the overall scope of the land owned by the  
5 Applicant. And the development is more in this lower  
6 reach here (indicating).

7 But as you scroll up, these pieces, these  
8 parcels of kuleana lands which are outside of the  
9 Development Plant are intact parcels and will remain  
10 as-is and preserved, and possibly restored for  
11 traditional cultivation. Most of those parcels were  
12 ancient house sites, as well as traditional  
13 agricultural business related to loi kalo or taro  
14 farming.

15 What you see in the top area here is the  
16 Reservoir No. 1 (indicating). And this particular  
17 reservoir is fed by what is known as South Waikapu  
18 Ditch and tunnel system or intake that is located  
19 outside of their particular land.

20 As it comes through this particular ditch,  
21 there is now a current interim instream flow  
22 standards release point that provides about  
23 2.9 million gallons back into the stream of about a 4  
24 million gallon a day output of the overall Waikapu  
25 Stream.

1           Located here in the green, which was  
2           notated quite a bit throughout the Cultural Impact  
3           Assessment as well as the Ka Pa'akai analysis, is one  
4           of the largest, if not the largest dryland koaia  
5           forest, which is a sub species of koa, Acacia koa is  
6           the botanical name up on Maui.

7           And this particular five to ten-acre parcel  
8           is being preserved and managed by a hui of Waikapu  
9           residents and non-profit organization known as Hui  
10          Malama O Waikapu. And they have a 30-year lease with  
11          the Applicant to preserve these sites. And to date  
12          since 2012 they brought over 1000 students up to that  
13          particular area for educational programs around  
14          conservation and natural cultural resource  
15          management.

16          As we scroll down -- and I guess I'll begin  
17          with one of the major points that was brought up in  
18          the report for some sort of mitigation measure was  
19          this ditch system here (indicating). The original  
20          south -- actually scroll down, right there, perfect.

21          This area is known as the South Waikapu  
22          kuleana lands, which originally, of course,  
23          incorporated all these other lands prior to the  
24          development of sugar industry.

25          These remaining lands here (indicating) of

1 which there's about ten private landowners, rely on  
2 the water resources that come from the Applicant's --  
3 the reservoir that's on the Applicant's land known as  
4 Reservoir No. 1.

5 One of the major challenges that was  
6 brought up, although the project is outside of this  
7 traditional irrigation system, in the year -- around  
8 the year 1900 when the South Waikapu intake was  
9 established, the original auwai system for these  
10 lands, which actually began here (indicating), and  
11 not .75 miles above that, came directly from the  
12 stream. Now the water comes from Reservoir No. 1.

13 And I bring this up because one of the  
14 issues that was brought up in the Cultural Impact  
15 Assessment was ensuring, first of all, that this  
16 water source would always remain, and that there  
17 would be no adverse impact.

18 But that there was some issues in regards  
19 to the treeline and loss of water. And so one of the  
20 mitigation measures that was brought up, which the  
21 Applicant has met with the community numerous times  
22 on, was how to ensure that water was managed properly  
23 through the system.

24 And right now it's open ditch. And one of  
25 the mitigation measures we are looking at piping this

1 entire system, which will protect the traditional  
2 customary rights of these users of water, these  
3 kuleana users, most of which are all lineal  
4 descendants.

5           The Waikapu -- Waihee Ditch, excuse me, was  
6 also referenced in the Archeological Assessment as  
7 being protected, and this spot right here  
8 (indicating) is where the ditch intake begins as it  
9 goes underneath Waikapu Stream -- of course it begins  
10 in Waihe'e, but it crosses the Waikapu Stream here  
11 (indicating) and continues on towards Ma'alaea.

12           And I know under the work that was done  
13 under archaeology that would be protected.

14           In addition you have the North Waikapu  
15 kuleana lands, and although these lands are adjacent  
16 or across the Applicant's lands, in the report that  
17 was conducted, there was I would say at least half of  
18 the interviews conducted were of residents from this  
19 particular area, those that have lineal ties to these  
20 kuleana lands.

21           And one of the major concerns was ensuring  
22 that their water source was going to be protected as  
23 well of which it is. And ensuring also that they  
24 have access into the back of the valley for  
25 traditional and customary rights related to gathering



1 of native plants of which has been conducted for many  
2 generations now.

3 And that has been mitigated and no  
4 challenges on that end.

5 One of the last areas I wanted to discuss  
6 is these two parcels here (indicating). Originally  
7 when I was conducting -- the beginning of this  
8 Cultural Impact Assessment, the Applicant's  
9 Development Plan included doing some development in  
10 this particular area (indicating). After we did the  
11 Cultural Impact Assessment we found that there were  
12 two kuleana parcels which we call Mahi Parcel 1 and  
13 Mahi Parcel 2 still owned by the Mahi family.  
14 Actually originally it was the Puleloa (phonetic)  
15 family and married into the Mahi family.

16 And after meeting with this family that now  
17 lives on Oahu but still owns these lands, they wanted  
18 to ensure, one, that they had perpetual easement to  
19 these properties, and that they wouldn't be impacted  
20 by the plan.

21 In discussing this early on with the  
22 Applicant, what he did was actually move the  
23 development outside of these parcels, which kind of  
24 began in this area here (indicating), and completely  
25 excludes both Mahi Parcel 1 and 2, as well as giving

1 a large green buffer. So that the development  
2 doesn't literally abut these parcels of land, but  
3 gives space in between them.

4 If we can scroll all the way down, Jim.

5 So in conducting analysis of every single  
6 Land Commission Award and Grant in this particular  
7 region, I found a couple things quite interesting.

8 One is that when you read documents such as  
9 these, they usually reference the particular land use  
10 90 percent of the time related to agriculture. What  
11 I did find very interesting was this particular -- so  
12 interesting in this particular Grant 2747 to Eugene  
13 Baugh (phonetic) which I will disclose was my fourth  
14 grade grandfather. He notated in this particular --  
15 which I have probably seen far and few, was that he  
16 identified known burial sites in this particular  
17 aspect of the Na Wai Eha sand dune system. Doesn't  
18 disclose exactly where it was, and just to notate  
19 that this Grant 2747 was over 100 acres. Part of  
20 this grant is located within the Applicant's land  
21 base, but the rest below is located under the County  
22 ownership.

23 So I wanted to make a note of this, and you  
24 know, part of my background is not just anthropology  
25 but also archaeology. And it's -- when conducting

1 this type of analysis, these are all kind of silos.  
2 You have Archaeological Report and you have a  
3 Cultural Impact Assessment, for me it was integral as  
4 we did the revisions of this for me to do some  
5 analysis on the archaeological studies.

6 And in the Ka Pa'akai analysis I included a  
7 couple mitigation measures, one supporting the fact  
8 that in any form of development, especially in this  
9 region, that there should be some -- there definitely  
10 should be some archaeological monitoring, which was  
11 notated earlier as a plan will be conducted, because  
12 in this region, unlike knowing that sand dunes were  
13 typically used for burial sites, this particularly  
14 area was actually called out under this grant.

15 There was one other parcel that notated as  
16 having a cemetery, but that parcel is not included  
17 anywhere near the Development Plan. And if you want,  
18 I can point that out for you, but it's just mauka by  
19 the Waihe'e Ditch.

20 So the Maxwell Cemetery was located right  
21 here (indicating). And, again, I didn't have the  
22 opportunity to actually do the development overlay to  
23 see exactly where that is in relationship to these  
24 parcels, but that's something that if you need  
25 clarification, I can easily provide.

1 I think at this point -- do you have any  
2 questions?

3 Q Just a couple follow up.

4 I'm going to hand you the Cultural Report,  
5 I think that you identified the first figure we  
6 looked at. Could you tell the Commission -- that's  
7 Appendix F and which figure is it?

8 A Appendix F for the Palapala Aina O Waikapu  
9 Figure 4.

10 Q Then I'm going to go a little bit out on  
11 this, and I think it would be helpful just to kind of  
12 have a -- if we look at the Development Map, and you  
13 can kind of show the Commission.

14 A So we begin from the bottom which is the  
15 Eugene Baugh (phonetic) parcel that has -- you can  
16 see here -- this is the old Google map. This is all  
17 developed now with the most recent Spencer Home  
18 project, but that sand dune system comes right  
19 through here and goes all the way down there  
20 (indicating).

21 As I mentioned it just kind of skirts the  
22 bottom part of that plan. And I believe this is the  
23 proposed school. But it crosses Waikapu Stream here  
24 (indicating) and that Eugene Baugh (phonetic) parcel  
25 is located in this particular area (indicating).

1 Q Tropical Plantation would be where?

2 A Tropical Plantation general area is right  
3 there (indicating).

4 Q And you identified the Mahi parcel.  
5 Roughly where would they be.

6 A Mahi parcel is right there in the greenbelt  
7 (indicating).

8 Q We would offer Hokuao's direct written  
9 testimony as Exhibit 41.

10 CHAIRPERSON WONG: County, do you have any  
11 objection?

12 MR. HOPPER: No objection.

13 CHAIRPERSON WONG: OP?

14 MS. APUNA: No objection.

15 CHAIRPERSON WONG: Commissioners?

16 Exhibit 41 is so moved and tendered.

17 (Petitioner's Exhibit 41 was received into  
18 evidence.)

19 MR. GEIGER: Thank you. Nothing further.

20 MR. HOPPER: No questions.

21 CHAIRPERSON WONG: OP?

22 MS. APUNA: Yes.

23 CROSS-EXAMINATION

24 BY MS. APUNA:

25 Q Thank you, Mr. Pelegirino, for your

1 testimony. In your written testimony there is a  
2 couple of statements that you make, and I'm wondering  
3 if you believe they should be conditions of approval.

4 The first statement is on page 12 of your  
5 written testimony, and it says:

6 Prior to any work, it would be advised that  
7 the developer of the proposed project consult with  
8 neighboring south kuleana lo'i kalo farmers and Hui O  
9 Na Wai 'Eha to ensure that infrastructure  
10 improvements have minimal to no adverse effects to  
11 traditional and customary rights and practices.

12 Do you believe this should be a condition  
13 to the approval?

14 A Yes.

15 Q And on page 18 you state: A permanent  
16 easement for these families, which I believe you're  
17 referring to the Kauihou and Mahi families?

18 A Yes.

19 Q -- is recommended to ensure that both  
20 Native Hawaiian families are able to exercise any  
21 traditional practices in the future.

22 Do you believe this should also be a  
23 condition of approval?

24 A Yes. And if I may a comment on that.

25 I believe at the time that I did this, I

1 believe there currently is an easement agreement for  
2 the Kauihou properties because there's been some work  
3 on that particular kuleana since the initiation of  
4 this plan. But that would go for the Mahi Parcel as  
5 well. I would recommend.

6 Q Thank you.

7 CHAIRPERSON WONG: Commissioners, do you  
8 have any questions? Commissioner Scheuer.

9 VICE CHAIR SCHEUER: Aloha, Mr. Pelegrino.

10 THE WITNESS: Aloha.

11 VICE CHAIR SCHEUER: I'm really following  
12 up from the questions from the Office of Planning.

13 You had a number of statements you made in  
14 your written direct testimony. Are there other  
15 statements in your written direct testimony that  
16 you're hoping to see as potential conditions?

17 One was -- I'm not sure if it's entirely  
18 captured by OP's statement -- but had to do with the  
19 mitigation related to water, both active reduction of  
20 demand from Waikapu Stream for this development, as  
21 well as the commodification of the current ditch  
22 system to ensure both quantity and temperature  
23 issues.

24 THE WITNESS: Yes, that particular issue  
25 with water related to the South Waikapu kuleana auwai

1 has been a long-standing issue based on interviews  
2 that I conducted go beyond many, many years, if not  
3 decades. And although this particular resource is --  
4 or this auwai system is outside of the scope of the  
5 project, I believe that the Applicant went out of his  
6 way to ensure not only that the access to this water  
7 would continue as a traditional public trust purpose  
8 and resource, but also that it would be maximized in  
9 the form of an efficient system developed.

10 And so what has occurred is discussions  
11 around instead of having this open ditch that has  
12 caused flooding at times and caused sedimentation  
13 runoff into the stream, that there would be a pipe  
14 system coming down, and instead of the water entering  
15 the reservoir, there would be a direct system  
16 straight from the ditch down through a pipe system to  
17 these south kuleana auwais. So there wouldn't be  
18 water feeding a reservoir that stagnates, and the  
19 water is warm and then feeds a six-inch pipe that  
20 goes down about 1.2 miles to the south kuleana users,  
21 but would be piped initially from that source so that  
22 there would be no stagnation.

23 Does that answer your question?

24 VICE CHAIR SCHEUER: I believe you were  
25 indicating that the developer has already committed



1 to doing such a project, not necessarily related to  
2 the --

3 THE WITNESS: Yes.

4 VICE CHAIR SCHEUER: Are there other  
5 statements in your direct written testimony in  
6 addition to the ones that were specifically called  
7 out by Office of Planning that you're hoping to see  
8 as conditions?

9 THE WITNESS: I believe the only other one  
10 was in regards to access for lineal descendants to  
11 the Waikapu Valley. Currently that's never been an  
12 issue, but because there will be impacts to the lower  
13 areas of the lands, ensuring that there is a clear  
14 access point for traditional customary right  
15 practices to gathering, whether it's for medicinal  
16 purposes, for seeds, for propagation of native plants  
17 along the side that's being managed by Hui Malama O  
18 Waikapu, as well as the fact that lineal descendants  
19 have scattered their ashes in the back of the Waikapu  
20 Valley, but ensuring access is available for  
21 descendants, while at the same time I believe it was  
22 mentioned that it would not be opened up for the  
23 entire Island of Maui to trek back there, but for  
24 protecting those public trust purposes and  
25 traditional customary rights.

1           VICE CHAIR SCHEUER:   And I have a final  
2 question.   If the Applicant is successful in getting  
3 their redistricting and other permitting, a lot more  
4 people are going to live in Waikapu, which in and of  
5 itself can have impact on exercising of traditional  
6 customary practices.

7           Do you have any thoughts or recommendation  
8 how those kind of issues might at least -- some  
9 education or other efforts might be directed towards  
10 that.

11          THE WITNESS:   Sure.   Well, when this plan  
12 was developed, I had discussed with the rest of the  
13 team that it was my hope that this would be a living  
14 document and that it would be incorporated.   I think  
15 you mentioned a little bit about that in your  
16 questioning around Sustainability Plan.

17          But that cultural resource management and  
18 understanding of one of Maui's most historic sites be  
19 incorporated in all facets.   And what that would  
20 be -- there's been some discussion on that.   I can't  
21 necessarily point out a particular thing, but, yeah,  
22 I mean with the fact that there is going to be more  
23 people in this area, the question is, as you stated,  
24 how that would impact who have those traditional  
25 customary rights or practices.

1           At the forefront was access to water, and I  
2 believe that's being mitigated in one of the earlier  
3 plans as well, outside of what was notated regarding  
4 the Mahi Parcels was that there was development that  
5 went close to the top of the Reservoir No. 1, and the  
6 major concern was that that was, you know, right at  
7 the base of the opening of the Waikapu Valley,  
8 ensuring that, you know, not just traditional  
9 customary rights and access were being protected, but  
10 also the unique ecosystem and native habitat which is  
11 already in a fragile state as being protected for  
12 those traditional customary rights that they be left  
13 there and preserved in perpetuity.

14           And so at that time the planned changed,  
15 and you now have a much larger offer, and hopefully  
16 deters people from just randomly going up there and  
17 disturbing the fragile sites that are up there, both  
18 archaeological and on the natural resources.

19           VICE CHAIR SCHEUER: Thank you.

20           CHAIRPERSON WONG: Commissioner Mahi.

21           COMMISSIONER MAHI: I have more of a  
22 comment than a question.

23           Just want to mahalo you for the research  
24 and the hanakoikoi (phonetic), the rigorous work  
25 you've done to maintain and take care of those

1 families. These are the things that we're trying to  
2 do in so many other parts of our moku aupuni, and so  
3 I just want to congratulate you. Mahalo nui.

4 CHAIRPERSON WONG: Commissioner Cabral.

5 VICE CHAIR CABRAL: I do have a question,  
6 somewhat pointed, I think.

7 I'm going to guess that, based on your area  
8 of expertise and study of this particular area of the  
9 archaeological and cultural resources of this area  
10 that you probably personally know more about that  
11 subject than anyone else alive, is that possible?  
12 Probably the rest of us can read the manual there.

13 And think it's interesting that we don't  
14 have people objecting to this development. And I see  
15 you here and I feel like my fellow commissioner  
16 indicated that you're aloha for this subject and for  
17 the people and the concerns past, present. So my  
18 question is for the future.

19 Are you in favor of this development? Can  
20 you answer that first?

21 THE WITNESS: Can I answer that?

22 VICE CHAIR CABRAL: I think you can, I  
23 don't know. I'm just a lay person, I don't get paid  
24 to be here. I'm just curious as to what you feel  
25 about that, because I mean we sit here with that

1 question. We know people need more housing. We know  
2 we need to do something. And then I think what I  
3 hear you're trying to do is let's make sure we do it  
4 with this kind of care and concern. And I think we  
5 have a developer that is trying to put that care and  
6 concern. And from what I read has made  
7 accommodations based on findings in different areas  
8 of what needs to be protected.

9 So I wanted to see, what would you if you  
10 were voting on this?

11 THE WITNESS: Can I share a little  
12 something in regards to that? I'm going to be really  
13 honest. It's a question that I probably ask myself  
14 every night when I go to bed, not just relationship  
15 to this project, but just what is happening in  
16 general in the ahupua'a that my family has been there  
17 for generations.

18 And honestly, nothing is perfect, you know,  
19 this is beyond a good start. I believe that when I  
20 started this project, I made it clear that, you know,  
21 I'm going to write it as it is, and I'm going to be  
22 very clear and thorough in the work that I conduct,  
23 not just because that's where I live, and I'm  
24 passionate about protecting and perpetuating, you  
25 know, the cultural history of this place, but that

1 it's not just about one person, but it's about a  
2 community.

3 I think that this project goes above and  
4 beyond in many facets and brings together a more even  
5 integrated community versus others that I've seen  
6 which are part of a community, but they're segregated  
7 off, you know, with fences, and no walking areas that  
8 go from one project to the next. I don't see that  
9 here.

10 I also see a unique case where you have  
11 agriculture that's being perpetuated. I'm not going  
12 to dive into all of that, I think there was enough  
13 testimony around that. That's unique, very unique.

14 You know, Na Wai 'Eha, it was the largest  
15 contiguous kalo growing region in all of Hawai'i.  
16 That's been documented over and over again. There's  
17 no place in Hawai'i in terms of traditional  
18 agriculture in relationship to kalo cultivation that  
19 compare to Na Wai 'Eha.

20 And to see not just a number on a paper of  
21 800 acres being preserved in agriculture, but  
22 actually seeing, only a year or so after the last  
23 sugar plantation closed, seeing almost 30 percent of  
24 these lands come back into cultivation in diversified  
25 ag and providing that food back into the community,

1 that is something that you're not seeing any more.

2 In regards to the traditional customary  
3 rights -- and I'm in a unique situation, because I  
4 wear multiple hats, and water resources are dear to  
5 me. And when this was ongoing, and this project was  
6 ongoing there was also in the middle of a current  
7 contested case, and there were measures put in place  
8 to ensure that the water resources of Waikapu are  
9 being protected. And that again is unique here where  
10 the Applicant was able to engage in the community and  
11 have those frank and hard discussions versus, you  
12 know, just skirting behind a lawyer and trying to do  
13 it behind closed doors. That's appreciative.

14 So again, I'm giving the pluses. Obviously  
15 this is going to be the largest development project  
16 that Waikapu has ever seen in modern day. And it is  
17 my hope that if I do support this project, that a  
18 document such as this -- you cannot commemorate a  
19 place just on paper. It has to be alive. And it was  
20 my hope that when I conducted this report, and why I  
21 did what I did, was so that not just particular  
22 recommendations, but all aspects of why this place is  
23 so special is included in the fabric integrated  
24 completely throughout this project.

25 How that's done, I mean, you know, are we

1 commemorating the original Land Commission Awards and  
2 names by commemorating those into the street names?  
3 Things like that that are outside the box. You know,  
4 when the Applicant had mentioned earlier, early  
5 stages that they were going to do a river park, I  
6 kind of balked at that because there was no water in  
7 the river -- so why have a river park -- river park  
8 meaning that it was going through a park, not a water  
9 park kind of thing.

10 And now if you drive to Kealia Pond you can  
11 see how the Waikapu Stream and the water that's been  
12 put back in the stream has been beneficial to the  
13 entire Waikapu, and not just this project but the  
14 entire community.

15 So I skirted away from the answer. I  
16 answered as best as I could.

17 Overall, I am supportive of it. And I  
18 think if done right, and done as it has been shown on  
19 paper, it has opportunity to be a model not just for  
20 other projects on Maui, but throughout Hawai'i. That  
21 would be my hope.

22 VICE CHAIR CABRAL: Thank you very much for  
23 that answer to a difficult question.

24 Also hopefully on a lighter note, based on  
25 your large maps and that, and you're talking about



1 basically a sand bar, meaning sand-like oceanfront  
2 sand is there, is that correct, is that what you were  
3 referencing?

4 THE WITNESS: Sand dune.

5 VICE CHAIR CABRAL: So you have sand dunes  
6 through there that's typically oceanfront, correct.

7 THE WITNESS: No, those are liquified  
8 liquified sand dunes. Not going into the geology,  
9 but prior to the West Maui mountains and Haleakala --

10 VICE CHAIR CABRAL: But at one time though,  
11 that's my question, all of this area at one point was  
12 oceanfront property; is that correct?

13 THE WITNESS: Little bit of both maybe.

14 VICE CHAIR CABRAL: Thank you very much for  
15 the information. Thank you for your aloha.

16 CHAIRPERSON WONG: Commissioner Ohigashi.

17 COMMISSIONER OHIGASHI: I just wanted to  
18 know, Waikapu area, wasn't there a ranch or cattle  
19 grazing being done over there.

20 THE WITNESS: Historically?

21 COMMISSIONER OHIGASHI: Yeah, historically?

22 THE WITNESS: Some of the first cattle that  
23 was introduced to the Island of Maui actually was  
24 brought to Waikapu and raised along the central  
25 plains of Maui, which is known as Ke kula O ka ma'o

1 ma'o (phonetic) or ka ma'o ma'o, that includes the  
2 lower areas of Waikapu as well as Wailuku.

3 COMMISSIONER OHIGASHI: Was it introduced  
4 after Western contact, obviously, right?

5 THE WITNESS: Yes.

6 COMMISSIONER OHIGASHI: Did it have an  
7 affect on the cultural uses of that area?

8 THE WITNESS: You know, I don't want to --  
9 thank you for the question. I don't want to get too  
10 much into this, but if you ever want to read  
11 400 pages of Mahele information that was provided  
12 there is some really interesting things about Waikapu  
13 and Na Wai 'Eha in general, not just cattle ranching,  
14 but also raising goats on Land Commission Awards.

15 There were numerous claims that included  
16 testimonies that they were raising animals and the  
17 impacts of animals on some of the traditional  
18 agriculture ag lands, cows running rampant and  
19 destroying some of the walls. But other than that, I  
20 think the most impact that ran -- that Waikapu area  
21 occurred in this Central Maui Plains as well as upper  
22 watershed.

23 COMMISSIONER OHIGASHI: The only reason I  
24 asked that, my family has stories about my  
25 grandfather working in Waikapu, I was just curious

1 about that.

2 The second thing that I want to know is Vic  
3 and Paulett Walleet your father and mother?

4 THE WITNESS: Yep.

5 COMMISSIONER OHIGASHI: I have to disclose  
6 that my family, my wife especially is very close to  
7 the Pellegrinos, and her closeness and friendship  
8 with them will have no effect on my decision.

9 THE WITNESS: I did not know that.

10 CHAIRPERSON WONG: Any objection?

11 MR. GEIGER: No.

12 MR. HOPPER: No.

13 MS. APUNA: No.

14 CHAIRPERSON WONG: Anything else,  
15 Commissioner Ohigashi?

16 COMMISSIONER OHIGASHI: No.

17 CHAIRPERSON WONG: Five-minute break before  
18 we continue questioning.

19 (Recess taken.)

20 CHAIRPERSON WONG: OP, do you have more  
21 questions?

22 MS. APUNA: Yes, please.

23 RECROSS-EXAMINATION

24 BY MS. APUNA:

25 Q The sand dunes, they are located -- that

1 you talked about, are they located in the Petition  
2 area?

3 A Very small portion in the south --  
4 northeast corner, excuse me, against -- here  
5 (indicating) they literally go like this. So this  
6 area here (indicating).

7 Q Oftentimes there are burials found within  
8 the sand, so would you recommend, or was it a  
9 consideration to have that portion of the sand dunes  
10 within the Petition area protected?

11 A Good question, thank you.

12 So unfortunately, I will say that this  
13 entire portion of the sand dune system had already  
14 been impacted by sugar plantation. So despite that,  
15 my proposal was that there should definitely be  
16 archaeological upon monitoring when conducting work  
17 in that particular area, but there isn't any dune  
18 left.

19 The only dune that's left in the entire  
20 ahupua'a of Waikapu is the Japanese cemetery on East  
21 Waiko Road which is adjacent to the Applicant's  
22 parcel of land. Probably less than an acre of what  
23 was approximately three, four, 500 acres of sand dune  
24 systems that existed at one time.

25 It doesn't mean to not ensure that there is

1 sensitivity around those areas, especially that  
2 particular grant to Eugene Baugh specified that there  
3 was known burials there. And we know that Eugene  
4 Baugh's parcel actually crosses the Applicant onto  
5 what is known as the Waikapu Gardens, the Spencer  
6 project, the Waikapu Gardens here (indicating). And  
7 the Japanese cemetery is right here (indicating).

8 And when they were conducting work, and  
9 when I look at archaeological work that was conducted  
10 for this particular parcel, they did find,  
11 inadvertently find burials in this lower portion here  
12 adjacent or behind the dune system of the Japanese  
13 cemetery.

14 So, again, that speaks for itself, I think.

15 Q So archaeological monitoring for that area  
16 is recommended?

17 A Yes.

18 Q Thank you.

19 CHAIRPERSON WONG: Commissioners, are there  
20 any other questions? Commissioner Scheuer.

21 VICE CHAIR SCHEUER: If I may, one more.

22 And this is based on some of your responses  
23 particularly to Commissioner Cabral's question and  
24 some of my questions about the Sustainability Plan.

25 I realize we're going fairly far, or were

1     able to go deeper and more thoughtfully on this  
2     because of how much the Applicant has done already in  
3     working with the Applicant.

4             But my question, we have Sustainability  
5     Plan that suggests encourage and/or mandating low  
6     flow fixtures for residents. And solar water  
7     heaters, other things. Ways that new people to this  
8     community can live in this community with the  
9     environmental footprint.

10            What can we do for these people who come --  
11     some of whom may actually be lineal to this place,  
12     some may not have genealogical ties to Hawai'i at  
13     all.

14            What can be done to realize that they are  
15     living in Waikapu?

16            THE WITNESS: I have my own  
17     recommendations.

18            VICE CHAIR SCHEUER: Okay.

19            THE WITNESS: Okay with me sharing them.

20            I mean other than the fact in honoring the  
21     place names, not just the original names of those  
22     that -- those original claimants of those particular  
23     lands in some shape or form, whether it's utilizing  
24     street names. I think what has already happened, and  
25     I'll start with this.

1           When, prior to the development of this  
2       report, the Maui Tropical Plantation had reached out  
3       to the Maui Historical Society and had asked to put  
4       together an entire cultural history of Waikapu that  
5       would be integrated throughout the revised -- what I  
6       call the 2.0 -- I can say that because in Hawai'i I  
7       used to drive the tram, and had a lot of fun, and  
8       actually -- well, I won't get too deep into that.

9           But because I already had a passion for  
10      this particular research field and history of  
11      Waikapu, when I read that first manuscript of the  
12      tram tour, I had asked my boss at that time if I  
13      could revise the entire thing incorporating the  
14      cultural history of that place.

15           And since then, although it's changed  
16      somewhat, it still gives life back to, not just  
17      malihini that come and go throughout the plantation  
18      area, but also to many residents to understand what  
19      is Waikapu. What is the meaning of Waikapu. And so  
20      part of this work that was conducted with the Maui  
21      Historical Society, of which I am on the board of,  
22      was asked -- of course, they asked you going to write  
23      the history of Waikapu, call Hokuao.

24           So we put together a couple dozen different  
25      panels and historical photographs that were woven

1 throughout the plantation at that time.

2           There is a very fragile ecosystem, not just  
3 within the entire mountain range of West Maui, but  
4 definitely within Waikapu where there's especially a  
5 number of endangered species and plants.

6           The Acacia koa that I spoke of before, it  
7 is not an endangered species, it's not necessarily a  
8 species of concern, but definitely is a species  
9 looked at as being protected in some shape or form.

10           And knowing that this historic forest that  
11 about 60 percent of its trees are still alive and  
12 being protected by this Hui Malama Waikapu, on  
13 Applicant's land, is being protected.

14           I think integrating native habitat of that  
15 particular place within the Development Plan, whether  
16 that's in the landscape, I think is an integral part.

17           I know throughout the islands now,  
18 everybody jumped on the native plant bandwagon, but  
19 being former ethnobotany professor at the University  
20 of Hawai'i at Hilo, I can tell you it's not just  
21 about planting native plants within a particular  
22 project, but ensuring that the native plants that are  
23 incorporated in the landscape are utilized within  
24 from species that are from the area.

25           And the koaia, because of how fragile that



1 ecosystem is in that particular five to ten acres  
2 site is, there was a concern at one time where there  
3 was going to be koa forest that was going to be now  
4 established below in the Applicant's area. And we  
5 had brought up that.

6 I'm not a botanist, but I can tell you  
7 there can some be some hybridization with Acacia koa.  
8 And we weren't -- didn't want that occurring in the  
9 native forest. So we started planting koaia from  
10 seeds that were collected from the area. We were  
11 working with a number of botanists from Maui to  
12 ensure that those species are being protected.

13 So I think things like that -- you really  
14 have to think outside the box, because it's not a  
15 matter of telling the story, just putting a lot of  
16 panels up, this is Waikapu, this is what it once was.  
17 It should be in some shape or form, this is what  
18 Waikapu once was and this is how Waikapu is  
19 continuing to be perpetuated based on its foundation  
20 of a rich agriculture and cultural history.

21 And I think with the Cultural Resource  
22 Management Plan, I think we can really create some  
23 methods around that. There's room for growth.

24 CHAIRPERSON WONG: Any other questions?  
25 Commissioner Okuda.

1           COMMISSIONER OKUDA: Hokuao, thank you for  
2 your testimony. I didn't think I would see you so  
3 soon. And I, again, promise the fact that I spoke  
4 with you before my initial confirmation will not  
5 affect how I view any of this.

6           Having met with you, and I think the  
7 quality of your work demonstrates that the  
8 recommendation I got earlier was the correct  
9 recommendation, come talk to you.

10           You are an active kalo or taro farmer,  
11 correct?

12           A       Yes. My wife and I and family reside on  
13 our family kuleana land right adjacent to the  
14 Applicant's land and we raise about an  
15 acre-and-a-half of wetland kalo.

16           COMMISSIONER OKUDA: I don't want to become  
17 a witness in this proceeding, but having seen what  
18 you do, it's quite impressive.

19           What do you believe will be the impact of  
20 this development if the Petition is granted, the  
21 Boundary Amendment is granted, and the development  
22 takes place as has been described and proposed?  
23 What's the impact to what you are doing right now  
24 with respect to taro or kalo farming?

25           THE WITNESS: I don't personally -- I don't

1 believe there would be any direct impact in regards  
2 to say water resources, meaning that this particular  
3 project is going to be utilizing groundwater  
4 resources, both for their ag and the dual-water  
5 system that is being proposed.

6           None of that, I believe at all, even though  
7 I think there might have been some confusion that  
8 surface water has been looked at and utilized, but  
9 it's for their agriculture, not necessarily for the  
10 dual-water system, so that definitely is important to  
11 notate.

12           But for the most part, you know, the  
13 proceedings of the interim instream flow standard, a  
14 contested case, although that's still ongoing, I  
15 believe the Applicant has made it clear that the only  
16 use of Waikapu Stream would be utilized for cattle  
17 troughs, which is much more minimal than what was  
18 historically used for those lands from the Waikapu  
19 Stream.

20           The impact on the south kuleanas which have  
21 much more stronger relationship to this particular  
22 project and potential impact, I would just go back to  
23 what I had mentioned earlier about the efficiency of  
24 the system.

25           I did -- glad you brought that up as well,

1 because there was one other thing I did miss in my  
2 testimony was that there is a possibility for an  
3 alternative source for protection of those  
4 traditional customary rights for kalo farmers on the  
5 south side, that is to actually restore the original  
6 auwai system that fed those kuleana lands instead of  
7 the water coming from the reservoir to the first  
8 kuleana land, which is about 1.2 miles, and of course  
9 that ditch system goes into the valley another -- I'm  
10 not exactly sure, maybe three-quarters of a mile --  
11 but that could completely be eliminated with the  
12 restoration of the traditional system that once was  
13 in place for those lands which would only have --  
14 first of all the direct source would be the stream,  
15 and the area in between that source and the first  
16 land kuleana parcel would only be less than a quarter  
17 of a mile.

18 That would be the most beneficial, but  
19 there are other landowners in play other than the  
20 Applicant, which can make that challenging. But that  
21 would be -- I put that as an alternative in there.

22 But in terms of the north kuleana auwai  
23 system and north kuleana taro farmers which I reside  
24 on, there is no impact whatsoever.

25 COMMISSIONER OKUDA: Thank you very much

1 for your testimony.

2 CHAIRPERSON WONG: Any other questions?

3 Redirect.

4 MR. GEIGER: No redirect.

5 CHAIRPERSON WONG: Thank you. Next  
6 witness, please.

7 MR. GEIGER: We are going to call Thomas  
8 Holliday.

9 CHAIRPERSON WONG: May I swear you in,  
10 please?

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

13 THE WITNESS: Yes.

14 CHAIRPERSON WONG: Please state your name  
15 for the record.

16 THE WITNESS: Thomas Holliday.

17 CHAIRPERSON WONG: Mr. Geiger, you may  
18 proceed.

19 THOMAS HOLLIDAY

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

23 DIRECT EXAMINATION

24 BY MR. GEIGER:

25 Q How are you familiar with the Waikapu

1 Country Town?

2 A Well, we've been doing work, our firm, the  
3 Halstrom Group and now CERE on Maui for about  
4 40 years we have done work throughout the area, and  
5 we have been involved in this particular project  
6 about three or four years.

7 Q You provided a marketing analysis for the  
8 project?

9 A Yes.

10 Q Did you prepare direct written testimony on  
11 this project?

12 A Yes, I did.

13 Q I'm going to hand you what I hope is your  
14 written direct testimony. Is that it?

15 A On legal paper, but yes, it looks very much  
16 like mine.

17 Q Is your signature on the last page?

18 A That is my signature.

19 Q You signed it about six weeks ago. Any  
20 additions, corrections or modifications?

21 A None to the facts stated in there. I do  
22 have some insights following the presentation that I  
23 would like to share based upon some of the things  
24 I've heard here.

25 Q Again, I would like the other, witnesses

1 please don't read it. Please give the highlights for  
2 the Commissioners.

3 A I don't mean to put you to sleep. It was  
4 interesting hearing about a piece of land, that's on  
5 of the great things about Hawaii, is learning about  
6 pieces of land.

7 But I'm just going to bore you with some  
8 numbers but I hope this helps you meet the needs of  
9 what your tasks are.

10 We basically designed a three-part study.

11 One, to determine whether or not there is  
12 market demand for the proposed project and its  
13 inventory.

14 Two, what is the economic impact on Maui  
15 and statewide community resulting from the  
16 development.

17 And three, what's the impact on the public  
18 purse in regards to cost and benefits associated with  
19 the project as it's built and operated over time.

20 The first stage is the market study, and  
21 the answer is, yes, there's a market demand for the  
22 proposed units. Based on County of Maui Planning  
23 Department Long Range Division Projections, those  
24 done by the State DBEDT through 2040 and using census  
25 data from 2010 census and 2011 to 2015 rolling data.

1           We estimate that there is a demand for  
2 about 13,300 homes, non-resort homes in the Central  
3 Maui planning area by 2035. Even if you take  
4 everything, and the county does a great job of all of  
5 the proposed developments, and there's like 39  
6 projects in this area proposed. But even if all of  
7 them were built out on a timely manner, there would  
8 only be about 7,300 units without the subject. So  
9 that means there's going to be about 6,000 unit  
10 shortfall in housing supply in the Central Maui area  
11 over the next 20 years.

12           We also analyzed pricing and unit types,  
13 how big they should be built; what they should be  
14 sold for. And it's safe to say that with the type of  
15 product that is going to be built at Waikapu, much of  
16 it, even though the portion will be designated  
17 workforce housing as required, they will meet that  
18 requirement, a significant portion of the market  
19 priced units will be considered affordable to those  
20 making 100 to 140 percent of household income.

21           So it's very well-suited for the market  
22 that is exists out there that will be absorbing it.

23           We also looked at the commercial aspect of  
24 it. It's not a significant number, but it's intended  
25 to meet the neighborhood needs of the residents



1 without making them go off-site so they have kind of  
2 sustainability in their own community.

3           There will be some demand from passer-bys,  
4 and the hopes are that a specialty or  
5 destination-type commercial village can grow there as  
6 well, something that would be like Paia over here, or  
7 Hanapepe on Kaua'i. Something that would draw both  
8 visitors and locals into an area where the craft  
9 shops, boutiques, restaurants, and that will give  
10 people, small market people who live in the community  
11 and elsewhere on Maui a chance to market their goods  
12 in a local fashion.

13           So having shown there was a demand, the  
14 next step is to determine if it's an appropriate site  
15 from a market perspective. It certainly is. People  
16 talk about centrally located. This is truly a  
17 centrally located site on Maui, with ease of access  
18 to Wailuku, Kahului, South Maui, West Maui, and those  
19 are the employment areas and economic areas.

20           It has desirable climate. It has access  
21 via two highways, which is very rare on a neighbor  
22 island. It is going to have a wide variety of  
23 inventory, and it's a certain significant size,  
24 shape. It's water. It's got ag uses. It's got  
25 cultural uses. Everything about this property points

1 to the master plan being proposed is a highest and  
2 best use of the real estate which is the most  
3 important issue.

4 And based upon our analysis of the market  
5 and the appropriateness of the subject site, we  
6 anticipate it will take about 11 years to reach full  
7 absorption, and basically from groundbreaking through  
8 stabilization would be a maximum of 14 years, at  
9 which time all the houses will be full, all the  
10 commercial sites will be full and it will be  
11 operating on a stabilized basis.

12 The second step is economic impact  
13 analysis. Just a quick overview. The project will  
14 bring in -- this was 2015 dollars -- will bring in  
15 \$644,000,000 in capital investment, about 817 million  
16 total new dollars for the Island of Maui, and it will  
17 also bring in about 32 million new dollars that's  
18 beyond what the residents -- that's new dollars onto  
19 the island.

20 During its 14-year build-out stabilization  
21 period, there will be about 9,000 total years of  
22 construction, commercial, maintenance and other jobs  
23 created. And then upon build out there will be 746  
24 full-time equivalent jobs throughout the community,  
25 which would generate about \$27 million in wages.

1           When it's fully absorbed, there will be  
2           about 3,921 residents in the project, and that's  
3           exclusive of the ohana units which would be about  
4           another 210 people.

5           And they will have household incomes  
6           totaling about \$156 million a year.

7           Just a note, one of the things we do in  
8           addition to models that we build to test these, which  
9           are highly focused direct and indirect for the  
10          specific project, we also test the state input-out  
11          economic model against the results, and in every case  
12          the outcome from the state model shows a higher  
13          impact of taxes, job creation, and economic activity  
14          than our own models do.

15          In regards to fiscal analysis. Just to  
16          summit up, during the absorption, build out and  
17          absorption period, the State will receive net  
18          benefits, that's taxes less cost, of 82.7 million,  
19          and an annual stabilized benefit of 2.9 million. The  
20          County will receive 42.3 million during the build out  
21          phase, and a net benefit of 4.2 million dollars a  
22          year thereafter.

23          Q       Thank you, Tom. Bottom line this is a good  
24          project?

25          A       Oh, this is a good project.

1           MR. GEIGER: We would offer Mr. Holliday's  
2 written testimony as Exhibit 41 -- 42. Thank you.

3           CHAIRPERSON WONG: County, do you have any  
4 objection?

5           MR. HOPPER: No objection.

6           MS. APUNA: No objection.

7           CHAIRPERSON WONG: Commissioners, any  
8 objection? Exhibit 42 is entered into the record.

9           (Petitioner's Exhibit 42 was received into  
10 the record.)

11          MR. GEIGER: I think Tom has a couple more  
12 comments.

13          A       Just a couple of market insights. We  
14 interviewed a lot of people who live there, brokers  
15 who deal with it, and people on Maui love Waikapu,  
16 they really I do. It's just a highly desirable area  
17 that they would enjoy living in because of the  
18 climate, the beauty, the central location.

19               From a market perspective, you look back  
20 and go, yeah, people have known that for 1000 years  
21 because people have been living in Waikapu and  
22 prospering.

23               And nowadays we're just looking at a new  
24 modernization of what's been a desirable area since  
25 about 1000 years or more ago.

1           Secondly, you know, one of the great things  
2 about this, this is a well-worked master plan. And  
3 that's not something you regularly see for the common  
4 man. You know, I mean for upper end and resort  
5 stuff, yeah, they spend a lot of time putting  
6 together a master plan and amenitizing it, and  
7 dealing with all the issues. Here you have something  
8 that's meant to be for the working class and for  
9 those with incomes at the lower end of the market  
10 level. And here you're going to get a real master  
11 plan community.

12           And it's wonderfully diverse, and it's a  
13 small town, agricultural. It's got the cultural and  
14 farming amenities. All of these things are going to  
15 contribute to an ambiance that creates a true town,  
16 not just another subdivision somewhere, but can draw  
17 together to give the people of Waikapu Country Town a  
18 feeling that are a different space within the real  
19 estate spectrum.

20           And traffic, with the two highways, it's  
21 like they bought their own view. They'll always have  
22 access to a good thing.

23           Lastly, I was thinking sustainability from  
24 a market perspective. You were talking about  
25 sustainability from a planning perspective.

1           When you talk about sustainability in a  
2 market, what that means is you got to get people to  
3 stay there for generation after generation. If  
4 people just up and move, it's not really a  
5 sustainable community. It's people coming in and  
6 going out. This community can be sustainable. It  
7 has every type of housing available from entry level  
8 workforce, very low income, all the way up to what  
9 would be considered some really nice homes on acreage  
10 up on the hillside. So that would allow people to  
11 stay in that community for extended times, and multi  
12 generations, and that's what builds a town is that  
13 sustainability. And you have to have a diverse  
14 product in order to make it work.

15           You also have to have product for the  
16 unconventional. I want to be able to live somewhere  
17 where I can have my art shop or work shop right there  
18 with me. So live-work area.

19           So all of those aspects that are within the  
20 central plan in the central location with  
21 neighborhood, commercial, parks and school, that's  
22 what creates sustainability from a market  
23 perspective.

24           Q       Thank you very much. We'll pass the  
25 witness.

1 CHAIRPERSON WONG: County?

2 MR. HOPPER: No questions.

3 CHAIRPERSON WONG: OP?

4 MS. APUNA: No questions.

5 CHAIRPERSON WONG: Commissioners, do you  
6 have any questions? Commissioner Okuda.

7 COMMISSIONER OKUDA: Thank you, Mr.  
8 Holliday.

9 In preparing your study and report, what  
10 range and price did you have regarding the prices  
11 anticipated for this housing project?

12 THE WITNESS: Well, within -- it's a broad  
13 range, first of all, because you're going to have  
14 everything from workforce housing, as required, that  
15 would be some which would be sellable or rentable to  
16 households making less than 80 percent, all the way  
17 up to million dollar plus homes on some of the  
18 acreage lots up on the outside.

19 We, when we did our analysis for property  
20 tax purposes, we assumed that the average  
21 multi-family unit would be 804 square feet, and would  
22 have a price of about 325 to 350,000, which puts it  
23 at affordable and above for the 80 to 100 percent  
24 household income group.

25 And for single-family homes we figured an

1 average of about 1620 square feet, within a range  
2 from 1200, 1300 to over 3,000 square feet for the  
3 nicer ones, and with the average price of about 570  
4 to \$600,000 or so, which would make it affordable to  
5 households who are making up to 140 percent of  
6 household income.

7 So it works out well that the product that  
8 the developer wants to put on this spot is for the  
9 widest part of the demand pyramid on Maui.

10 COMMISSIONER OKUDA: Thank you.

11 CHAIRPERSON WONG: Any other questions?  
12 Any redirect?

13 MR. GEIGER: No redirect.

14 CHAIRPERSON WONG: Next witness, please.  
15 Before we start, Mr. Geiger, how many more witnesses?

16 MR. GEIGER: I have three more who are  
17 present. I think we can do them in the next hour,  
18 hopeful.

19 CHAIRPERSON WONG: We are going to try and  
20 quit around 4:00.

21 MR. GEIGER: I was trying to schedule it  
22 that way.

23 CHAIRPERSON WONG: May I swear in, please?

24 Do you affirm that you'll be -- you'll  
25 state the truth in your testimony?



1 THE WITNESS: Yes, I do.

2 CHAIRPERSON WONG: Please state your name  
3 for the record.

4 THE WITNESS: My name is Stacy Otomo.

5 STACY OTOMO

6 Was called as a witness by and on behalf of the  
7 Petitioner, was sworn to tell the truth, was examined  
8 and testified as follows:

9 DIRECT EXAMINATION

10 BY MR. GEIGER:

11 Q Stacy, you're an engineer, correct?

12 A Correct, civil engineer.

13 Q And your exposure, experience with the  
14 Waikapu Country Town Project is with regard to the  
15 civil engineering aspect?

16 A That's correct.

17 Q Did you prepare written direct testimony in  
18 this matter?

19 A Yes, I did.

20 Q Did you also prepare engineering analysis  
21 in this matter?

22 A We prepared a preliminary engineering  
23 report.

24 Q I'm going to hand you what hopefully is  
25 your written direct testimony. And is that the

1 testimony that you prepared?

2 A Yes, it is.

3 Q Is that your signature on the last page of  
4 that document?

5 A Yes, it is.

6 Q Do you have any additions, corrections or  
7 modifications to the written testimony?

8 A I have one housekeeping item on page 3,  
9 line 21. If we can delete the word "wastewater", and  
10 on line 22 delete "that", and add "to prepare the  
11 preliminary engineering report".

12 Q Any other changes?

13 A No.

14 Q Again, Stacy, as we've done with the other  
15 witnesses, please don't read your testimony, but  
16 provide for the Commissioners the information you  
17 believe is necessary for their decision-making  
18 process.

19 A Good afternoon, Commissioners, Chair.

20 We were retained by Coach, I'll call him  
21 Coach in 2009. This is the first time I've worked  
22 with him, and when he approached me I was -- I had  
23 mixed emotions. I was happy to work on this very  
24 large project, interesting.

25 Again, when we go through entitlements, I

1 know one of the Commissioners brought this up, was he  
2 going to get the entitlements and skip out of town?  
3 And eight years later, I want to share with you what  
4 I've learned about Coach.

5 He listened very well, for one thing. He  
6 always asks us for opinions. He takes it to heart.  
7 If he disagrees, he will tell us he disagrees. By  
8 the same token he's really quick to pat you on the  
9 back when you have a good suggestion or good  
10 recommendation.

11 That being said, I think from previous  
12 testimony you've heard that he's open to community  
13 meetings, group meetings, meeting associations, and  
14 always incorporating the comments that they had into  
15 the site plan.

16 And over the years, it morphed and morphed  
17 and morphed until we have what you see in the Final  
18 EIS, which I think is a very good plan.

19 That being said, as far as the engineering  
20 items on there, I'm thrilled in the sense that  
21 there's a lot of open space, green space, parks on  
22 the site plan. In my opinion, it makes it very easy  
23 for us to address drainage concerns using low impact  
24 development techniques.

25 In terms of wastewater and the water, I see

1 this as a stand-alone project. He has his own water  
2 source on the property. He's willing to do a  
3 stand-alone plan for possibly a joint venture with  
4 the County or other developers -- stand-alone in  
5 terms of the water and wastewater.

6 In terms of the traffic, I think you heard  
7 the traffic engineer bring up some areas of concern.  
8 I feel that we can adequately, once those areas that  
9 are of concern are identified, I am confident that we  
10 can come up with a solution on a design to mitigate  
11 the traffic issue.

12 I think in a nutshell, I think this is an  
13 ideal civil engineering project, and look forward to  
14 moving forward with it if we get the blessing of this  
15 Commission.

16 Q Anything else or is that it?

17 A No, short and sweet.

18 Q Thank very much.

19 We would ask that Stacy's written direct  
20 testimony be offered and admitted as I believe  
21 Exhibit 43.

22 CHAIRPERSON WONG: County?

23 MR. HOPPER: No objection.

24 CHAIRPERSON WONG: OP?

25 MS. APUNA: No objection.

1 CHAIRPERSON WONG: Commissioners? Hearing  
2 none, Exhibit 43 with the changes as stated is  
3 accepted.

4 (Petitioner's Exhibit 43 was received into  
5 evidence.)

6 MR. GEIGER: Thank you. We pass the  
7 witness.

8 CROSS-EXAMINATION

9 BY MR. HOPPER:

10 Q Just briefly, and I know there are separate  
11 witnesses for water and wastewater to be called.

12 You stated water and wastewater sources are  
13 stand-alone for the water source. Your  
14 understanding, at this time there's not an agreement  
15 with the County to accept the wells provided on this  
16 project?

17 A My understanding is there have been  
18 discussions had. I'm not 100 percent sure if it's  
19 been finalized, but I know there have been  
20 discussions with the County.

21 Q At this time though, there are plans to  
22 operate private water system if necessary if that  
23 dedication does not happen?

24 A That's correct.

25 Q The same could be said for wastewater,

1 there are plans to own and operate a private  
2 wastewater system if that is required?

3 A That's correct.

4 MR. HOPPER: Thank you. I have no further  
5 questions.

6 CHAIRPERSON WONG: OP?

7 MS. APUNA: No questions.

8 CHAIRPERSON WONG: Commissioners, any  
9 questions? Commissioner Scheuer.

10 VICE CHAIR SCHEUER: I'm going to trying to  
11 get at my potable-nonpotable dual system.

12 My understanding from reading your written  
13 direct testimony is that a number of wells have been  
14 drilled, some of which will provide potable water and  
15 some of which will provide what is considered in your  
16 report to be nonpotable water. But all water is  
17 being drawn from the Waihe'e aquifer.

18 THE WITNESS: That's correct.

19 VICE CHAIR SCHEUER: If the -- and the  
20 Commission might chuckle and anybody else who lived  
21 through Lanai might chuckle as we go down these  
22 roads.

23 Are these wells that you're saying are  
24 nonpotable, are they actually potable sources of  
25 water, but not being used in a potable manner?

1           THE WITNESS: If I recall correctly, the  
2 water quality of all five wells are real good. The  
3 nonpotable wells -- and Coach can correct me if I am  
4 wrong -- I'm -- one of them may not be down all the  
5 way into the so-called groundwater, meaning below sea  
6 level. It may be getting water from a source higher  
7 up than the actual groundwater itself.

8           VICE CHAIR SCHEUER: Will there be another  
9 witness who is able to clarify some of these issues?

10          MR. GEIGER: We have the hydrologist coming  
11 tomorrow.

12          THE WITNESS: Just to be clear, I think it  
13 is the Waikapu Aquifer.

14          VICE CHAIR SCHEUER: Did I say Waihe'e? I  
15 meant Waikapu.

16                The point that I'm trying to delve into is  
17 that I think having a dual-water system is a good  
18 practice, but if you're putting potable water into  
19 both sides of the system, it's not necessarily  
20 reaching to the level that you're trying to get at.

21          THE WITNESS: There's also a second  
22 component to this on the wastewater plan. The  
23 thought is to bring it up to R1 source and use that  
24 as a nonpotable source which could possibly be mixed  
25 with the well water. So those two sources would

1       comprise the nonpotable system.

2               VICE CHAIR SCHEUER: I look forward to  
3 further clarification on that issue.

4               CHAIRPERSON WONG: Any other question?

5               I just have one. In terms of, R1 you  
6 stated you wanted to bring it up to R1, the water,  
7 wastewater?

8               THE WITNESS: We had the wastewater  
9 consultant after me, but that was the plan on the  
10 treatment plan.

11              CHAIRPERSON WONG: Any redirect?

12              MR. GEIGER: No redirect.

13              CHAIRPERSON WONG: Next witness, please.

14              THE WITNESS: Thank you.

15              MR. GEIGER: We are going to call Steven  
16 Parabolicoli.

17              CHAIRPERSON WONG: Good afternoon, sir.  
18 May I swear you in, please?

19              Do you swear or affirm that the testimony  
20 your about to give is the truth?

21              THE WITNESS: I do.

22              CHAIRPERSON WONG: Can you please state  
23 your name for the record?

24              THE WITNESS: Steven M. Parabolicoli.

25              CHAIRPERSON WONG: Thank you. Mr. Geiger.



STEVE PARABICOLI

Was called as a witness by and on behalf of the  
Petitioner, was sworn to tell the truth, was examined  
and testified as follows:

DIRECT EXAMINATION

BY MR. GEIGER:

Q Good afternoon, Steve.

A Good afternoon.

Q Your expertise is in what?

A Water and wastewater. Most of my career  
has been in the wastewater industry.

Q And you have provided direct written  
testimony in this matter?

A I have.

Q I'm going to hand you what will be your  
direct written testimony. First of all is that the  
testimony that you prepared?

A Yes, it is.

Q Does your signature appear on the last page  
of that document?

A Yes, it does.

Q Do you have any additions, modifications or  
corrections you need to make to your testimony?

A No, I don't.

Q Again, as with the other witnesses, we

1 don't want you to read your testimony, but speak to  
2 the Commissioners about information that you feel  
3 they would find helpful in making their decision.

4 A Sure. I'm here to tell you will about the  
5 wastewater system being proposed for the proposed  
6 development.

7 First of all, I've been involved in water  
8 and wastewater since the late 1970s here on Maui.  
9 Worked in both public and private sector. Most of my  
10 time is with the County of Maui Wastewater  
11 Reclamation Division. And I've operated wastewater  
12 treatment plants and managed the recycled water  
13 system and program. And my last few years I was the  
14 program superintendent for all the wastewater  
15 treatment plants throughout the whole county.

16 I retired in 2014, and then shortly  
17 thereafter joined Mana Water, which is a very small  
18 company that the goal is to introduce an innovative  
19 wastewater system to Hawai'i. The system was  
20 developed in Budapest, Hungary by a company called  
21 Organica Water.

22 What is really cool about the system is it  
23 treats wastewater in a very green fashion. It  
24 literally uses tropical plants at the heart of the  
25 system. Traditional wastewater systems that I've

1 operated are typically use the activated flush  
2 process, which is a very traditional way of treating  
3 wastewater.

4 This proposed system actually uses a lot  
5 less energy, produces way less sludge and produces  
6 very comparable effluent or treated water as  
7 traditional wastewater technology. And it also uses  
8 a lot less land.

9 I've always been interested in augmenting  
10 wastewater treatment with natural systems such as  
11 using plants. So when I learned about this system I  
12 was very intrigued.

13 In April 2015 I actually had the  
14 opportunity to travel to Hungary and visit a number  
15 of these facilities throughout the countryside. And  
16 I was very impressed. I spoke to the operators,  
17 learned that these systems are very easy to operate  
18 as compared to other facilities. And I was just  
19 amazed that when you're walking through the  
20 facilities, you don't even know you're at a  
21 wastewater plant. You feel like you're in a  
22 botanical garden, and there was no odors.

23 So I thought I would show you just a few  
24 slides to give you a idea what these facilities look  
25 like and how they operate.

1           The traditional facilities have both a very  
2 large geographical and psychological imprint.  
3 Pictured on the left is I think a real picture of the  
4 Lahaina Wastewater Facility. It's a classic example  
5 of a very large centralized wastewater treatment  
6 system with a very big treatment plant that served a  
7 very wide, wide area, long transmission lines  
8 conveying wastewater, which is very problematic  
9 because you get a lot of odors.

10           And then once you treat the water, the  
11 wastewater to high standards where you can reuse it,  
12 then you have to convey that water all the way back.  
13 And that's very expensive, because you have to put in  
14 infrastructure, such as pipelines, storage tanks just  
15 to get clean water back to where it came from.

16           That was probably the number one hurdle  
17 which has kind of hindered the County in reusing a  
18 lot of this treated R1 water that they produce, the  
19 cost to develop infrastructure.

20           So a solution is the Organica Wastewater  
21 Treatment System. In instead of a rather ugly  
22 looking industrial appearance, you have a botanical  
23 garden-like effect where these plants are not  
24 actually treating the wastewater, but they're  
25 actually sending their roots down into the basins.

1 And the root zones actually provide an ideal habitat  
2 for the beneficial micro-organizations, the bacteria,  
3 protozoa that use in the wastewater treatment to grow  
4 and prosper.

5 And in doing so, you're walking through the  
6 facility, and you think you're in a botanical garden  
7 and not even at wastewater plant.

8 The way it works, on the left you have your  
9 traditional pretreatment system, your screening and  
10 your grit removal. Then you have these series of  
11 cascade reactors. They're called food chain  
12 reactors, and they're aerated on the bottom as  
13 traditional activated sludge, and they also have  
14 these bio-modules with media, artificial media and  
15 then of course the plants with roots going down about  
16 three to six feet.

17 And as you go through each zone, you  
18 develop various ecologies. And when you get to the  
19 end, you basically have a predation, some of the  
20 higher advanced organisms are feeding on some of the  
21 lower organisms. By doing so you produce a very,  
22 very stable and clean effluent. You follow that  
23 treatment up with traditional filtration, and then  
24 you'd have R -- disinfection and you have R1 water.

25 So this is just a close-up of the food

1 chain reactor. You'll notice the plants on the top  
2 with the roots going down, and then your engineered  
3 media, which is shown by these squares, then the  
4 bottom your aerated, diffused air coming up to keep  
5 right aerobic conditions in those reactors.

6 So typically you have a lot more organisms  
7 in such a system. You have more than four times  
8 number of microorganisms. This allows you to make a  
9 much smaller treatment plant to treat the wastewater  
10 because you're intensifying the wastewater process.

11 So, again, the plants that are selected are  
12 locally available. They're not anything that is not  
13 available here. Most of these are tropical. Many of  
14 them you would recognize you're growing in your  
15 backyards. And that's why I was kind of attracted to  
16 the system, because you know, in Hungary they grow  
17 these plants in green houses because it gets very  
18 cold there, but in some of the warmer climates where  
19 they have these systems, they don't even need green  
20 houses, they basically use shading structures, and  
21 that's what's being proposed for the Waikapu Country  
22 Town Project.

23 It's very esthetically pleasing treatment  
24 plant. I can tell you, most people don't really like  
25 to have wastewater treatment plants in their

1 backyard, but this system they would be happy to have  
2 it.

3           So it's a very compact system. You have  
4 your food chain reactors on one area, then you have  
5 all the other components, your plant headworks where  
6 the wastewater comes in. Your solids handling. Your  
7 control room. It's a very compact system that I  
8 believe will fit very well in this proposed project.

9           Just a couple of examples. This is a  
10 facility that was put in Shenzhen, China. That's  
11 about I believe couple 100,000 gallons a day there.  
12 It treats for about seven, 800 people. You can see  
13 they just stick them in the neighborhoods. This is a  
14 facility that was put in British Columbia Sechelt.  
15 The houses, right next door. Very, very close  
16 proximity to the wastewater treatment plants.

17           And, again, another historical location in  
18 France with a castle right there, residences right  
19 next to the treatment plant, which is kind of unheard  
20 of nowadays with conventional wastewater treatment  
21 systems.

22           So another component that I think is  
23 important is there will be an education center at  
24 this facility, and that's not only to train the  
25 operators, but also to educate the community. When I

1 was with the County, a lot of what I did was public  
2 outreach and education, trying to gain support for  
3 using recycled water and whatnot.

4 Also did a lot of career days, went to  
5 public schools. And I was trying stimulate interest  
6 in young people to maybe get into this industry.

7 Currently, I teach a class at the college  
8 here on Maui. An entry level water, wastewater  
9 operator class. We're trying to get new young  
10 people, local people to get into this industry,  
11 because there's a shortage of certified operators  
12 statewide. It's not easy to pass those certification  
13 exams.

14 Having given a lot of tours, there this  
15 thing called the "yuck factor". When people walk  
16 around a wastewater plant, they kind of get grossed  
17 out. That can be somewhat of are hurdle to  
18 attracting new people into this industry. But I  
19 think if they were to tour a facility like this, that  
20 might change. I think this is a key component of  
21 this project.

22 Again, when I went to Hungary, a lot of  
23 people go to these wastewater plants and actually  
24 picnic at the facilities, so that's saying something.

25 So I just wanted to share a couple slides



1 of some renderings of the Waikapu Project. Here is  
2 the facility just showing the food chain reactors  
3 with the plant.

4 You'll notice on the left solar panels.  
5 This kind of prompts me to talk about sustainability.  
6 Just about everybody else has so I have to say a few  
7 things.

8 How does this wastewater system contribute  
9 to sustainability? Well, first of all, 100 percent  
10 of this R1 water that will be produced will be  
11 reused. It's not going to be injected through  
12 injection wells. It's going to be reused primarily  
13 for agricultural irrigation.

14 R1 water if you don't know, is the highest  
15 quality of recycled water recognized by the State  
16 Department of Health. And it can be used with very  
17 few restrictions. It can be used on food crops.  
18 Lots of different things.

19 So this water will greatly allow this  
20 project to be sustainable, because R1 water will  
21 displace a lot of the surface and groundwater that  
22 would have been used for this agriculture irrigation.

23 Secondly, I mentioned these plants. This  
24 system uses about 30 percent less power than  
25 conventional systems; produces about 30 percent less

1 sludge, and uses less than half the space of a  
2 traditional treatment system. And we're also looking  
3 at including PV panels.

4 So just again, just showing a little  
5 profile of the facility. Showing the stations on the  
6 left and the control room on the right.

7 I really feel with this system, not only  
8 will it help protect the environment, protect public  
9 health, produce a very reliable source of recycled  
10 water, it's going to be a source of community pride  
11 for years to come.

12 This is a place that the folks that live in  
13 that area, you know, this is going to be one of the  
14 first facilities of this nature in the state, and I  
15 think this is going to be an eye-opener for the  
16 industry that I work in.

17 So thank you for the opportunity to be here  
18 today. Any questions?

19 MR. GEIGER: Thank you, Steve.

20 We would offer -- and I'm going to mess you  
21 up here -- this will be Exhibit 47, his written  
22 direct testimony. I called the witness a bit out of  
23 order.

24 CHAIRPERSON WONG: County, any objection?

25 MR. HOPPER: No objections.

1 CHAIRPERSON WONG: OP?

2 MS. APUNA: No objection.

3 CHAIRPERSON WONG: Commissioners, any  
4 objection? If not, Exhibit 47 is entered.

5 (Petitioner's Exhibit 47 was received into  
6 evidence.)

7 MR. GEIGER: Thank you. With that we pass  
8 the witness.

9 CHAIRPERSON WONG: County.

10 CROSS-EXAMINATION

11 BY MR. HOPPER:

12 Q The Applicant's proposal is to build a  
13 privately-owned and operated system substantially  
14 similar to what you have published rather than to  
15 hook onto the county system?

16 A That's correct.

17 Q I don't think that you addressed exactly,  
18 or approximately how big of an area would be required  
19 for a system of this nature for this project?

20 A I believe it's about -- correct me if I'm  
21 wrong -- I believe about a half acre, around there.  
22 And the system is being designed for 650,000 gallons  
23 a day.

24 Q And the proposal would place it somewhere  
25 approximately close to the project area?

1           A       Yes, it would be close to the agricultural  
2 area. I can show you. I believe it's right about  
3 down here (indicating) if I'm not mistaken.

4           Q       Would part of the plan to be share with  
5 other users potentially who would need that capacity,  
6 or is it just for this project?

7           A       Well, I think the ultimate goal was to  
8 perhaps partner with some of the other projects in  
9 the area, but this system right now is just being  
10 designed for the Waikapu Country Town.

11                   But it is a system that would be able to be  
12 expanded by adding more food chain reactors and more  
13 infrastructure at the facility in the future.

14                   MR. HOPPER: Thank you, I have no further  
15 questions.

16                   CHAIRPERSON WONG: OP?

17                               CROSS-EXAMINATION

18 BY MS. APUNA:

19           Q       How many gallons of R1 per day would be  
20 produced?

21           A       As much as the water comes into that plant  
22 would be R1 water produced, so the plant is being  
23 designed for maximum of 650,000 gallons a day at peak  
24 dry weather flow.

25                   MS. APUNA: Thank you.

1 CHAIRPERSON WONG: Commissioners, any  
2 questions? Commissioner Scheuer.

3 VICE CHAIR SCHEUER: Thank you.

4 This would not feed into the dual system  
5 that would be available for agricultural use on the  
6 Agricultural Preserve?

7 THE WITNESS: Yes.

8 VICE CHAIR SCHEUER: And this plant would  
9 be sited on the 800-acre Agricultural Preserve.

10 THE WITNESS: I believe it would be right  
11 next to it. It's going to be -- I'm not exactly sure  
12 if it's on the actual preserve, but it's going to be  
13 very close proximity to that.

14 VICE CHAIR SCHEUER: Thank you.

15 CHAIRPERSON WONG: Any other questions,  
16 Commissioners? Redirect, Mr. Geiger?

17 MR. GEIGER: No redirect.

18 CHAIRPERSON WONG: Thank you.

19 I'm just going to do something out of  
20 order. Commissioner Okuda cannot make it tomorrow,  
21 so Commissioner Okuda, before we forget, do you want  
22 to ask some questions.

23 COMMISSIONER OKUDA: Yes, thank you to  
24 everyone, and Chair, for allowing me to add something  
25 out of order. And it's a question I would like to

1 ask the Office of Planning, if the Office of Planning  
2 wouldn't mind answering this question.

3 I do assure everyone, including Chair and  
4 fellow Commissioners, I will read the transcript and  
5 all of the documents that are submitted, so I can  
6 adequately deliberate on this matter. But my  
7 question to the Office of Planning is basically this  
8 -- and please don't interpret this question one way  
9 or the other, just a question I have and I would like  
10 the input of Office of Planning.

11 The land that is being covered by this  
12 petition is A and B designated agricultural land.  
13 And when we look at the Hawai'i State Constitution,  
14 Article XI, Section 3, you know there is an expressed  
15 provision that says the state shall conserve and  
16 protect agricultural lands from diversified  
17 agriculture, increase agriculture self-sufficiency,  
18 and assure the availability of agriculturally  
19 suitable lands, and the provision continues on.

20 So here we're taking prime ag land and  
21 irrevocably taking it out of agriculture basically.

22 Does that trouble the Office of Planning in  
23 any way?

24 MS. APUNA: We will have the Director  
25 address your question.

1 COMMISSIONER OKUDA: Thank you.

2 CHAIRPERSON WONG: May I swear you in,  
3 please?

4 Do you swear or affirm that the testimony  
5 you're about to give in this docket is truthful?

6 THE WITNESS: I do.

7 CHAIRPERSON WONG: Please state your name.

8 THE WITNESS: Leo Asuncion, and I'm the  
9 Director of the Office of Planning.

10 LEO ASUNCION

11 Was called as witness by the Office of Planning, was  
12 sworn to tell the truth, was examined and testified  
13 as follows:

14 CHAIRPERSON WONG: Can you answer the  
15 question?

16 THE WITNESS: Sure. Thanks for the  
17 question, Commissioner Okuda.

18 I think in this regard, right, there is  
19 going to be trade-offs on both sides. While we are  
20 taking X amount of prime ag lands and turning it into  
21 Rural District, quote/unquote, urbanizing it for the  
22 Waikapu Town Project, there's also that side where  
23 he's in perpetuity preserving agricultural land  
24 that's part of the bigger property.

25 So I think that's the trade off that we see

1 that we don't technically have a problem, even though  
2 it might seem like we're supposed to be protecting  
3 prime ag land, LSB rated A and B land, but we are  
4 also getting something in perpetuity as well. And I  
5 think if you look at the acreage it's actually  
6 greater than that amount that is and being preserved in  
7 agriculture for perpetuity.

8 COMMISSIONER OKUDA: And just so that we  
9 keep everything above board, even though I think this  
10 is really, really distant, 30-plus years ago I  
11 represented Mr. Asuncion on a totally unrelated  
12 matter.

13 But just to put your testimony into  
14 context, you are trained as a professional planner  
15 and have had years in the planning profession,  
16 correct?

17 THE WITNESS: Yes, I have.

18 COMMISSIONER OKUDA: And so is it fair to  
19 say that you do not believe that approval of this  
20 Petition would violate any obligations or duties we  
21 have under the Hawai'i State Constitution?

22 THE WITNESS: I do not believe so.

23 COMMISSIONER OKUDA: Thank you. And thank  
24 you, Chair and everyone, for allowing me to ask the  
25 question out of order.



1 CHAIRPERSON WONG: Just for the record.  
2 Does anyone have any objections?

3 MR. GEIGER: No objection.

4 MR. HOPPER: No, Mr. Chair.

5 CHAIRPERSON WONG: OP, any objections?

6 MS. APUNA: No objection.

7 CHAIRPERSON WONG: Thank you. Mr. Geiger  
8 do you want to continue with your witness?

9 MR. GEIGER: We have one more witness. I  
10 don't think it will be very long, Mr. Robert Hobby.

11 CHAIRPERSON WONG: May I swear you in,  
12 please?

13 Do you affirm you'll be telling the truth  
14 in your testimony?

15 THE WITNESS: I do.

16 CHAIRPERSON WONG: Please state your name  
17 for the record.

18 THE WITNESS: Robert Hobby, environmental  
19 consultant.

20 CHAIRPERSON WONG: Mr. Geiger.

21 ROBERT HOBBY  
22 Was called as a witness by and on behalf of the  
23 Petitioner, was sworn to tell the truth, was examined  
24 and testified as follows:

25 DIRECT EXAMINATION

1 BY MR. GEIGER:

2 Q Are you familiar with Waikapu Country Town  
3 Project?

4 A I am.

5 Q Why are you familiar with the project?

6 A I did the surveys.

7 Q The flora and fauna survey?

8 A Flora and fauna survey.

9 Q Did you prepare direct written testimony in  
10 this matter?

11 A I did.

12 Q Did you also prepare a report in this  
13 matter?

14 A I did.

15 Q I handed you what hopefully is your written  
16 direct testimony. Is that correct?

17 A Yes.

18 Q And your signature appears on the last  
19 page?

20 A On the last page, yes.

21 Q Do you have any changes, corrections,  
22 modifications you need to make since you signed this?

23 A Yes. On page 4 one typo, sixth line from  
24 the bottom. Solanum americanum is popolo not pololo,  
25 so it's P-O-P-O-L-O, that's it.

1           Q       Thank you.

2                   As with the other witnesses, I don't want  
3 you to read your testimony, but why don't you please  
4 tell the Commissioners what you learned with regard  
5 to this project that would be of assistance to them  
6 in their decision-making process.

7           A       I conducted a survey of the entire property  
8 on foot walking through the whole area, pretty  
9 diverse area including some cultivated agricultural  
10 land, sugarcane primarily, and some area above the  
11 road including the rest of the area up there, and I  
12 did an inventory of all the plants that were on the  
13 land and all of the wildlife which includes birds,  
14 mammals, insects, whatever, and analyzed this  
15 information and wrote a report indicating that I  
16 didn't find anything of great significance.

17                   There was one endangered insect that I  
18 addressed called the Blackburn Sphinx Moth, and that  
19 was the only thing and I addressed that. So that's  
20 basically it.

21           Q       Bob, you understand that with regard to the  
22 moth, the host, if you will, is the tree tobacco  
23 plant, correct?

24           A       That's correct.

25           Q       And mitigation measures with regard to the

1 tree tobacco plant will be put in place, correct?

2 A That's correct. The tree tobacco plant is  
3 not a native plant, but it is a host plant for the  
4 Blackburn Sphinx Moth, which is on the endangered  
5 list, so while the tree tobacco plant is not  
6 protected itself, it's a host plant for the moth. So  
7 during that period when it's in association with the  
8 moth, it has federal protections during that period.

9 And the Fish and Wildlife Service has  
10 protocols for how to remove that plant, those two  
11 plants that I found without harming or killing the  
12 Blackburn Sphinx Moth or its larvae or eggs. So that  
13 was how that was addressed.

14 Q Thank you. We would offer as our  
15 Exhibit 44 Mr. Hobby's written direct testimony with  
16 the amendment as noted.

17 CHAIRPERSON WONG: County, any objection?

18 MR. HOPPER: No.

19 MS. APUNA: No objection.

20 CHAIRPERSON WONG: Exhibit 44 with changes  
21 is accepted.

22 (Petitioner's Exhibit 44 was received into  
23 evidence.)

24 MR. GEIGER: Thank you. We pass the  
25 witness.

1 MR. HOPPER: No questions.

2 MS. APUNA: Yes, one question.

3 CROSS-EXAMINATION

4 BY MS. APUNA:

5 Q OP has offered a condition that the U.S.  
6 Fish and Wildlife Service should be consulted with  
7 regard to the measures that may be needed for the  
8 Blackburn Sphinx Moth.

9 Do you think that's a reasonable condition?

10 A I think the report goes to a series of  
11 people who review it, and Fish and Wildlife Service  
12 is one of those people that would get this report to  
13 comment on and respond, and that covers that point.

14 Q So you don't object to the condition that  
15 U.S. Fish and Wildlife Service will be consulted on  
16 mitigation measures for the moth?

17 A No.

18 Q Thank you.

19 CHAIRPERSON WONG: Commissioners, any  
20 questions? Any redirect.

21 MR. GEIGER: No redirect.

22 All I was going to go say is, given the  
23 suggestion from earlier that we conclude our  
24 presentation for today, we do have four witnesses  
25 scheduled for tomorrow.

CHAIRPERSON WONG: With that, let's adjourn  
for today and reconvene at 8:30 tomorrow morning.

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## CERTIFICATE

STATE OF HAWAII                    )  
  ) SS.  
COUNTY OF HONOLULU            )

I, JEAN MARIE McMANUS, do hereby certify:

That on December 6, 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 6th day of December, 2017, in  
Honolulu, Hawaii.

/S/ Jean Marie McManus  
JEAN MARIE McMANUS, CSR #156