

## LAND USE COMMISSION

## STATE OF HAWAI'I

Hearing held on July 25, 2019

Commencing at 9:45 a.m.

Moikeha Building Conference Room 2A/2B

4444 Rice Street

Kaua'i, Hawai'i 96766

## VOLUME 1

## AGENDA

I. Call to Order

II. Adoption of Minutes

III. Tentative Meeting Schedule

## IV. ACTION

A17-803 Kealia Properties LLC (Kaua'i)  
To Consider Acceptance of the Final  
Environmental Impact Statement to Petition for  
Land Use District Boundary Amendment to amend  
the Agricultural Land Use District Boundary  
into the Urban Land Use District for  
approximately 53.4 acres of land at Kealia,  
Kawaihau, Puna, Island of Kaua'i, State of  
Hawai'i

## V. DISCUSSION and ACTION (If Necessary)

Consider establishment of Legislative Affairs  
Committee to address and respond to anticipated  
LUC issues and concerns for the 2020 Hawai'i  
State Legislative Session.

VI. Recess

BEFORE: Jean Marie McManus, CSR #156

## 1 APPEARANCES:

2 NANCY CABRAL, Acting Chair  
DAWN N.S. CHANG  
3 LEE OHIGASHI  
ARNOLD WONG  
4 EDMUND ACZON  
DAN GIOVANNI  
5 GARY OKUDA

6 STAFF:

RANDALL S. NISHIYAMA, ESQ.  
7 Deputy Attorney General

8 DANIEL ORODENKER, Executive Officer  
RILEY K. HAKODA, Planner/Chief Clerk  
9 BERT SARUWATARI, Planner

10 DAWN APUNA, Deputy Attorney General  
AARON SETOGAWA, Planner  
11 For State Office of Planning

12 NICKOLAS COURSON, Deputy Corporation Counsel  
KA'AINA HULL, Planning Director  
13 For Kaua'i County Department of Planning

14 BENJAMIN MATSUBARA, ESQ.  
CURTIS TABATA, ESQ.  
15 For Kealia Properties LLC

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1           ACTING CHAIR CABRAL: Thank you, good  
2 morning. This is the July 25th, 2019 Land Use  
3 Commission Meeting.

4           The first order of business will be to  
5 welcome our new Commissioner. I would like to  
6 welcome Dan Giovani who will be our new Commissioner  
7 from this Island of Kaua'i. So welcome to an  
8 exciting meeting.

9           Now, to the business. The first order of  
10 business is the adoption of the July 10th to 11th,  
11 2019 minutes. Are there any corrections or comments  
12 on those?

13           COMMISSIONER ACZON: I move for approval.

14           COMMISSIONER OHIGASHI: Second.

15           ACTING CHAIR CABRAL: It's been moved and  
16 seconded to adopt. Any other comments from anyone?

17           That was commissioner Aczon moved,  
18 Commissioner Ohigashi seconded.

19           No other comments. Can I consider them  
20 adopted? All in favor. "Aye". Anyone opposed?  
21 Anyone abstaining?

22           All in favor is unanimous.

23           The next agenda item is the tentative  
24 schedule for our upcoming meetings. Executive  
25 Director Orodener, can you please provide that?

1 EXECUTIVE OFFICER: Thank you, Madam Chair.

2 Our next meeting will be on August 14th on  
3 Oahu. That will be primarily dedicated to our  
4 biannual Commissioner training sessions. August 14th  
5 and 15th at He'eia State Park.

6 August 28th will be at the Honolulu Airport  
7 for the Waiawa matter and Poma'ikai IAL.

8 On August 29th we will be having video  
9 conference for the Barry Trust matter.

10 September 11th through 13 is the Hawai'i  
11 Conference of Planning Officials at Maui Sheraton  
12 Beach Resort.

13 September 11th and September 13th our  
14 meetings are cancelled.

15 September 25th we will be on Maui for the  
16 Pulelehua matter. September 26th we will also be on  
17 Maui for the continuation of Pulelehua and also  
18 Brewer and Makena and Kaonoulu matters.

19 October 9th and 10th we will be on Oahu for  
20 Waimanalo Gulch hearing.

21 October 23rd and 24th also on Oahu for the  
22 Hawaiian Memorial matter. We will also be having  
23 site visit on October 23rd.

24 November 13th and 14th is currently open.  
25 November 21st we will have -- we will be on the Big

1 Island for U of N Bencorp status reports. That takes  
2 us to through November.

3 ACTING CHAIR CABRAL: Thank you, Mr.  
4 Orodenker. Commissioners, do you have any questions?

5 Hearing none, the next agenda item is the  
6 hearing and action meeting on Docket A17-803 to  
7 consider the acceptance of Kealia Properties' Final  
8 EIS.

9 Parties, will you please identify  
10 yourselves for the record?

11 MR. MATSUBARA: Chair Cabral,  
12 Commissioners, my name is Ben Matsubara, and with  
13 Curtis Tabata we represent the Petitioner Kealia  
14 Properties LLC.

15 Behind me is the principal of Kealia  
16 Properties LLC, Peter Nolan. And to his left is our  
17 area manager, Moana Kinimaka.

18 MR. COURSON: Good morning, Chair,  
19 Commissioners, Nickolas Courson, First Deputy County  
20 Attorney on behalf of the Kaua'i Planning Commission.  
21 With me is Planning Director Ka'aina Hull.

22 MS. APUNA: Good morning, Chair and  
23 members. Deputy Attorney General Dawn Apuna on  
24 behalf of Office of Planning, and here with me today  
25 Aaron Setogawa.



1           ACTING CHAIR CABRAL: Thank you.

2           At this time let me update the record of  
3 this docket.

4           On November 8th, 2017, the Commission met  
5 and granted the Petitioner's Motion to Designate the  
6 Land Use Commission as the approving agency for the  
7 Environmental Statement Under Hawaii Revised Statutes  
8 Chapter 343 and Authority to Prepare the  
9 Environmental Impact Statement Preparation Notice.

10          On November 13, 2017, the Land Use  
11 Commission mailed a request to the Office of  
12 Environmental Quality Control for publication in the  
13 Environmental Notice with associated materials.

14          Also on that same day, the Commission  
15 mailed the order determining that the Land Use  
16 Commission agreed to be the Accepting Authority  
17 pursuant to Chapter 343 HRS and that the proposed  
18 action would have a significant impact upon the  
19 environment to warrant proceeding directly to the  
20 preparation of an Environmental Impact Statement.

21          From December 2017 to July 2018, the  
22 Commission received comments on the EISPN Prep Notice  
23 and the Draft EIS which are on file and a part of  
24 this record.

25          From February 2018 to June 2019, the

1 Commission exchanged correspondence with various  
2 entities regarding this docket which are on file and  
3 a part of the record.

4 On July 11th, 2019, the Commission received  
5 Petitioner's Final EIS.

6 On July 15, 2019, the Commission received  
7 the Petitioner's Subpoena documents for appearance of  
8 Michael Dahilig, and also mailed the meeting agenda  
9 notice to the Parties, Statewide and Kauai mailing  
10 list; and received Petitioner's Verification of  
11 Distribution List for FEIS from OEQC.

12 On July 18, 2019, the Commission received  
13 the Office of Planning's response to the Petitioner's  
14 Motion for Issuance of the Subpoena.

15 On July 22, 2019, the Commission received  
16 Office of Planning's comments on the Final  
17 Environmental Impact Statement.

18 On July 23, 2019, the Commission received  
19 an email advising that the County would not be  
20 providing comments on the FEIS.

21 On July 24th, 2019, the Commission received  
22 a copy of the Department of Transportation's comments  
23 on the Petitioner's Traffic Impact Analysis Report.

24 From July 18th to July 24, 2019, the  
25 Commission received email public testimony which is

1 on file and a part of the record.

2 I will add we have also received public  
3 testimony today.

4 Let me now briefly describe our procedure  
5 for today on this docket.

6 First, I will give an opportunity to the  
7 Petitioner to comment on the Commission's policy  
8 governing reimbursement of hearing expenses.

9 I will then call for those individuals  
10 desiring to give public testimony to identify  
11 themselves. All such individuals will be called in  
12 turn to our witness box where they will be sworn in  
13 prior to their testimony.

14 After completion of the public testimony,  
15 portions of the proceedings -- after completion of  
16 the public testimony portion of these proceedings,  
17 the Petitioner will make its presentation.

18 After the completion of the Petitioner's  
19 presentation, we will receive any comments from the  
20 County Planning Department and the State Office of  
21 Planning.

22 After we have received the comments from  
23 the Petitioner, the County and the State, we will  
24 then, as the Commission, conduct our deliberations.

25 Do I have any questions about our

1 procedures today?

2 MR. MATSUBARA: No questions.

3 MR. COURSON: No.

4 MS. APUNA: No questions.

5 ACTING CHAIR CABRAL: Thank you.

6 Good morning -- it says Mr. Tabata.

7 MR. MATSUBARA: Matsubara.

8 ACTING CHAIR CABRAL: Good morning, Mr.  
9 Matsubara, have you reviewed HAR 15-15-45.1 with  
10 regard to the reimbursement of hearing expenses?

11 MR. MATSUBARA: Yes, I have, and we concur  
12 and we will comply with it.

13 ACTING CHAIR CABRAL: Thank you very much.

14 I wanted to make clear and add for everyone  
15 in the audience in particular that this meeting and  
16 this hearing is not an action for approval of this  
17 subdivision, or the request of the Petitioner. This  
18 is solely for the purpose of determining if the EIS  
19 meets the requirements of Chapter 343.

20 The Land Use Commission will be taking the  
21 action on the actual product at a later date to be  
22 determined, and at that time we will also welcome  
23 appropriate public testimony.

24 So at today's hearing we would like to ask  
25 that comments from the public be directed towards the

1 Environmental Impact Statement as opposed to the  
2 overall feeling about the Petition and request.

3 At this point we would like to go ahead and  
4 take public testimony. If you have not already  
5 signed up, we need you to sign up, but we do have our  
6 official package here so we are going to start naming  
7 folks coming in on a first sign-up, first-come basis.

8 We're going to limit, because of the large  
9 number of people asking to testify, we're going to  
10 limit that to two minutes per person. We would like  
11 you to come to this chair here. You will first be  
12 sworn in, and then you'll have your two minutes and  
13 someone will have a timer. And then we will ask you  
14 to conclude and leave.

15 So we will name several people. So the  
16 second person coming up, there's a chair behind here,  
17 if you're the next person up, please be in that  
18 chair, because we want to provide you as much time to  
19 talk as possible, as opposed to spending all the time  
20 having people moving around.

21 So at this point I ask our illustrious  
22 Director to go ahead.

23 EXECUTIVE OFFICER: Thank you, Madam Chair.  
24 And I apologize to everyone ahead of time if I  
25 butcher your name. Some of the handwriting is not as

1 legible as I would like it to be.

2 The first testifier is Elaine Valois,  
3 followed by Stuart Wellington.

4 ACTING CHAIR CABRAL: May I swear you in?

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

7 THE WITNESS. To my best knowledge, yes

8 ACTING CHAIR CABRAL: Thank you. Can you  
9 please clearly state your name and address for the  
10 record and then proceed with your testimony.

11 ELAINE VALOIS

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

15 DIRECT EXAMINATION

16 THE WITNESS: My full name is Elaine  
17 Valois, 5956 Kawai Road, Unit B in Kapaa, Hawai'i  
18 96746.

19 ACTING CHAIR CABRAL: Thank you. Go ahead  
20 and proceed with your testimony.

21 THE WITNESS: My point of view is  
22 telescopic rather than microscopic. I'm seeing the  
23 process of profit and loss, and being absolutely  
24 immersed in endless detail, each project, one by one  
25 being dealt with, when we really need to have a more

1 telescopic view, because this profit and loss point  
2 of view is self-perpetuating.

3           Seven years from now how many other  
4 projects like this will be developed? What does it  
5 mean for the Island of Kaua'i?

6           I agree that the infrastructure and roads  
7 cannot handle such a massive development. Housing  
8 does not answer the desperate needs of our local  
9 population.

10           Your focus is in the wrong direction. The  
11 short-term gains of added revenue, instead of the  
12 long-term gains of perpetuating health, wealth and  
13 beauty of one of the ten most spectacular places on  
14 earth, and perpetuating the health, wealth and  
15 happiness of those who call Kaua'i home.

16           Is it not so that the State Land Commission  
17 was established to protect the land and its people  
18 from overuse, abuse, pollution and degradation of all  
19 kind? What is it that you see? Little and big  
20 overpriced housing, green grass, trees, concrete  
21 sidewalks, and children riding their bicycles on  
22 asphalt driveways.

23           What you may not be seeing is the massive  
24 amount of human feces that are piped out into the  
25 ocean every day. That needs to be addressed

1 seriously and immediately.

2           You may not be seeing the massive amount of  
3 human -- we have not yet solved the problem yet of  
4 biodegrading human effluent in a way that is  
5 beneficial to most plants and animals. It can be  
6 done and has been done, but it is not being done  
7 here.

8           ACTING CHAIR CABRAL: Can you please  
9 conclude?

10           THE WITNESS: Intelligent answers to our  
11 current problems, housing, traffic, air pollution,  
12 drug abuse, degradation of our oceans, et cetera, are  
13 out there. Let's start using them, researching them,  
14 employing them. We are not solving any of our  
15 problems with the usual profit and loss base model.  
16 Kaua'i is not the winner, just the developers and  
17 most of them don't live here.

18           ACTING CHAIR CABRAL: Do we have any  
19 questions of the testifier?

20                           CROSS-EXAMINATION

21 BY MR. MATSUBARA:

22           Q       Just a single question. You're a  
23 homeowner?

24           A       I am a homeowner on Kaua'i. I'm a  
25 transplant. I bought a home. I did not build one.



1 We maintain our property, and we don't take jobs away  
2 from anybody on the island. We're retired, so we  
3 support our island with our revenues.

4 MR. MATSUBARA: Thank you. No further  
5 questions.

6 ACTING CHAIR CABRAL: Any other questions?  
7 Thank you very much.

8 EXECUTIVE OFFICER: Followed by Marcus  
9 Laymon.

10 ACTING CHAIR CABRAL: May I swear you in?

11 THE WITNESS: Yes.

12 ACTING CHAIR CABRAL: Do you swear or  
13 affirm that the testimony you're about to give is the  
14 truth?

15 THE WITNESS: Yes.

16 ACTING CHAIR CABRAL: Proceed. State your  
17 name and your address clearly for the court reporter.

18 THE WITNESS: Stuart Wellington, 6696 Kipaa  
19 Road, Kapaa, 96746.

20 STUART WELLINGTON

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

23 DIRECT EXAMINATION

24 THE WITNESS: I am here in support of the  
25 Commission to accept the Final EIS. It is a first

1 step in getting a development done, which is very  
2 important to the island and the people.

3 I looked through the EIS, and it's a very  
4 comprehensive and thorough EIS that took a lot of  
5 time and effort to get done.

6 I also did read the outreach to the  
7 community and the response to their concerns which I  
8 thought were very spot on, and very accurate to  
9 resolving some of the issues.

10 I think this is an opportunity for Kaua'i  
11 and the local residents to have a chance to purchase  
12 a home. This development is addressing a market of  
13 gap, mid-income housing, and I'll give you an  
14 example.

15 I'm a small business contractor. I have  
16 five employees. Of that five, every household has  
17 more than one family unit in the house. One of them  
18 has three. So this is an opportunity for them to  
19 purchase a home.

20 I know there's a lot of concern about  
21 population growth and impact on cars, but in reality  
22 this development is allowing us to just relocate  
23 population, it's not increasing the population.

24 And as far as impact on our infrastructure,  
25 that's why we sit here today and do these studies,

1 and plan correctly.

2 ACTING CHAIR CABRAL: Can you come to your  
3 conclusion, please?

4 THE WITNESS: In conclusion, I think we can  
5 not miss this opportunity for the residents of  
6 Kaua'i. And I think it will address one of our main  
7 problems that we have, which is housing here on the  
8 island. I appreciate your time. Thank you.

9 ACTING CHAIR CABRAL: Any questions?

10 MR. MATSUBARA: No questions.

11 ACTING CHAIR CABRAL: County Planning  
12 Department, any questions?

13 MR. COURSON: No.

14 ACTING CHAIR CABRAL: Office of Planning?

15 MS. APUNA: No questions.

16 EXECUTIVE OFFICER: Marcus Laymon followed  
17 by Les Gale.

18 ACTING CHAIR CABRAL: May I swear you in?

19 THE WITNESS: Yes.

20 ACTING CHAIR CABRAL: Do you swear or  
21 affirm that the testimony you're about to give is the  
22 truth?

23 THE WITNESS: Yes.

24 ACTING CHAIR CABRAL: Please give us your  
25 name and your address.

1 THE WITNESS: Marcus Laymon, 6185 Holohana  
2 Road, Kapaa.

3 MARCUS LAYMON

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

7 DIRECT EXAMINATION

8 THE WITNESS: I'm here on behalf of my  
9 family and friends. I am very supportive of this  
10 project. And I do hear a lot of concerns about  
11 overpopulation and how it's going to affect the  
12 economy and the ozone, everything else.

13 But everybody here has probably come here  
14 in a vehicle, so we're not adding more vehicles, we  
15 have vehicles on the island.

16 And the housing itself I think is  
17 beneficial for the locals. There's not much places  
18 that are affordable for families, and a lot of  
19 families that I know, everybody has to live with  
20 family because they can't afford to buy a seven,  
21 \$800,000 property and then build a home on it.

22 So I think this project is very beneficial  
23 for our community, and expansion is going to happen.  
24 Our world is evolving. The population is growing.  
25 More people I know have to move off the island just

1 to get by.

2 So I would like to see more locals be able  
3 to stay here. And this is an opportunity I think for  
4 locals to be able to stay here and live here where we  
5 were born and raised.

6 ACTING CHAIR CABRAL: Thank you very much.  
7 Any questions?

8 MR. MATSUBARA: Thank you. No questions.

9 ACTING CHAIR CABRAL: County? State?

10 MR. COURSON: No questions.

11 MS. APUNA: No questions.

12 ACTING CHAIR CABRAL: Thank you very much.

13 EXECUTIVE OFFICER: Les Gale, followed by  
14 Bronson Carvalho.

15 ACTING CHAIR CABRAL: May I swear you in?

16 THE WITNESS: Yes.

17 ACTING CHAIR CABRAL: Do you swear or  
18 affirm that the testimony you are about to give is  
19 the truth?

20 THE WITNESS: Yes.

21 ACTING CHAIR CABRAL: State your name and  
22 address for the record.

23 THE WITNESS: Lester Francis Gale, 5956  
24 Kawaihau Road, Unit B, Kapaa, Hawai'i 96746.

25 ACTING CHAIR CABRAL: Thank you. Proceed.

LESTER FRANCIS GALE

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

DIRECT EXAMINATION

THE WITNESS: My first gripe is the infrastructure that we don't have. So it's like Kealia is one of our favorite beaches to go to. Sometimes you're taking your life in your hands when you're coming out of the beach onto the highway, traffic is that bad.

And I don't think that 39 units that is affordable for the locals, I don't think it's low enough. The people here can't -- people here are working two or three jobs just to make ends meet. They can't buy the land what these guys are going to ask for. I realize what you're working now is the environmental thing. It's just not for the people, this whole project is not for the people on this island. It is not. It's for offshore people to buy.

I'm not meaning we've got ours, don't come to this island. That isn't what I'm talking about. It's like I said, the people are working two and three jobs, so it isn't -- I don't know what the hell the solution is. I don't know if any of you do. But

1 I do know, I do know from experience after 40 years  
2 in construction, developers will tell you what you  
3 want to hear to get what they want. I'm done.

4 ACTING CHAIR CABRAL: Thank you very much.  
5 Questions?

6 CROSS-EXAMINATION

7 BY MR. MATSUBARA:

8 Q Mr. Gale, you're a homeowner on Kauai?

9 A Yes, we are.

10 Q Thank you.

11 A Are you?

12 Q No. I'm a homeowner on Oahu.

13 A I'm sorry.

14 ACTING CHAIR CABRAL: County, any  
15 questions?

16 MR. COURSON: No.

17 MS. APUNA: No questions.

18 ACTING CHAIR CABRAL: Next testifier.

19 EXECUTIVE OFFICER: Bronson Carvalho  
20 followed by Kenderson Caspillo.

21 ACTING CHAIR CABRAL: Sir, may I swear you  
22 in?

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

25 THE WITNESS: Yes.

1           ACTING CHAIR CABRAL: Can you now proceed  
2 to give us your name and your address for our record?

3                   BRONSON CARVALHO

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

7                   DIRECT EXAMINATION

8           THE WITNESS: Bronson Carvalho, 4650  
9 Maihihua Road, Kapaa.

10          ACTING CHAIR CABRAL: Proceed.

11          THE WITNESS: I'm speaking on behalf of my  
12 father.

13                Aloha, Members of the State of Hawai'i Land  
14 Use Commission.

15                I'm writing to urge you to accept Kealia  
16 Properties LLC, Petitioner's Final EIS to Petition  
17 for Land Use District Boundary Amendment to amend the  
18 Agricultural Land Use District Boundary into the  
19 Urban Land Use District for approximately 53.4 acres  
20 of land at Kealia, Kawaihau, Puna, Island of Kaua'i,  
21 State of Hawai'i.

22                As former mayor of Kaua'i, I worked with  
23 Kaua'i County Housing Agency, developers and  
24 community members to make affordable housing  
25 initiatives a reality. As community leaders and



1 public servants, we must continue to make all  
2 affordable housing initiatives, including Kealia  
3 Mauka, a reality to immediately address the housing  
4 crisis.

5           Years ago when I and other Kaua'i leaders  
6 expressed deep concerns about local housing, Kealia  
7 Properties responded with the expansion of Kealia  
8 Housing Tract and the development of Kealia Mauka, a  
9 residential subdivision whose goal is to address the  
10 housing shortfall on Kaua'i by providing lots that  
11 local residents can buy.

12           Kealia Mauka is envisioned as a "21st  
13 Century Ahupua'a", a place where local residents with  
14 a variety of income levels, first-time home buyers,  
15 and those who must buy lots below median price can  
16 come and live.

17           Kealia Mauka will thrive on the rich,  
18 cultural foundation of Kaua'i lifestyle. It is in  
19 close proximity to the beach, post office, coastal  
20 path, mountains and schools. Farmers and ranchers of  
21 Kealia provide jobs and activities for keiki and  
22 kupuna within the district. The area hosts four  
23 cattle ranchers, a riding arena, organic vegetable  
24 and fruit farmers whose products are offered twice a  
25 week at the Kealia Farmer's Market, and a taro lo'i.

1           Living in a 21st Century Ahupua'a, Kealia  
2           Mauka residents will find more of what they need very  
3           close by.

4           Furthermore, Kealia Mauka will be in an  
5           area with established neighbors who by and large  
6           support the project. I have spoken to them myself  
7           and can vouch for this.

8           ACTING CHAIR CABRAL: Can you come to  
9           conclusion, please?

10          THE WITNESS: In fact, my family and I live  
11          in Kealia and will be a good neighbor to the new  
12          residents of Kealia Mauka.

13          Many local residents have signed a petition  
14          in support of this development and many more are on a  
15          waiting list to buy lots there. In light of this  
16          support and in response to Kaua'i's affordable  
17          housing crisis, I urge you to grant this Petitioner's  
18          request for the Land Use District Boundary Amendment.

19          Bernard Carvalho, former mayor.

20          ACTING CHAIR CABRAL: Any questions?

21                           CROSS-EXAMINATION

22          BY MR. MATSUBARA:

23           Q       As I understand it, your dad is traveling  
24           so he couldn't be here today?

25           A       Yes.

1 Q So you came to read a letter on his behalf?

2 A Yes.

3 MR. MATSUBARA: Thank you.

4 ACTING CHAIR CABRAL: County of Kaua'i?  
5 State Office of Planning?

6 MR. COURSON: No questions.

7 MS. APUNA: No questions.

8 EXECUTIVE OFFICER: Next testifier is  
9 Kenderson Caspillo, followed by Jason Langfed.

10 UNKNOWN SPEAKER: He had to leave.

11 EXECUTIVE OFFICER: Then the next after  
12 that is Allen Suan.

13 ACTING CHAIR CABRAL: Thank you, sir. May  
14 I swear you in?

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

17 THE WITNESS: Yes.

18 ACTING CHAIR CABRAL: Please give us and  
19 clearly state your name and address.

20 THE WITNESS: Kenderson Caspillo, 5149  
21 Annie Road, Kapaa 96746.

22 ACTING CHAIR CABRAL: Proceed.

23 KENDERSON CASPILLO

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

1 testified as follows:

2 DIRECT EXAMINATION

3 THE WITNESS: I am here in support of the  
4 project. This gives us, me and my family and  
5 friends, opportunity to build homes. I'm a farmer, I  
6 think it's a good way of life. And I hope it passes  
7 so I could buy a house for my daughter.

8 I like to thank Peter Nolan for giving us  
9 this opportunity.

10 ACTING CHAIR CABRAL: Thank you. Any  
11 questions?

12 MR. MATSUBARA: No questions.

13 MR. COURSON: No questions.

14 MS. APUNA: No questions.

15 ACTING CHAIR CABRAL: Commissioners, I'm  
16 supposed to ask you if you have any questions.

17 Commissioner Okuda.

18 COMMISSIONER OKUDA: Since the court  
19 reporter is taking everything down, because if this  
20 case ends up being appealed, it will go to a higher  
21 court, and the higher court will only know what has  
22 taken place on the transcript.

23 May I ask, the Chair, if she could ask the  
24 witnesses, who we really appreciate their presence,  
25 if they will indulge us to spell out their name for

1 the court reporter and spell out where they live so  
2 the transcript will be clear.

3 And if the Hawai'i Intermediate Court of  
4 Appeals or the Supreme Court takes a look at the  
5 transcript, there will be no question about who is  
6 present and where they live.

7 So if it's possible for the testifiers to  
8 spell out names and places of residents.

9 Thank you, Chair.

10 ACTING CHAIR CABRAL: I don't have a  
11 problem with that. But I have a suggestion  
12 considering our timeframe here, but maybe what I will  
13 do is take another paper where people have written  
14 rather rapidly, and instead while you're sitting  
15 there waiting to speak, ask that you clearly print  
16 out your name and address.

17 And then that way they will be able to read  
18 it. Does that work okay for you?

19 COMMISSIONER OKUDA: As long as it's okay  
20 with the court reporter.

21 COURT REPORTER: As long as I can read it.

22 ACTING CHAIR CABRAL: Yes. Some of these  
23 you can and some of them you can't.

24 Riley, our staff assistant here, will go  
25 ahead, and while you're waiting, we will ask you to

1 spell your name while you're waiting. Everybody else  
2 clearly spell everything out because it makes a  
3 difference, and it's so hard to determine from what  
4 we're looking at here. We have a lot of doctors in  
5 the room, I can tell.

6 Let's go ahead and proceed.

7 Sir, may I swear you in?

8 THE WITNESS: Yes.

9 ACTING CHAIR CABRAL: Do you swear or  
10 affirm that the testimony you're about to give is the  
11 truth?

12 THE WITNESS: Yes.

13 ACTING CHAIR CABRAL: Proceed.

14 ALLEN SUAN

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

18 DIRECT EXAMINATION

19 THE WITNESS: Allen, A-L-L-E-N S-U-A-N,  
20 3460 B Maona Road, Lihue, Kaua'i.

21 I'm here to support the project. It allows  
22 for a variety of families here, locals, the  
23 opportunity to enjoy the diverse property  
24 developments there, and gives my family at least an  
25 opportunity or a chance to be part of this project.

1           It's not to take away from anything, but  
2   those families that have lived with other families  
3   allows them to obtain their own and not have to live  
4   with parents or grandparents. Thank you.

5           ACTING CHAIR CABRAL: Thank you, very  
6   much.

7           Our next person will be Jeffery Rivera.

8           Do we have any questions?

9           MR. MATSUBARA: No questions.

10          MR. COURSON: No.

11          MS. APUNA: No.

12          ACTING CHAIR CABRAL: Commissioners, any  
13   questions? Thank you very much for your input and  
14   your patience.

15          EXECUTIVE OFFICER: Jeffrey Rivera,  
16   followed by Carl Schumacher.

17          UNKNOWN SPEAKER: Schumacher left.

18          ACTING CHAIR CABRAL: May I swear you in?

19          THE WITNESS: Sure you can swear me, if you  
20   want. No problem.

21          ACTING CHAIR CABRAL: Watch out. I can go  
22   there.

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

25          THE WITNESS: Yes, I do.

1           ACTING CHAIR CABRAL:    Please provide us  
2   for the testimony your name and your address.

3           THE WITNESS:   Jeffery, J-E-F-F-E-R-Y,  
4   Rivera, R-I-V-E-R-A, 5568 Kawaihau Road.  I've got  
5   actually two homes, also 6461 Haua'ala Road.

6                           JEFFERY RIVERA

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

10                          DIRECT EXAMINATION

11           THE WITNESS:  I support the project.  And  
12   one thing is there is affordable housing there and  
13   lot of my nephews and nieces, like ten or more left  
14   the island like in 2008 when the market crashed and  
15   stuff, and they left to buy homes in Oregon and Las  
16   Vegas, different places, because they couldn't afford  
17   it here.

18                          For me now that economy is going well, and  
19   we are moving, we need to keep continue moving.  So  
20   projects are good.  You got workers put to work,  
21   carpenters, whatever, electricians, and they sell  
22   appliances, everything, would be a prosper, good for  
23   the island.

24                          But the traffic part, it's -- I think we  
25   need to get after our state representatives, whoever,



1 getting the funding in. We're about 45 years behind  
2 on that. We need to vote for good people who going  
3 to do something great.

4 I support it, and I just want to say one  
5 thing. My personal feeling, Mauna Kea hui, shout out  
6 to them. We should take the telescope money and fix  
7 the roads. That will be more than enough money. We  
8 got enough telescopes already for that.

9 ACTING CHAIR CABRAL: Thank you for your  
10 testimony.

11 Any questions?

12 MR. MATSUBARA: No questions, Chair.

13 MR. COURSON: No questions.

14 MS. APUNA: No questions.

15 ACTING CHAIR CABRAL: Commissioners, any  
16 questions?

17 EXECUTIVE OFFICER: Next testifier -- I  
18 cannot make out -- all I can make out of the last  
19 name beginning with R, last name starts with R-E-M-I,  
20 I can't make it out at all. Looks Kealia something.

21 ACTING CHAIR CABRAL: Looks like he lives  
22 at 150 -- maybe 9.

23 EXECUTIVE OFFICER: The testifier after  
24 that is Tom Au. After that looks like Bob Farias.

25 ACTING CHAIR CABRAL: Can I swear you in?

1 THE WITNESS: Yes.

2 ACTING CHAIR CABRAL: Do you swear or  
3 affirm that the testimony you're about to give is the  
4 truth?

5 THE WITNESS: Very true.

6 ACTING CHAIR CABRAL: Very clearly give us  
7 your full name and address.

8 THE WITNESS: My name is Tony, T-O-N-Y, J.  
9 Reis, R-E-I-S, 158 Kealia, Kaua'i 96751.

10 TONY J. REIS

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

14 DIRECT EXAMINATION

15 THE WITNESS: I'm here to accept the  
16 subdivision at Kealia because of the houses crisis.  
17 Our children is just moving away. They don't have --  
18 they have place to buy but they cannot afford this  
19 type of real estate that comes out. So they have to  
20 move elsewhere to get a cheaper place like the  
21 mainland or so.

22 So with this subdivision, the price is  
23 good. I think they can afford it. Lot of people are  
24 living with their parents, two or three families. I  
25 think they can look at this and say, oh, it's a good

1 idea.

2 And as far as traffic, traffic is always  
3 going to be there. I don't care what. People come  
4 from the mainland, they come here and say, oh, the  
5 traffic, okay.

6 If you live here, born and raised here, you  
7 want to live here, you have to get a cheap kind of  
8 housing, otherwise you're going to move.

9 So as far as traffic, it's common sense the  
10 traffic will always be there. Even if you move from  
11 here, okay, you minus the car that you move.

12 Okay, people in the household, when, like  
13 say the children, they graduate. They have to buy  
14 cars, so that car is going to be replaced with these  
15 people moving out. So that's common sense kind of  
16 stuff.

17 So if they come up with traffic kind of  
18 thing, I'm very sorry. I mean, they don't have any  
19 common sense or this kind of stuff. That's all.  
20 Thank you.

21 ACTING CHAIR CABRAL: Thank you very much.  
22 Any questions?

23 MR. MATSUBARA: No questions.

24 MR. COURSON: No questions.

25 MS. APUNA: No questions.

1           ACTING CHAIR CABRAL: Commissioners? Thank  
2 you.

3           EXECUTIVE OFFICER: Tom Au, P.O. Box 696,  
4 Kapaa.

5           MR. FARIAS: I think that was Tom Au before  
6 me, he left.

7           ACTING CHAIR CABRAL: So your name is?

8           THE WITNESS: Bob Farias.

9           EXECUTIVE OFFICER: After Mr. Farias, Mark  
10 Baldonado.

11          ACTING CHAIR CABRAL: Sir, do you swear or  
12 affirm that the testimony that you're about to give  
13 us the truth?

14          THE WITNESS: Yes.

15          ACTING CHAIR CABRAL: Thank you. Go ahead  
16 and proceed with your full name.

17          THE WITNESS: Robert J. Farias, 1714 Hulu  
18 Road, Kapaa 96746.

19                       ROBERT J. FARIAS

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

23                       DIRECT EXAMINATION

24           THE WITNESS: I'm here in support of the  
25 project. I'm a rancher here in Kaua'i. And with a

1 landowner that we are dealing with right now, with  
2 the amount of property and putting a small amount of  
3 it in housing helps the housing shortage here in  
4 Kaua'i, and also keeps green areas green.

5 The majority of the land will still be in  
6 ranch land which is good for the island. And  
7 development that he is proposing will suffice some of  
8 the housing shortage. So I think it's a win/win  
9 situation.

10 ACTING CHAIR CABRAL: Thank you very much.  
11 Any questions?

12 MR. MATSUBARA: No questions.

13 MR. COURSON: No questions.

14 MS. APUNA: No questions.

15 ACTING CHAIR CABRAL: Commissioners, any  
16 questions?

17 ACTING CHAIR CABRAL: Thank you very much,  
18 sir.

19 EXECUTIVE OFFICER: Mark Baldonado followed  
20 by Giovaka, 5123 --

21 UNKNOWN SPEAKER: He left.

22 EXECUTIVE OFFICER: Followed by Aunty  
23 Aggie.

24 ACTING CHAIR CABRAL: May I swear you in?

25 THE WITNESS: Yes.

1           ACTING CHAIR CABRAL: Do you swear or  
2 affirm that the testimony you are about to give is  
3 the truth?

4           THE WITNESS: Yes.

5           ACTING CHAIR CABRAL: Go ahead.

6                   MARK BALDONADO

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

10                   DIRECT EXAMINATION

11           THE WITNESS: My name is Mark Baldonado,  
12 B-A-L-D-O-N-A-D-O. I live at 4545 Ka'ao Road, Kealia  
13 96751.

14           ACTING CHAIR CABRAL: Proceed.

15           THE WITNESS: This is a statement that the  
16 neighbors in my neighborhood in Ka'ao Road drafted.

17 Aloha State Land Use Commissioners.

18 We are landowners and occupants of Kealia,  
19 adjacent to the proposed Kealia Mauka Homesites  
20 development. We believe that our concerns have not  
21 been addressed sufficiently (if at all) in the July  
22 2019 Final EIS.

23 Therefore, we respectfully request you  
24 reject the Final EIS for the Petition to Amend the  
25 Land Use District Boundary from the Agricultural

1 District into the Urban District for the 53.4-acre  
2 Kealia Mauka Homesites project.

3 Although we support affordable housing for  
4 Kaua'i residents, the project as proposed does not  
5 fulfill the need for affordable housing. At this  
6 time we request intervenor status in this process.

7 Thank you for your consideration and your  
8 work and service to our community

9 ACTING CHAIR CABRAL: Do we have any  
10 questions?

11 MR. MATSUBARA: No questions, Chair.

12 ACTING CHAIR CABRAL: No questions.

13 MS. APUNA: No.

14 ACTING CHAIR CABRAL: Commissioners?  
15 Commissioner Okuda.

16 COMMISSIONER OKUDA: Thank you.

17 A fast question. How many of your  
18 neighbors, residents, signed that document?

19 THE WITNESS: I believe over 30.

20 COMMISSIONER OKUDA: And you looked at the  
21 signatures?

22 THE WITNESS: Yes.

23 COMMISSIONER OKUDA: And you can confirm to  
24 us that they are in fact your neighbors?

25 THE WITNESS: Kaleya Arinaga (phonetic),

1 she is the one that collected all the signatures, and  
2 she collected -- yeah, and she was supposed -- she  
3 couldn't be here today, so I'm reading the statement  
4 and the signatures that she collected.

5 COMMISSIONER OKUDA: To the best of your  
6 knowledge, are those signatures of signatures of  
7 people who are your neighbors?

8 THE WITNESS: Yes.

9 COMMISSIONER OKUDA: Thank you. No further  
10 questions.

11 ACTING CHAIR CABRAL: Commissioner Giovani.

12 COMMISSIONER GIOVANI: Do we have a copy of  
13 that letter of the signatures?

14 ACTING CHAIR CABRAL: Yes. You dropped off  
15 a copy of that. That's all these signatures  
16 (indicating).

17 COMMISSIONER GIOVANI: Thank you.

18 ACTING CHAIR CABRAL: We will need to take  
19 a minute.

20 If you're going to become an intervenor in  
21 this case, that is a legal action that we will need  
22 to -- I haven't been the Chair during one of those,  
23 so I'll need to take a minute here.

24 EXECUTIVE OFFICER: If I can clarify.  
25 There is a procedure for intervention in these



1 proceedings. You can look at our rules Chapter 15-15  
2 on how to do that, if you are intending to become an  
3 intervenor. We look forward to having your filing.

4 THE WITNESS: Thanks.

5 ACTING CHAIR CABRAL: That helped move  
6 things along. Thank you very much then.

7 EXECUTIVE OFFICER: Aunty Aggie followed by  
8 Barbara Guiliano.

9 THE WITNESS: Aloha kakou. If you don't  
10 mind, I would like to ask one question of the  
11 audience.

12 ACTING CHAIR CABRAL: Can I first swear you  
13 in, please?

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

16 THE WITNESS: I do.

17 ACTING CHAIR CABRAL: Now your full name  
18 and address.

19 THE WITNESS: My name is Agnes Marti-Kini,  
20 M-A-R-T-I-K-I-N-I. And I'm the AMAC Po'o for the  
21 Ko'olau District from Anahola to Namahana.

22 AGNES MARTI-KINI

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

1 DIRECT EXAMINATION

2 ACTING CHAIR CABRAL: Ma'am, I've been told  
3 it's not necessarily appropriate for you to ask the  
4 audience a question. That's not -- the hearing --  
5 we're to hear what you have to say.

6 THE WITNESS: Can I ask you a question?

7 ACTING CHAIR CABRAL: Yes, you can ask a  
8 question.

9 THE WITNESS: I would like to know how many  
10 actual existing Kealia residents there are, a number.

11 ACTING CHAIR CABRAL: We would only know  
12 that if we had everybody assigned. People are  
13 allowed to come here and be anonymous if they want to  
14 be.

15 THE WITNESS: Just in general, doesn't  
16 anybody from the county know that? Never mind. I  
17 talked to Mark when he just got off the seat. He  
18 says there's roughly 40-plus residents. He got 30  
19 signatures, so it looks like the majority are in  
20 favor of this project. Okay.

21 I mean if you are a Kealia resident, then  
22 that would be important to know.

23 ACTING CHAIR CABRAL: Ma'am, it would be  
24 good for you to give us your testimony. You're on a  
25 time limit, and you're using it up rapidly.

1 THE WITNESS: No, I'm just starting it  
2 right now, mahalo.

3 ACTING CHAIR CABRAL: No, I'm going to be  
4 fair to everybody. Please proceed.

5 THE WITNESS: I wrote a testimony back in  
6 2018 on July 20th to all of you present here on this  
7 table. And I did get a response, and I did offer  
8 solutions.

9 I wrote five points of which they responded  
10 to each one, and I wanted to thank you for doing  
11 that.

12 I live in Anahola. So the impact that the  
13 traffic will have on us is a worry for our community.

14 Other than that, are the housing issue. If  
15 there was a guarantee that these residents would get  
16 first choice, not a lottery, but these residents  
17 getting a first choice of their pick of the lots, I  
18 would agree with that.

19 I'm happy that you're putting in a  
20 roundabout, if this goes through, because that will  
21 alleviate some of the traffic.

22 I'm happy that you will consult with the  
23 residents on putting up a barrier, a natural barrier  
24 between Kuhio Highway and the residential homes that  
25 are proposed.

1 I would like to see you also helping foot  
2 the bill for that.

3 As far as cultural preservation, I believe  
4 in your EIS you said that you spoke with residents  
5 and consulted with them. I hope that's true.

6 The other point I made was that the County  
7 and State need to work together to develop opening up  
8 that Princeville Airport to alleviate traffic to  
9 Lihue.

10 And I'm in favor of the majority of  
11 residents who want this project to happen. And I'm  
12 also --

13 ACTING CHAIR CABRAL: Please conclude your  
14 statement.

15 THE WITNESS: And I also am not in favor of  
16 this project if it's going to put any stress on our  
17 people that live there or stress on the surrounding  
18 communities north of Kealia. Mahalo.

19 ACTING CHAIR CABRAL: One moment. Any  
20 questions?

21 MR. MATSUBARA: No questions.

22 MR. COURSON: No.

23 MS. APUNA: None.

24 ACTING CHAIR CABRAL: Questions from  
25 Commissioners?

1                   COMMISSIONER ACZON:   Just want  
2 clarification.

3                   Is your testimony that the Petitioner's  
4 responded to all your questions; is that your  
5 testimony?

6                   THE WITNESS:   No.

7                   COMMISSIONER ACZON:   Did they respond to  
8 some of them or most of them?   Because you just  
9 testified that --

10                  THE WITNESS:   They responded to all of  
11 them, but there are a couple of them that I don't  
12 agree with.

13                  COMMISSIONER ACZON:   But they responded to  
14 you?

15                  THE WITNESS:   They did, a year later, by  
16 the way.   Could have done so sooner.   Mahalo.

17                  ACTING CHAIR CABRAL:   Thank you.   Ma'am,  
18 can you come back?   One more question.

19                  COMMISSIONER CHANG:   Aunty Aggie, mahalo  
20 for your testimony.

21                  You said that you are the AMAC?

22                  THE WITNESS:   Yes.

23                  COMMISSIONER CHANG:   So 'Ahu Moku Advisory  
24 Council Po'o, so do you come from the ahupua'a of  
25 Kealia?

1 THE WITNESS: No.

2 COMMISSIONER CHANG: But you represent that  
3 particular area?

4 THE WITNESS: Yes, I do, Ko'olau District.

5 COMMISSIONER CHANG: So are you here as the  
6 AMAC representative?

7 THE WITNESS: Yes.

8 COMMISSIONER CHANG: As the AMAC  
9 representative, did you receive the Cultural Impact  
10 Assessment for this project?

11 THE WITNESS: I did not.

12 COMMISSIONER CHANG: Thank you very much.

13 ACTING CHAIR CABRAL: Any other questions?  
14 Thank you, ma'am.

15 EXECUTIVE OFFICER: Barbara Guiliano  
16 followed by Ross Brun.

17 ACTING CHAIR CABRAL: May I swear you in?

18 Do you swear or affirm that the testimony  
19 you are about to give is the truth?

20 THE WITNESS: Yes.

21 ACTING CHAIR CABRAL: Please give us your  
22 full name and your address.

23 THE WITNESS: Barbara Guiliano, 4840 Pelehu  
24 Road, Kapaa.

25 BARBARA GUILIANO

1 Was called as a witness by and on behalf of the  
2 Public, was sworn to tell the truth, was examined and  
3 testified as follows:

4 DIRECT EXAMINATION

5 THE WITNESS: So from the new Longs Drug  
6 Store up to the Kawaihau turn-off is a little under  
7 two miles. I travel that most every day. On most  
8 days it takes me 15 minutes. This project is going  
9 to allow 235 more houses, let's say conservative, two  
10 cars per house. That's conservative. My neighbors  
11 across the street have six cars, so who knows how  
12 many more cars it's going to put in that corridor.

13 So what makes Kaua'i special is the aloha  
14 spirit. I have to admit I'm losing the aloha spirit  
15 and it's bothersome to me. By the time that I have  
16 driven that 15-minute route, and I turn off to go up  
17 Kawaihau Road to go to my home, most oftentimes I'm  
18 irritated, aggravated, no aloha spirit.

19 Two more short things I want to say. I  
20 have not seen any price list for what these homes are  
21 going to sell for. Everybody, everyone keeps saying  
22 affordable housing. How do we know? Has it been  
23 disclosed how much these homes and lots are going to  
24 go for?

25 Lastly, everyone who has testified in favor

1 of the proposed project, I'm going to make a guess  
2 that 90 percent of them are making a profit off of  
3 this project.

4 Thank you for your time.

5 ACTING CHAIR CABRAL: Any questions?

6 MR. MATSUBARA: No questions.

7 MR. COURSON: No questions.

8 MS. APUNA: No questions.

9 ACTING CHAIR CABRAL: Thank you very much.  
10 Commissioners? No questions.

11 It's been about an hour that we have been  
12 taking testimony, so we are going to do that from  
13 time to time, take a break, that will give the  
14 Commissioners time to use the facilities, what have  
15 you.

16 At this time we will take a ten-minute  
17 break. So come back at five minutes to 11:00. Thank  
18 you very much.

19 (Recess taken.)

20 ACTING CHAIR CABRAL: We want to proceed.  
21 And I'm going to ask, in order to save time, we want  
22 to hear the testimony and not spend too much time on  
23 trying to get people in the hot seat, so we are going  
24 to call down a couple more names and you can be ready  
25 to come up and come forward. So the party that we



1 would like to ask for you is --

2 EXECUTIVE OFFICER: Ross Brun followed by  
3 Jerrold Sagucio. After that Karen Gibbens, followed  
4 by Penny Prior.

5 COMMISSIONER WONG: Madam Chair, before we  
6 start. So just for your information, for everyone  
7 present, all of us Commissioners here are volunteers.  
8 So we do have a real job. We don't get paid. For  
9 your information we are volunteers. We're giving up  
10 our work time. And as you can see, when the  
11 Executive Officer spoke, those are the only things we  
12 are taking vacation to come here, so just wanted you  
13 to keep that in mind.

14 Second thing. I just wanted to ask the  
15 Executive Officer for today, we are going through an  
16 EIS -- FEIS process. So from what I gather from our  
17 rules and regulations, we can either approve it,  
18 disapprove it, or do nothing.

19 If we do nothing, because of the time  
20 limit, the FEIS will be approved. So I just wanted  
21 to reaffirm with the Executive Officer so everyone  
22 knows, if we don't finish today, it's going to be  
23 approved. So I want to keep everyone in mind on  
24 that. That's the rules. That's state law.

25 EXECUTIVE OFFICER: We have today scheduled

1 for this matter. We only have so many days to either  
2 approve or deny the EIS, otherwise it automatically  
3 becomes -- or it is automatically approved.

4 Since we do not have any other days on the  
5 schedule for this, if we do not complete this hearing  
6 today, and do not render a decision, then  
7 Commissioner Wong is correct, the EIS will be  
8 automatically approved under the rules and under the  
9 law as contained in Chapter 343.

10 ACTING CHAIR CABRAL: Proceeding along.  
11 Jerrold --

12 EXECUTIVE OFFICER: -- Sagucio, followed by  
13 Karen Gibbons, followed by Julie Black Caspillo.

14 ACTING CHAIR CABRAL: May I swear you in?

15 THE WITNESS: Yes.

16 ACTING CHAIR CABRAL: Do you swear or  
17 affirm that the testimony that you are about to give  
18 is the truth?

19 THE WITNESS: Yes.

20 ACTING CHAIR CABRAL: Proceed with your  
21 name and address.

22 THE WITNESS: Karen, K-A-R-E-N, Gibbons,  
23 G-I-B-B-O-N-S, 2382 Kamole, K-A-M-O-L-E, Road, Kealia  
24 96751.

25 ACTING CHAIR CABRAL: Please proceed.

KAREN GIBBONS

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

DIRECT EXAMINATION

THE WITNESS: I have been a resident of Kaua'i now for 26 years. I've been a homeowner, resident for 19 years on Kamole Road in Kealia. And I am once again presenting my concerns.

I want to thank the Commissioners for allowing me to actually have this opportunity and this voice.

I am not in support of this project. I'm not in support of changing the boundary from Ag to Urban.

I am really hoping that you do not approve the Final EIS. I have read it, and it does not appear to be complete. This project does not appear also to satisfy the HRS Chapter 205-3 affordable housing. As was mentioned earlier, there is no price yet listed for these lots.

At our meeting Saturday night it was with many, many issues brought up, the answer to the expense of roads and roundabouts and sewers. They kept saying it would fall back on the developer,

1       which they then said which, of course, would be  
2       folded back into the price of the lot.

3               If this ag land is allowed to be developed,  
4       I believe it will set a precedent for the owner to  
5       apply for another EIS. He has 19,900-plus acres yet  
6       to go. This is like the first step in the door.

7               I think it's ludicrous to think that one  
8       access road, Kealia Road, would be safe for an  
9       additional approximately 800 more residents. One  
10      road, if there was an accident on Kealia Road, I have  
11      no idea how emergency services could be rendered to  
12      the people mauka.

13              ACTING CHAIR CABRAL: Please summarize.

14              THE WITNESS: I thank you very much for  
15      this time and this offer.

16              ACTING CHAIR CABRAL: Thank you very much.  
17      Any questions?

18              MR. MATSUBARA: No questions, Chair.

19              MR. COURSON: No.

20              MS. APUNA: No questions.

21              ACTING CHAIR CABRAL: Commissioners, any  
22      questions? Thank you very much.

23              EXECUTIVE OFFICER: Next testifier Penny  
24      Prior, but we have had a request, I believe, for  
25      someone to go out of order.

1           ACTING CHAIR CABRAL: May I swear you in?  
2           Do you swear or affirm that the testimony  
3 that you are about to give is the truth?

4           THE WITNESS: Yes.

5           ACTING CHAIR CABRAL: Please clearly state  
6 your name and your address.

7           THE WITNESS: My name is Noa Mau-Espirito,  
8 and my address is Royal Patent 6020 Land Commission  
9 Award 3561 from the Great Mahele.

10                       NOA MAU-ESPIRITO  
11 Was called as a witness by and on behalf of the  
12 Public, was sworn to tell the truth, was examined and  
13 testified as followed:

14                       DIRECT EXAMINATION

15           THE WITNESS: I would like to ask, right  
16 now you guys under oath? The County, are you guys  
17 under oath?

18           ACTING CHAIR CABRAL: This is not a  
19 platform for you to ask us questions. There are  
20 times when that would probably be appropriate, but  
21 that is not case here. We're here to hear what you  
22 have to say.

23           THE WITNESS: Thank you.

24           I would like to say that this entire  
25 proceeding by the County to do with this

1 Environmental Impact Statement is unconstitutional  
2 under Article 1, Section 8, and Article 6, Section 2  
3 of the U.S. Constitution.

4 So with that being said, this EIS  
5 proceedings is illegal and does not determine if  
6 whether or not this project can be done or not  
7 legally.

8 As I said, this whole undertaking is,  
9 again, unconstitutional under Article 1, Section 8,  
10 and Article 6, Section 2 of the U.S. Constitution.  
11 And I will ask that you guys comply with those laws.

12 And that there is also -- there is a title  
13 issue in the Kealia Ahupua'a. The entire Kealia  
14 Ahupua'a is awarded to Miriam Kekauohohi under the  
15 Great Mahele.

16 The third, that's a major title issue and  
17 defect on the property, I would say right now, and it  
18 will be exposed soon. So I just wanted to say that.

19 Thank you very much.

20 ACTING CHAIR CABRAL: Any questions?

21 MR. MATSUBARA: No questions.

22 MR. COURSON: No questions.

23 MS. APUNA: No questions.

24 ACTING CHAIR CABRAL: Commissioners? Thank  
25 you very much.

1 EXECUTIVE OFFICER: Penny Prior followed by  
2 Julie Black Caspillo, followed by Naia Nicole Blagg.

3 ACTING CHAIR CABRAL: May I swear you in?

4 THE WITNESS: Yes.

5 ACTING CHAIR CABRAL: Thank you for your  
6 patience there.

7 Do you swear or affirm that the testimony  
8 that you are about to give is the truth?

9 THE WITNESS: Yes.

10 ACTING CHAIR CABRAL: Please give us you  
11 full name and address.

12 THE WITNESS: Penny Prior, P-R-I-O-R, with  
13 an I. My address 4704 Hauaala Road, Kapaa.

14 PENNY PRIOR

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

18 DIRECT EXAMINATION

19 THE WITNESS: So I've been a resident on  
20 the island for 30 years, and we have had a lot of  
21 changes here, and it doesn't feel like it's going in  
22 a very harmonious direction both with -- especially  
23 with the land use.

24 I totally understand the idea of needing  
25 more affordable housing. I am definitely for that,

1 but I'm not sure this project will end up that way  
2 for the residents of Kaua'i.

3 I'm also concerned about the traffic and  
4 the bottleneck. I live in North Kapaa and I  
5 experience it every day. Like some people becoming  
6 so frustrated, it's becoming a little more dangerous  
7 on the road down there.

8 I also hear that the actual residents of  
9 Kealia, there's a pretty large percentage, are not  
10 into this project. I haven't spoken with any of the  
11 residents, but I'm very concerned about that.

12 Of course, environmentally one of my  
13 biggest concerns is always for the land, for the  
14 cleanliness for runoff. My understanding is there's  
15 going to be more runoff at Kealia. So I'm just not  
16 feeling confident from the things I've heard.

17 And, yeah, I'm just being a resident here,  
18 I just love this land a lot, and I hope that it's  
19 going to be taken care of in a good way.

20 ACTING CHAIR CABRAL: Thank you very much.  
21 Any questions?

22 MR. MATSUBARA: No question, Chair.

23 MR. COURSON: No.

24 MS. APUNA: No.

25 ACTING CHAIR CABRAL: Commissioners, any



1 questions? Thank you very much, ma'am.

2 THE WITNESS: You're welcome. Thank you,  
3 thanks for the opportunity.

4 EXECUTIVE OFFICER: Julie Black Caspillo,  
5 followed by Naia Nicole Blagg, followed by Sean  
6 Hoouka Asquith.

7 ACTING CHAIR CABRAL: May I swear you in?

8 THE WITNESS: Please.

9 ACTING CHAIR CABRAL: Do you swear or  
10 affirm that the testimony you're about to give will  
11 be the truth?

12 THE WITNESS: I do.

13 ACTING CHAIR CABRAL: Please proceed with  
14 your full name and address.

15 THE WITNESS: My name is Julie Black  
16 Caspillo, 6798 Kawaihau Road, Kapaa, Hawai'i.

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

21 DIRECT EXAMINATION

22 THE WITNESS: I have given a packet of  
23 information, so if you have it, everyone you should  
24 have it.

25 So I'm a real estate broker since 1984 on

1 the Island of Kaua'i, 22 years. I own my own  
2 company. I am not currently speaking or  
3 representing -- I'm only representing myself, not any  
4 current or past boards or commission I have been  
5 currently a member of.

6 My position is that I oppose the upzoning.  
7 Why do I oppose the upzoning? Number one, I wish I  
8 could submit the whole Kaua'i General Plan update,  
9 but its over 584 pages. I have submitted a hard copy  
10 of some pages.

11 So if you look at the General Plan, which  
12 hours of work, years of work, I think, went into  
13 this. I went to one of the discussions at All States  
14 Gym in Kapaa where I have a picture of that. That  
15 was in 2016.

16 There is a map there. The map shows that  
17 there is no urban zoning in Kealia. This is not on  
18 the General Plan. All these people who are speaking  
19 for it, why did they not submit when it was at the  
20 appropriate time?

21 Number two, if you look at the General Plan  
22 on page 86, Goal 7, there's a lot that they want to  
23 do to relieve traffic. This is a big problem.

24 Why is it such a big problem, especially in  
25 this area? Because there is no public middle or high

1 school on the North Shore. All that North Shore  
2 people drive to Kapaa, passing Kealia to bring their  
3 kids to school. It's really a horrendous traffic  
4 jam.

5 And bringing approximately -- I estimate  
6 700 more vehicles to that corridor, which is already  
7 jam packed at the current time, is not --  
8 environmentally is just going to be a disaster I feel  
9 like.

10 Kealia is a rural area. I know for the  
11 Commissioners off island, it's hard to see what we  
12 are talking about. So in here I have the homesites.  
13 The gentleman who spoke before, Baldonado, he said he  
14 has 30 signatures. Well, that's only 36 homesites.  
15 I don't know if you think 30 signatures is nothing.  
16 Well, when you only have 36 homesites, it's not that  
17 much.

18 I personally would be all for affordable  
19 homes similar to the two Kealia rural tracks now,  
20 that would be 36, you know, that's all they were  
21 going to do. 235 homesites I feel that there will be  
22 no guarantee that they will be sold at affordable  
23 range.

24 ACTING CHAIR CABRAL: Please summarize.

25 THE WITNESS: The water quality,

1 environmental quality, I've been told the sewerline  
2 is going to run down Ka'ao Road along the highway  
3 across from Kealia Beach. Currently our water  
4 quality is great. This area flooded during the April  
5 rains. We have had hurricanes. Kaua'i is a disaster  
6 area for natural disasters. We get them. We can  
7 have a tidal wave. The sewerline would break. It  
8 would be a disaster. Please disapprove.

9 So thank you for letting me testify. In  
10 summary, if the property is not in alignment with the  
11 Kaua'i General Plan goals, it's a rural area.  
12 Traffic and water, environmental concerns are huge.

13 Our community should not be an investment  
14 strategy for those looking to make money off our  
15 aina. Thank you.

16 ACTING CHAIR CABRAL: Any questions?

17 MR. MATSUBARA: No questions.

18 MR. COURSON: No questions.

19 MS. APUNA: No questions.

20 ACTING CHAIR CABRAL: Commissioners, any  
21 questions? Thank you very much.

22 One Commissioner has a question.  
23 Commissioner Chang.

24 COMMISSIONER CHANG: Could you recite for  
25 me where in the General Plan that you're referring to

1 the provision in the General Plan?

2 THE WITNESS: I handed out hard copies. I  
3 handed out ten required.

4 COMMISSIONER CHANG: I'll get it. Thank  
5 you.

6 EXECUTIVE OFFICER: Next testifier is Naia  
7 Nicole Blagg, followed by Sean Asquith, followed by  
8 Kamuela L. Pa. Sean, step forward.

9 ACTING CHAIR CABRAL: Is that Sean waiting  
10 there? Kamuela?

11 Can you go ahead and let me swear you in.

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

14 THE WITNESS: Yes.

15 ACTING CHAIR CABRAL: Give us your full  
16 name and your address.

17 THE WITNESS: Aloha. My name is Naia  
18 Nicole Ikeke Kawahine Hoomanawa Nui Blagg-Noblisse.

19 ACTING CHAIR CABRAL: You need to slow  
20 down. The lady to your left is having to type all  
21 this.

22 THE WITNESS: Okay. That's my full name.  
23 1429 A Kanepoohui Road.

24 ACTING CHAIR CABRAL: Proceed with your  
25 testimony.

1 NAIA NICOLE BLAGG-NOBLISSE

2 Was called as a witness by and on behalf of the  
3 Public, was sworn to tell the truth, was examined and  
4 testified as follows:

5 DIRECT EXAMINATION

6 THE WITNESS: So it's me and my friend Sean  
7 is reading the same thing. So I'm going to start by:

8 All applicants to this project have a  
9 requirement under the law to protect these access  
10 rights.

11 For the landowner, our rights to this area  
12 are clearly stated on the title to the property as  
13 "ua koe ke kuleana o na kanaka".

14 For the State and County, they have an  
15 affirmative duty to protect our rights in this  
16 process under the Public Trust Doctrine, as does this  
17 Commission.

18 For these reasons, we ask the Commission to  
19 not accept the Final EIS for this project today but  
20 require the applicants to work with us to incorporate  
21 this impact on our rights.

22 We believe the impact on our rights can be  
23 mitigated, but to assure this we ask to be accepted  
24 as intervenors in this process.

25 Attached to this letter are the names,

1 contact and signatures of the native Hawaiian hunters  
2 who are asking to be intervenors. We have also  
3 attached some documents that support our position and  
4 request.

5 Mahalo. I have some papers for you guys.

6 ACTING CHAIR CABRAL: Are there any  
7 questions from the Petitioner?

8 MR. MATSUBARA: No questions.

9 MR. COURSON: No questions.

10 MS. APUNA: No questions.

11 ACTING CHAIR CABRAL: Commissioners,  
12 questions? Commissioner Chang.

13 COMMISSIONER CHANG: Aloha, Naia.

14 You say that -- what are your cultural  
15 practices that you believe this project may be  
16 impacting?

17 THE WITNESS: So this whole paper is about  
18 like for our hunting, hunting to feed our family and  
19 our friends around us, and to help our hui grow.

20 COMMISSIONER CHANG: So are you saying that  
21 this project will impact your access to hunting?

22 THE WITNESS: Yes.

23 COMMISSIONER CHANG: Are there other kinds  
24 of practices that this project may interfere with?

25 THE WITNESS: Like in order to get -- okay,

1     so see if -- cause we hunt and stuff, if the animal  
2     goes inside there, and like we're supposed to ask  
3     permission because that's respectful, and so -- but  
4     like, if it like -- if they say we can't go in there,  
5     then like it's kind of like not okay, because like  
6     the animal can be injured, it can be in there and  
7     just wasted.

8                 COMMISSIONER CHANG:   Has your family always  
9     hunted in that area?

10                THE WITNESS:   Yes.

11                COMMISSIONER CHANG:   What is the family  
12     name?

13                THE WITNESS:   Family is Blagg-Noblisse.

14                COMMISSIONER CHANG:   Is there anything else  
15     besides hunting that you guys access the property  
16     for?

17                THE WITNESS:   Spiritual stuff too.

18                COMMISSIONER CHANG:   Mahalo.

19                ACTING CHAIR CABRAL:   Thank you very much.

20                EXECUTIVE OFFICER:   The next testifier is  
21     Sean Asquith followed by Kamuela L. Pa, followed by  
22     Kopono Kapanui.

23                ACTING CHAIR CABRAL:   Thank you very much  
24     for being timely with the line-up here.

25                Do you swear or affirm that the testimony



1 that you're about to give is the truth?

2 THE WITNESS: Yes.

3 ACTING CHAIR CABRAL: Please provide us  
4 your full name and address.

5 THE WITNESS: Sean Hoouka Asquith. My  
6 address is 4654 Haua'ala Road, Kapaa.

7 ACTING CHAIR CABRAL: Proceed.

8 SEAN HOOUKA ASQUITH

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

12 DIRECT EXAMINATION

13 THE WITNESS: I wanted to add on with  
14 what -- we are native Hawaiian tenants of Kealia, and  
15 adjoining ahupua'as.

16 We hunt pig with dog and knife to feed our  
17 families and friends. We hunt in the open  
18 undeveloped lands from Kapaa to Anahola. We cause no  
19 harm in the exercise of this traditional and  
20 customary gathering right.

21 The area we hunt in includes the  
22 undeveloped 50 acres which the project is proposed.

23 As such, we have a constitutionally  
24 protected right to continue to access this area for  
25 this purpose. According to the courts, it is

1 undeniable that the proposed development would  
2 extinguish this right forever.

3 In both the Cultural Impact Assessment and  
4 the larger EIS, the applicants have failed to even  
5 identify, much less mitigate for, the loss of our  
6 right to access this area.

7 Thank you.

8 ACTING CHAIR CABRAL: Thank you, Sean. Any  
9 questions from the Petitioner?

10 MR. MATSUBARA: No questions.

11 MR. COURSON: No questions.

12 MS. APUNA: No questions.

13 ACTING CHAIR CABRAL: Commissioners, any  
14 questions?

15 COMMISSIONER CHANG: Aloha, Sean.

16 Do you hunt in that area? You use that  
17 area to access?

18 THE WITNESS: Yes.

19 COMMISSIONER CHANG: Are there other things  
20 that you do, other kinds of practices that you do to  
21 that land?

22 THE WITNESS: We farm taro.

23 COMMISSIONER CHANG: Anything else?

24 THE WITNESS: No.

25 COMMISSIONER CHANG: Has your family,

1       ancestors before you, have they always used this area  
2       to hunt or farm taro?

3               THE WITNESS:   Yeah.

4               COMMISSIONER CHANG:   Do you -- did anybody  
5       contact you about this project before?

6               THE WITNESS:   No.

7               COMMISSIONER CHANG:   Thank you so much for  
8       your testimony.

9               ACTING CHAIR CABRAL:   Thank you.

10              Kamuela, and then Kaponu, and then Brian  
11       Dougherty.

12              May I swear you in?

13              THE WITNESS:   Yes.

14              ACTING CHAIR CABRAL:   Do you swear or  
15       affirm that the testimony that you are about to give  
16       is the truth?

17              THE WITNESS:   Uh-huh.

18              ACTING CHAIR CABRAL:   Yes?

19              THE WITNESS:   Yes.

20              ACTING CHAIR CABRAL:   Can we get your name?

21              THE WITNESS:   Kamuela Leialiki Ke Koa  
22       Laulii Malia Lioa Lele Kui Lua Pa.

23              ACTING CHAIR CABRAL:   Did you write that  
24       down in full like you just said it?   Did you right it  
25       down on the paper?

1 THE WITNESS: No, I just write it.

2 ACTING CHAIR CABRAL: Thank you. Can you  
3 give us your address?

4 THE WITNESS: I don't know my address. But  
5 I live in Anahola.

6 ACTING CHAIR CABRAL: I just want to ask.  
7 Are you 18 years old yet?

8 THE WITNESS: No.

9 ACTING CHAIR CABRAL: I don't have a  
10 problem with that. I just wanted to clarify, but we  
11 welcome everyone's testimony here. Go ahead and give  
12 us your testimony.

13 KAMUELA L. PA  
14 Was called as a witness by and on behalf of the  
15 Public, was sworn to tell the truth, was examined and  
16 testified as follows:

17 DIRECT EXAMINATION

18 THE WITNESS: I live in Anahola in a house  
19 with about 15 other people. I am lucky now because  
20 before I spent much of my life living in a car.

21 I haven't really read the whole EIS stuff,  
22 because it's too big for me. But I went to a meeting  
23 the other night and learned a lot.

24 What I learned is that this is not too much  
25 different than Hawaiian Homes. The State system that

1 is supposed to provide housing for me, has failed me.  
2 And this private land system is now going to fail me.  
3 When I hear these numbers, I'm pretty sure that I  
4 will never have a house of my own here on Kauai.

5 But that's okay. I am a survivor. And my  
6 king never promised me a free house anyway. What he  
7 did promise me is that I could survive from the land.  
8 And you guys are part of the system that is supposed  
9 to make sure that promise is kept.

10 I need to be able to hunt, fish and farm  
11 land to do that. I understand that these people want  
12 to sell houses and make money. That's okay, because  
13 I would like to make money too.

14 But maybe before we sell houses to people  
15 we don't know, we should make sure the promises are  
16 kept to the people we do know. And I know those  
17 promises are not addressed in the EIS.

18 ACTING CHAIR CABRAL: Thank you very much.  
19 Any questions from the Petitioner?

20 MR. MATSUBARA: No questions, Chair.

21 MR. COURSON: No questions.

22 MS. APUNA: No questions.

23 ACTING CHAIR CABRAL: Commissioners.  
24 Commissioner Chang.

25 COMMISSIONER CHANG: Aloha, Kamuela.

1 THE WITNESS: Aloha.

2 COMMISSIONER CHANG: Do you live on  
3 homestead land, do you know?

4 THE WITNESS: I think so.

5 COMMISSIONER CHANG: Does your family, do  
6 you hunt or gather in this land at Kealia?

7 THE WITNESS: Yes.

8 COMMISSIONER CHANG: What kinds of things  
9 do you farm?

10 THE WITNESS: I farm kalo.

11 COMMISSIONER CHANG: What do you farm?

12 THE WITNESS: Kalo.

13 COMMISSIONER CHANG: Has your family always  
14 farmed in that land at Kealia?

15 THE WITNESS: Yeah. And we have a farm in  
16 Anahola too.

17 COMMISSIONER CHANG: And you do kalo in  
18 Anahola too?

19 THE WITNESS: Yes.

20 COMMISSIONER CHANG: Anything else you do  
21 on that land?

22 THE WITNESS: No, not really, but, yeah, I  
23 farm over there.

24 COMMISSIONER CHANG: I want to thank you  
25 very much, Kamuela, for your testimony. You were

1 very articulate. Mahalo.

2 THE WITNESS: Thank you, aunty.

3 ACTING CHAIR CABRAL: One more question.  
4 Mr. Okuda.

5 COMMISSIONER OKUDA: Kamuela, I would like  
6 to, as we say, agree with what Commissioner Chang  
7 said. My late father-in-law used to farm kalo. I  
8 know it's very, very hard work, and that's the reason  
9 why he joined the army when World War II broke out.

10 But the most important thing I would like  
11 to say is thank you for coming to testify here. You  
12 know, community decision-making works only if  
13 everybody comes and tells people what they really  
14 think.

15 We all don't have to agree, but a good  
16 decision is never made if people aren't willing to  
17 come here, even though sometimes it might be little  
18 bit scary and tell government officials, like us,  
19 volunteers or not, you tell people what you really  
20 think and what's good for the community.

21 So thank you very much for coming here.

22 THE WITNESS: You're welcome. Mahalo, you  
23 guys. Thank you for having me.

24 ACTING CHAIR CABRAL: We should all be so  
25 well spoken and clea,, Dan. It's an inside joke. So

1 I'm saying this young man spoke more clearer than our  
2 executive officer.

3 EXECUTIVE OFFICER: Kaponono, followed by  
4 Sharla Kalauawa.

5 ACTING CHAIR CABRAL: May I swear you in?  
6 Do you swear or affirm that the testimony  
7 you are about to give is the truth?

8 THE WITNESS: Yes.

9 ACTING CHAIR CABRAL: State your full name  
10 and your address.

11 THE WITNESS: Kaponono Kapanui. No ka  
12 makouokana mai au, no ka puau wainau, no kapau o ka  
13 ua. (Phonetic)

14 ACTING CHAIR CABRAL: And state your  
15 address.

16 THE WITNESS: That was my address.

17 ACTING CHAIR CABRAL: Go ahead and give us  
18 your testimony, please.

19 KAPONO KAPANUI

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

23 DIRECT EXAMINATION

24 THE WITNESS: Aloha mai kakou. (Hawaiian  
25 spoken.)



1           My name is Kapono Kapanui. I'm a Hawaiian  
2 language teacher at Kaua'i High School, and I'm here  
3 today strongly opposing this building of these  
4 houses.

5           I know you guys cannot answer questions, so  
6 I'm just tossing it out there. Maybe you can think  
7 about it, sleep on it.

8           But it was asked before. If just for a day  
9 our king and queen would visit all the islands and  
10 saw everything, how would they feel about the changes  
11 of our land?

12           The land is in great, great danger now.  
13 Kealia is where the akua Hiiaki ka polio Pele had her  
14 first meal on Kaua'i when she was sent by her sister  
15 Pele to fetch her lover Lohiau Ipo from Haena. In  
16 Kealia she ate luau harvested from the lo'i patches  
17 Kamuela was talking about.

18           The question was posed if your ancestors  
19 planted kalo on this land. Kalo was planted from  
20 long, long ago. I noticed that this building over  
21 here is called Moikeha Building.

22           Moikeha's son, Kila, when he went to  
23 Tahiti, he actually boasted about the kalo that came  
24 out of Kealia. It was the biggest kalo in the world.  
25 It was the stickiest, most ulika kalo in the world.

1 It was the best.

2 If Hi'iaka were to travel here to Kealia,  
3 would she be able to recognize this land she once  
4 traversed on? Or would she ask where is she? Where  
5 is the kalo that once grew here? Where is the pigs  
6 that once ran through this aina?

7 The word "aina" not only means land, it  
8 means that which feeds. As the keiki were talking  
9 before, who are all under 18, those three, all keiki,  
10 that is where they get their food. That is how they  
11 feed their family. That is how they feed their  
12 friends.

13 With these houses, where do they go? The  
14 fish are already running out of the sea. There's not  
15 as much kalo. There's not as much food as there was  
16 before.

17 What about the grandchildren? What about  
18 their grandchildren? What about their grandchildren?  
19 What are they going to have? Not much if we continue  
20 our trend.

21 ACTING CHAIR CABRAL: Please summarize.

22 THE WITNESS: In summary, (Hawaiian) the  
23 responsibility has been left with the Kanaka. Our  
24 gathering rights are a protected public trust right,  
25 and you have an affirmative duty to protect these

1 rights. As the great Isreal Kamakawiwio'ole once  
2 said, malama the kuleana for the keikis. E'o.

3 ACTING CHAIR CABRAL: Thank you.

4 Petitioner, do you have any questions?

5 MR. MATSUBARA: No questions, Chair.

6 MR. COURSON: No questions.

7 MS. APUNA: No.

8 ACTING CHAIR CABRAL: Commissioners, any  
9 questions? Commissioner Chang.

10 COMMISSIONER CHANG: Aloha, Kamuela.

11 THE WITNESS: Kapono.

12 COMMISSIONER CHANG: Kapono, excuse me.

13 Kala mai.

14 Kapono, are you from Kealia?

15 THE WITNESS: Actually from the west side  
16 of Kaua'i, but I see this once they start Kealia,  
17 then they move over, move over, and soon enough the  
18 whole Kaua'i is one big hotel.

19 COMMISSIONER CHANG: Do you know of any --  
20 I know what we heard earlier was hunting and planting  
21 of taro. Are you aware of any other practices?

22 THE WITNESS: Just being on the sacred aina  
23 is a practice in itself. To feel the wind. A  
24 certain wind blows there that doesn't blow anywhere  
25 else. A certain rain falls there that doesn't fall

1 anywhere else. And our kupuna named these winds and  
2 named these rains, because they had a connection with  
3 them.

4 To experience these things is to walk in  
5 the Hawaiian way. And to build these houses, and to  
6 cut us off, and to put up fences, to not let us  
7 access these winds, these rains, the aina, the  
8 kulaiwi, the bones of our ancestors are under there.

9 COMMISSIONER CHANG: Mahalo.

10 THE WITNESS: Mahalo.

11 ACTING CHAIR CABRAL: Thank you.

12 EXECUTIVE OFFICER: Brian Dougherty,  
13 followed by Sharla Kalauawa, followed by Justin  
14 Teves. After Justin, Kenneth Johnson.

15 ACTING CHAIR CABRAL: May I swear you in?

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

18 THE WITNESS: Yes, I do.

19 ACTING CHAIR CABRAL: Your name and  
20 address.

21 THE WITNESS: Sharla, S-H-A-R-L-A, Kalauawa  
22 K-A-L-A-U-A-W-A. I live at 2442 Kamole Road, Kealia.

23 I thank you for allowing me to participate  
24 after that chicken skin testimony. I'm kind of  
25 nervous.

SHARLA KALAUAWA

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

DIRECT EXAMINATION

THE WITNES: What I wanted to say, I actually turned in a letter to you with -- and I don't need to go over that. What I did want to say, though, for those kids that do hunt, thank you so much, because now my side of Kealia doesn't have a pig problem. Thank you.

We used to have it, but they have been keeping it under control. If a subdivision is built, they will need to get the permission of all those homeowners to enter their property, so they're using knives and dogs, and most homeowners will not.

But their cultural practice is to feed families by hunting and farming and it should be taken into consideration.

I do oppose this development only because I did not get clarification on the street. Kealia Road going up to Ka'aina Road is a very narrow and winding road where they saying they're going to extend the roads to two 10-foot lanes and sidewalks. I don't believe there is sufficient room. I don't think

1 they're going to do extension sidewalks, and they  
2 already have certain areas have walls. If they cut  
3 into that, then what is going to happen to the  
4 property on the back of those retaining walls even if  
5 they put new walls up?

6 My other concern is I work for the post  
7 office. And I know Kealia Post Office does not have  
8 ample space for additional 200 or 235 boxes.

9 The contract owner of the post office from  
10 Kealia is Lorie Macadamion, (phonetic) who has not  
11 been contacted by anyone from here. The only thing  
12 she had was a lady come down from Honolulu to measure  
13 her office and the dilapidated old store, or island  
14 school, whichever way you have it.

15 And she cannot afford, if they put a new  
16 building up, to have her rent raised. If she gives  
17 that contract up, that means Kealia people will lose  
18 their identity. That is my biggest concern of the  
19 post office.

20 I thank you all for your time and all your  
21 service to the community. And just like you, I have  
22 a job that I need to go to also.

23 ACTING CHAIR CABRAL: Any questions?

24 MR. MATSUBARA: No questions.

25 MR. COURSON: No.

1 MS. APUNA: No.

2 ACTING CHAIR CABRAL: Commissioners? Thank  
3 you very much.

4 EXECUTIVE OFFICER: Justin Teves, followed  
5 by Kenneth Johnson, followed by David Dinner.

6 THE WITNESS: Hi, my name is Justin Teves,  
7 6185 Olohena Road.

8 ACTING CHAIR CABRAL: May I swear you in?

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

11 THE WITNESS: Yes.

12 ACTING CHAIR CABRAL: Proceed.

13 JUSTIN TEVES

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

17 DIRECT EXAMINATION

18 THE WITNESS: I was born and raised on the  
19 island. I've seen many changes. I am for the Kealia  
20 project because I have a lot of family members that  
21 can't afford a lot of the houses on the island.

22 I also hunt and fish. I raise farm, and --  
23 I mean, our economy is growing and, I mean, the only  
24 thing we can do is to say we don't want more cars on  
25 the island is having people to stop having kids. And

1       that's just not going to happen.

2               So we need more houses. Unfortunately,  
3       we're not like the mainland where we have abundance  
4       of land. We're limited to what we have.

5               And for the local people to say, okay, we  
6       have to move off the island, to me it's messed up.  
7       And I mean like I said, I've had access to the land  
8       Kealia. I go hunting on the west side. I've been  
9       Wailua area, Kapaa area, and I've seen -- we're not  
10      going to stop populating the island with humans. So  
11      we can't limit the housing because we're growing.

12              That's all I have to say.

13              ACTING CHAIR CABRAL: Thank you very much.  
14      Any questions?

15              MR. MATSUBARA: No questions, Chair.

16              MR. COURSON: No questions.

17              MS. APUNA: No question.

18              ACTING CHAIR CABRAL: Commissioners? Thank  
19      you very much.

20              EXECUTIVE OFFICER: Kenneth Johnson.

21              ACTING CHAIR CABRAL: May I swear you in?

22              THE WITNESS: Yes, please.

23              ACTING CHAIR CABRAL: Do you swear or  
24      affirm that the testimony you're about to give is the  
25      truth?



1           THE WITNESS: Yes, it is, to the best of my  
2 knowledge.

3           ACTING CHAIR CABRAL: State your name and  
4 address.

5           THE WITNESS: Kenneth Johnson, 4544 Ka'ao  
6 Road. My family, my wife Rosa, she was supposed to  
7 talk soon, but she doesn't need to. You can knock  
8 her off.

9  
10          We're soley against this plan. With some of the  
11 situations that have been coming up, there's little  
12 time to go through everything to understand the main  
13 proposal.

14          Some of the things we do -- concerned about  
15 is any project that is built in that area does need  
16 its own separate entrance from the island, not using  
17 the Kealia Road from the bottom of the hill.

18          As someone pointed out, we will probably  
19 end up losing our post office. Where do we go from  
20 there? To Anahola or to Kapaa to get their mail or  
21 packages. If they rebuild, she will not be able to  
22 afford to stay there.

23          In reference to one part where they are  
24 talking about building 4.32-acre lot for a park and  
25 also the water, stormwater, right there that is where

1 my house backs up to.

2 My main concern is where does all this  
3 water go? There's a small creek next to us for all  
4 the runoff. Even with heavy rain that fills up and  
5 actually flows over the street. How will this feel  
6 to handle all the extra runoff with all the asphalt  
7 the street put in? Has that even been taken into  
8 consideration? I'm sure it has to be, but I'm  
9 bringing it up now so we don't forget about it.

10 They keep talking about all this affordable  
11 income housing. They have very little room to build  
12 for all this stuff. We don't understand how first  
13 time buyers can actually buy a lot and get a loan for  
14 a lot and loan for a home.

15 Who's going to build it for them? Bring in  
16 family to help build the home, and how long does it  
17 take? What kind of precedence do we have to assure  
18 that everything is built the way you want it?

19 What is the grand view of what Kealia is  
20 supposed to turn into? What is it supposed to be  
21 when we all grow up, and when our kids take over and  
22 live here?

23 With this park we are curious about who  
24 would take care of it? Who is in charge of it? Is  
25 there a homeowner's association? Is the park and rec

1 going to take over and make sure it's secure and  
2 safe, the upkeep is good.

3 Do they have security for this type of  
4 endeavor? Is the police department going to be  
5 around to check, make sure there is no homelessness  
6 living in the park, or using the park late at night?  
7 Who would be in charge, and who's been in contact  
8 with this part of the situation?

9 That is most of the highlights that we're  
10 concerned about.

11 ACTING CHAIR CABRAL: Thank you very much.  
12 Questions from the Petitioner?

13 MR. MATSUBARA: No questions.

14 MR. COURSON: No questions.

15 MS. APUNA: No questions.

16 ACTING CHAIR CABRAL: Commissioners,  
17 questions? Thank you for the input.

18 EXECUTIVE OFFICER: David Dinner followed  
19 by Rosa Teves.

20 ACTING CHAIR CABRAL: I think that was  
21 her -- Rosa is not going to testify.

22 EXECUTIVE OFFICER: Followed by Gabriela  
23 Taylor.

24 ACTING CHAIR CABRAL: Thank you, sir, for  
25 your patience.

1                   Can I swear you in?

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

4                   THE WITNESS:   Yes.

5                   ACTING CHAIR CABRAL:   Your name and  
6 address.

7                   THE WITNESS:   David Dinner, address 3007  
8 Kaohe Road, Kilauea.

9                                   DAVID DINNER

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

13                                   DIRECT EXAMINATION

14                   THE WITNESS:   I would like to thank you all  
15 for coming all the way from Honolulu, which is a lot  
16 to give, and thanks so much for your time.  I really  
17 appreciate it.

18                   And I would also like to swear that I  
19 wasn't paid to give this testimony; and I wonder how  
20 many others might fit into that category and how many  
21 are profiting from their testimony and the results of  
22 their testimony.  Because I think that's one of the  
23 main motivating factors here. And that's a big  
24 factor.

25                   But I think I came here really to testify

1 against the development. And I'm going to switch my  
2 testimony and withdraw that in order to, as required,  
3 to comment on the EIS which in my view anticipates a  
4 lot of the problems that are going to be coming up if  
5 this development goes forward. And that is a great  
6 concern.

7           It does anticipate them, but the  
8 mitigations are vague and really meaningless. They  
9 give no assurances that any of these problems are  
10 going to be actually mitigated. The traffic, the  
11 affordable housing problem, nobody in their right  
12 mind would believe that the people who testify that  
13 they want to buy a piece of property there actually  
14 are going to be able to.

15           I mean that will never be affordable to  
16 their level of income or to mine, for that matter.  
17 I've rented in Kilauea for 15 years in the same  
18 house, so I think I have some understanding of the  
19 affordable and difficulty in renting and buying homes  
20 on this island.

21           This is a major problem that this  
22 development is not going to solve. The noise  
23 abatement problem is not going to be solved. The  
24 loss of agricultural land on our island is in  
25 perpetuity, that is not going to change, and only

1 getting undermined more and more.

2           These are real problems that this  
3 development speaks right into the face of and is  
4 never going to resolve any of those mitigations.  
5 That's my testimony and I really appreciate the  
6 opportunity.

7           ACTING CHAIR CABRAL: Some of us came all  
8 the way from Hilo for this hearing as well as from  
9 Maui.

10           THE WITNESS: I didn't realize.

11           ACTING CHAIR CABRAL: Do we have any  
12 questions from Petitioner?

13           MR. MATSUBARA: No questions, Chair.

14           MR. COURSON: No.

15           MS. APUNA: No questions.

16           ACTING CHAIR CABRAL: Commissioners, any  
17 questions? You're good to go.

18           EXECUTIVE OFFICER: Gabriela Taylor,  
19 followed by Larry Graff, followed by Lonnie Sykos.

20           THE WITNESS: Good morning, Commissioners.

21           ACTING CHAIR CABRAL: Can I swear you in?

22           THE WITNESS: Oh, yes.

23           ACTING CHAIR CABRAL: Do you swear that the  
24 testimony you're about to give is the truth?

25           THE WITNESS: Yes.

1           ACTING CHAIR CABRAL: State your name and  
2 address.

3           THE WITNESS: Gabriela Taylor, 1010 B  
4 Kealoha Road, Kapaa.

5           ACTING CHAIR CABRAL: Thank you. Go ahead  
6 and proceed.

7                           GABRIELA TAYLOR

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

11                          DIRECT EXAMINATION

12           THE WITNESS: I would like to address the  
13 traffic impact. I'm against this project for several  
14 reasons. The developer stresses that this Kealia  
15 Mauka site was designated for residential community  
16 development going back to the 1984 General Plan.

17                          And now this is a quote from the developer:

18                          Any associations that the 2018 GPU required  
19 earmarking this area as it changed from previous  
20 drafts are unfounded as a potential for development  
21 was deferred as the County's spacial policy for close  
22 to 35 years.

23                          Well, I say, wake up, developer. This is  
24 2019. Kapaa traffic is totally over the top, and  
25 adding another 300 cars will likely create even more

1 crippling gridlock than we have now.

2 Kuhio Highway would have either a stoplight  
3 or a roundabout at corner of Kealia Road, across from  
4 the main entrance to Kealia Beach. There is only one  
5 entrance/exit to the proposed subdivision.

6 With traffic traveling fast downhill on  
7 Kuhio Highway, this is an unlikely and potentially  
8 dangerous spot for either of these proposals.

9 Please remember that there already is an  
10 approved roundabout slated for Kuhio Highway at  
11 Mailehuna Road, a short distance from the one  
12 proposed for Kealia Mauka.

13 The recent General Plan update has  
14 emphasized the need to restrict development to  
15 Kauai's Urban Center (Lihue) as a measure to decrease  
16 traffic and sprawl in other areas.

17 Kealia Mauka Subdivision, if approved,  
18 would significantly increase the bumper to bumper  
19 traffic we are experiencing now, plus that traffic  
20 generated from two already approved resorts slated to  
21 be built in the Wailua corridor.

22 The proposed highway widening promised by  
23 the State from the bypass to the traffic light at  
24 Kuamoo Road would not even solve the congestion we  
25 have now.



1           Affordable, according to the Final EIS, out  
2           of the 235 lots for sale, only 36 would fall into the  
3           County "affordable" category. The other 199 lots  
4           would be sold at prevailing market prices. This is  
5           made clear in the Final EIS.

6           ACTING CHAIR CABRAL: Please summarize.

7           THE WITNESS: Okay. I would like to say  
8           Kealia Mauka subdivision would have a wastewater  
9           pumping station near Kuhio Highway. This has not  
10          been approved by County Department of Public Works.

11          In addition, the sewer main would need to  
12          cross Kapaa Stream, sewage pipe would be mounted to  
13          the side of the stream bridge before connecting to  
14          existing sewer manhole in front of the fire station  
15          just north of Kapaa Town.

16          Judging by the putrid odor and recent  
17          sewage spill, do we want to risk polluting Kealia  
18          Beach or add more sewage?

19          ACTING CHAIR CABRAL: You need to  
20          summarize.

21          THE WITNESS: I've been here on island for  
22          48 years, and in closing I would like to say, do not  
23          upzone this property for the subdivision Kealia Kai.  
24          Please leave it in Ag zoning.

25          MR. MATSUBARA: No questions.

1 MR. COURSON: No questions.

2 MS. APUNA: No questions.

3 ACTING CHAIR CABRAL: Commissioners, any  
4 questions?

5 EXECUTIVE OFFICER: Larry Graff, Lonnie  
6 Sykos, followed by Rayne Regush.

7 ACTING CHAIR CABRAL: Appreciate you guys  
8 being ready and having your name written out.  
9 Couldn't I swear you in?

10 Do you swear or affirm that the testimony  
11 that you are about to give is the truth?

12 THE WITNESS: I do.

13 ACTING CHAIR CABRAL: State your name and  
14 address.

15 THE WITNESS: Larry Graff, G-R-A-F-F. My  
16 address is 4111 Kilauea Road, Kilauea.

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

21 DIRECT EXAMINATION

22 THE WITNESS: I am the executive director  
23 of Neighborhood Housing Community Development  
24 Corporation doing business as Permanently Affordable  
25 Living Kaua'i.

1           Today we are here to lend our support for  
2 approval of this EIS Petition. We have been in  
3 communication with developer's representatives and we  
4 believe their goals and intent are to provide as many  
5 truly affordable home as possible for the residents  
6 of Kaua'i.

7           Kaua'i needs approximately 5,000 new  
8 affordable homes over the next five years to address  
9 the crisis of severe lack of affordable housing.  
10 This includes all types of affordability, from gap  
11 housing for our teachers and our nurses, to deeply  
12 affordable housing for our farm workers and our  
13 service workers.

14           Accepting this EIS would be a significant  
15 step towards being a part of the solution to Kaua'i's  
16 affordable housing crisis.

17           As I sit here and I listen to my neighbors,  
18 my friends, and my ohana who are in favor and opposed  
19 to this project, we want to say that this project has  
20 opportunities and discretion approval moving forward  
21 for their input and their concerns to be heard.

22           We encourage this. We want to be a part of  
23 it as well.

24           I would like to state also that I am not  
25 paid to be here today. Neighborhood housing,

1 Permanently Affordable Living Kaua'i, is not a part  
2 of this project. We support -- our mission is to  
3 provide homes and sustainable living solutions within  
4 reach, restoring hope for the people of Kaua'i. We  
5 think that there's a great possibility to do that, as  
6 many of the people have testified here today, to buy  
7 a home, to achieve that goal.

8           There was a child here who said that there  
9 was no promise for them to have a home. We want to  
10 create that promise. We want to restore that hope.

11           In addition, we also want to support  
12 ag-based housing. We would like to see an ag-based  
13 housing component in addition to this, to support a  
14 vibrant community, and a vibrant community plan. And  
15 we think that there's an opportunity for this moving  
16 forward. One project will support the others.

17           Therefore, we are pleased to provide our  
18 support for the acceptance of the Final EIS component  
19 of the Kilauea Properties LLC subdivision  
20 application.

21           Please approve not only the current  
22 request, but also look to go beyond that for a bigger  
23 vision that includes more ag-related housing and  
24 comprehensive community development for the people  
25 who live and work on those ag lands. You can make a

1 vital difference in creating a sustainable and  
2 vibrant future for Kaua'i. Mahalo.

3 ACTING CHAIR CABRAL: Thank you. Any  
4 questions from the Petitioner?

5 MR. MATSUBARA: No questions, Chair.

6 MR. COURSON: No questions.

7 MS. APUNA: No questions.

8 ACTING CHAIR CABRAL: Commissioners?  
9 Commissioner Okuda.

10 COMMISSIONER OKUDA: Thank you, Chair.

11 Did you read the EIS, the Final Draft EIS?

12 THE WITNESS: I received an executive  
13 summary from our vice president of it. I did not  
14 read the whole thing.

15 COMMISSIONER OKUDA: I know it's a lot of  
16 pages, and I tried to go through it myself. We all  
17 recognize, I think, that at this stage we're not here  
18 to vote in favor or against the project.

19 The question is whether or not the EIS  
20 meets the requirements of law, which in plain English  
21 is: Does it give us enough information to make a  
22 decision in weighing the advantages and disadvantages  
23 of the project? For example, with respect to  
24 environmental issues. And so that's kind of like  
25 what we're looking at.

1           Did you, in the executive summary or  
2           anything like that, evaluate whether or not you  
3           believe there's enough information in the Final EIS  
4           for us, as a Commission, to make a determination  
5           whether or not this claim of affordability can  
6           actually be implemented under what the developer is  
7           presenting, or there isn't enough information, or you  
8           just don't know?

9           THE WITNESS: Well, I think in the  
10          executive summary this is our issue, so we did  
11          specifically look at that. And then -- so there's  
12          two forms of affordability that we're looking on the  
13          site.

14          One is for the covenant of affordability of  
15          36-units, and that affordability is codified by  
16          County ordinance.

17          In addition, there is this what we call  
18          market rate housing. And then the lot sizes, and the  
19          projections of the developer are that this would be,  
20          market rate would fall somewhere close between  
21          140/160, maybe 180 percent area median income.

22          And two teachers who have been working for  
23          a few years on Kaua'i, as a combined income, fall  
24          into this, what we call, gap housing.

25          So the lot size -- so the developer didn't

1     come in and say we can build multi-million dollar  
2     mansions here.  They're building houses that are  
3     available on a smaller lot.  And the market  
4     assessment of that is that cost of the smaller nature  
5     of the lot sizes will de facto fall into what we call  
6     the gap housing category.

7             Our teachers, nurses, many of our  
8     professional workers here, many of the people in this  
9     room would fall into that income category.

10            COMMISSIONER OKUDA:  Chair, if I can just  
11     ask a fast follow-up question.

12            The reason why I'm asking that question  
13     about detail, sufficient detail in the EIS, as far as  
14     I read what the Applicant or the Petitioner is  
15     submitting, these are to be unimproved lots.

16            So if it is an unimproved lot, oftentimes  
17     you have to first go in for construction financing,  
18     which is oftentimes more difficult, because then you  
19     have to arrange what we call take-out financing after  
20     that.  And the process itself doesn't really lend  
21     sometimes to a teacher or -- and I'm married to a  
22     teacher -- you know, going in and getting these  
23     things.

24            So my question really is, do you believe  
25     there is enough detail so we as a Commission can make

1 an informed decision on whether or not this  
2 representation of affordability is really something  
3 we can rely on in making our decision, or we just  
4 don't have enough information here?

5 THE WITNESS: I have ten years in working  
6 for a local jurisdiction as government employee  
7 addressing these issues, plus-30 years of affordable  
8 housing development.

9 I believe that the issue before the LUC in  
10 dealing with affordability is restricted to the  
11 covenants of affordability required by law.

12 The market rate units will, by their lot  
13 size, theoretically, become available for those  
14 people for the gap housing.

15 The question that you proposed to me was is  
16 that sufficient information for the Land Use  
17 Commission to approve this EIS? And in regards to  
18 the legal requirements of providing affordability the  
19 answer is yes.

20 COMMISSIONER OKUDA: Thank you.

21 ACTING CHAIR CABRAL: We're going to  
22 continue.

23 EXECUTIVE OFFICER: Lonnie Sykos, followed  
24 by Rayne Regush, followed by Bruce Laymon.

25 ACTING CHAIR CABRAL: Can I swear you in?



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

3           THE WITNESS:   Yes.

4           ACTING CHAIR CABRAL:   State your name and  
5           address.

6           THE WITNESS:   May name is Lonnie,  
7           L-O-N-N-I-E, Sykos, S-Y-K-O-S.   310 Kamokila Road,  
8           K-A-M-O-K-I-L-A, Kapaa 96746.

9                               LONNIE SYKOS

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

13                           DIRECT EXAMINATION

14          THE WITNESS:   I have no comment about the  
15          project itself.   I'm here solely to talk about the  
16          EIS.   So I have not read the final version of  
17          it, but I've been following this.

18                 And so through the entire process of this  
19          attempt to create this subdivision, there has never  
20          been adequate disclosure nor detail of how we're  
21          going to mitigate the problems that are clearly  
22          presented within the EIS.

23                 And so in specific is traffic.   And then  
24          there's a whole host of issues in traffic.   The  
25          impact on the surrounding areas, as well as the

1 responsibility of creating the subdivision that only  
2 has a single road of access.

3 So there's like this whole host of issues.  
4 The sewage route. The question of the sewage  
5 treatment plant is right on the ocean. And so if we  
6 have a storm surge, or a tsunami, we are going to  
7 lose the sewage treatment plant that this thing is  
8 supposed to feed into.

9 And so what happens if we lose the sewage  
10 treatment plant? What happens to their sewage?  
11 Where I live, I've got cesspools. That's like the  
12 same problem is the sewage going directly into the  
13 ocean.

14 My point in this being there's no detail of  
15 how we're going to mitigate everything that's going  
16 to occur. And it doesn't adequately address why it  
17 is that our General Plan wants us to promote housing  
18 in Lihue and close to Lihue, and this is the exact  
19 suburban sprawl, I guess, that our General Plan is  
20 trying to lead us away from.

21 ACTING CHAIR CABRAL: Can you summarize,  
22 please?

23 THE WITNESS: And so my summarization, I  
24 think there's inadequate detail of how to address all  
25 of the issues that this subdivision brings up.

1 Thank you.

2 ACTING CHAIR CABRAL: Thank you very much.

3 MR. MATSUBARA: No questions.

4 MR. COURSON: No questions.

5 MS. APUNA: No questions.

6 ACTING CHAIR CABRAL: Commissioners,  
7 questions? Thank you.

8 EXECUTIVE OFFICER: Rayne Regush, followed  
9 by Bruce Laymon, followed by Dan Freund.

10 THE WITNESS: Aloha, Commissioners. My  
11 name is Rayne, R-A-Y-N-E. Last name, Regush,  
12 R-E-G-U-S-H. Address 5591 Kaapuni Road.

13 ACTING CHAIR CABRAL: May I swear you in?

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

16 THE WITNESS: Yes.

17 ACTING CHAIR CABRAL: Thank you.

18 RAYNE REGUSH

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

22 DIRECT EXAMINATION

23 THE WITNESS: Aloha, Commissioners.  
24 Welcome to Kaua'i. This is a rare event to have you  
25 on island. And your task is challenging.

1           And it might appear that this FEIS has  
2           crossed the T's and dotted the I's, but you would be  
3           mistaken.

4           However, I do appreciate the Applicant's  
5           gratitude to us for the extensive testimony that we  
6           provided on the Draft EIS, but I believe this  
7           document still falls short.

8           And as Chairperson of the Wailua-Kapaa  
9           Neighborhood Association, and as the Sierra Club  
10          Executive Committee Co-Chair, and also as a past  
11          Kealia resident for eight years, I urge the  
12          Commission to reject the Final EIS based on the  
13          significant impacts to the Kealia Community, based on  
14          unanswered questions and some inaccurate conclusions.

15          This proposal falls short in its intent to  
16          help satisfy the County's need for housing. It is  
17          not, quote/unquote, affordable, although it claims to  
18          be aimed at local families. These lots will be sold  
19          at market value, and redistricting this Ag land to  
20          Urban District will not provide the affordable  
21          housing we need.

22          So I briefly wanted to also address the  
23          public comment timeframe, and that although this  
24          document may be fulfilling the letter of the law, it  
25          fails to fulfill the real intent of the law. And

1 that is the citizen participation, because the OEQC  
2 just published this FEIS notice just two days before  
3 today's hearing. So that provides little time for  
4 community review and comment.

5 Another concern is the issue related to  
6 lack of transparency. Several things went terribly  
7 wrong with this proposal, and from the outset there  
8 was no buy-in from the residents of historic Kealia  
9 Town Tract. And from 2016 until December 2017  
10 community dialogue was little to none.

11 When the EISPN deadline for comments was  
12 approaching, Kealia residents received a preliminary  
13 letter dated September 6, 2017, which I call a teaser  
14 letter which cited a municipal sewer system which the  
15 county may allow existing residents to tie into, a  
16 community garden, a possible charter school, and  
17 homesites affordable to Kaua'i residents and working  
18 families. But this may not be the case.

19 ACTING CHAIR CABRAL: I need you to  
20 summarize, please.

21 THE WITNESS: May I ask the Commissioners  
22 for an opportunity to come back to conclude our  
23 testimony, because two of our board members were not  
24 able to attend today, and I would read the remaining  
25 four minutes for each of them?

1           ACTING CHAIR CABRAL: At this point we want  
2 to proceed, because I'm trying to be fair and  
3 equitable to everybody. And then we can take that up  
4 possibly -- I don't know what the rules and  
5 regulations are. I would have to ask for that. So  
6 at this point I'm going to say, no, but we will  
7 reconsider.

8           THE WITNESS: Was the two minutes at the  
9 Commission's discretion, or was that in the rules  
10 that testifiers only get two minutes?

11          ACTING CHAIR CABRAL: Right now you've been  
12 over three-and-a-half minutes.

13          THE WITNESS: I'm grateful for that.

14          ACTING CHAIR CABRAL: I don't know that --  
15 part of the rules allow for us to set the time  
16 limits.

17          THE WITNESS: So hopefully if there aren't  
18 too many other testifiers, you might extend us that  
19 courtesy?

20          ACTING CHAIR CABRAL: We can take that  
21 under consideration.

22               Questions?

23          MR. MATSUBARA: No questions.

24          MR. COURSON: No questions.

25          MS. APUNA: No questions.

1 COMMISSIONER CHANG: Madam Chair.

2 If there is written testimony, if you have  
3 written testimony, you can submit that if you are not  
4 able to give full testimony.

5 THE WITNESS: What is the deadline for  
6 submitting testimony? Must it be today?

7 ACTING CHAIR CABRAL: Well, we took it up  
8 until minutes ago. I mean, we were taking --

9 THE WITNESS: I realize that. Is there a  
10 seven-day deadline or --

11 ACTING CHAIR CABRAL: No, because at this  
12 point our clock is ticking to make a decision one way  
13 or the other. But understand, we are not hearing the  
14 actual approval of the Petition at this time. We are  
15 only looking to receive the EIS if it fulfills the  
16 requirements of the law. So our window of discretion  
17 is very narrow.

18 THE WITNESS: So you're missing the next  
19 four minutes of testimony that addresses that.

20 ACTING CHAIR CABRAL: We do need to move  
21 on.

22 EXECUTIVE OFFICER: Bruce Laymon followed  
23 by Dan Freund.

24 THE WITNESS: Bruce Laymon, L-A-Y-M-O-N,  
25 2110 Kaneka Street, Lihue.

1           ACTING CHAIR CABRAL: Do you swear or  
2 affirm that the testimony you are about to give is  
3 the truth?

4           THE WITNESS: Yes.

5           ACTING CHAIR CABRAL: Go ahead.

6                       BRUCE LAYMON

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

10                      DIRECT EXAMINATION

11           THE WITNESS: I would like to first thank  
12 everyone, all the Commissioners for volunteering your  
13 time and coming here. Welcome, Mr. Giovani, and for  
14 volunteering your time to serve our island. I really  
15 appreciate that.

16                      I'm here representing five generations of  
17 my family. We grew up in Kilauea. My mom used to  
18 catch a cattle truck to go to school, and she used to  
19 be there at Kealia. And I went to school right up on  
20 the hill, so I'm really familiar with this area. And  
21 we call it our stomping ground. Hunt and fish and do  
22 a lot of things there.

23                      I know the testimony should be kept to the  
24 EIS, and I think the previous person that gave  
25 testimony said a very important thing that this EIS



1 meets the requirements of the law. And I got a  
2 chance to look at it.

3 But I like to say something, and I'm  
4 sincere about this, that Peter Nolan and his  
5 assistant, I've watched this carefully, and I've been  
6 following this very carefully from the start of this  
7 and agreeing to meet with the administration here.  
8 And that was the previous mayor, Bernard Carvalho.  
9 And then willingness to meet with all the agencies  
10 and the community.

11 I could say that there was a sincere  
12 attempt to achieve a win/win situation. And I've  
13 spoken to Mr. Nolan and Moana, and I believe them  
14 when they say that they're going to provide  
15 something, as you heard many of the local people say  
16 that, something that we can afford.

17 My son testified here earlier. And he  
18 lives at home. And I've another son that lives there  
19 and they're in their 30s. They know they can't  
20 afford the land. My son asked me, pop, are we going  
21 to be able to afford this land?

22 That is the question I posed to the owner.  
23 They said, yes. It's targeted for us. He wants to  
24 see that happen.

25 So I thank you, Mr. Nolan, in taking the

1 time to meet with the community. A lot of young ones  
2 that testified here are the reasons why they're  
3 growing taro because Mr. Nolan is allowing it on his  
4 land, and he doesn't shoo anybody off the land. The  
5 ranchers that are there are local people that live in  
6 the area, still using the land.

7 So I just want to say that I'm in favor of  
8 this, and I hope -- I know this is the early  
9 process -- that you would approve this, so that  
10 there's more time for public testimony and input.  
11 But as the previous person said, this EIS does meet  
12 the requirements of the law, and I had a chance to  
13 look at it, and they address all the concerns  
14 everyone has had, and at least listen to people.

15 So thank you for your time.

16 ACTING CHAIR CABRAL: Thank you very much.  
17 Questions from the Petitioner?

18 MR. MATSUBARA: No questions.

19 MR. COURSON: No questions.

20 MS. APUNA: No questions.

21 ACTING CHAIR CABRAL: Commissioners?

22 COMMISSIONER CHANG: Aloha. You mentioned  
23 community meetings. How many meetings did they have?

24 THE WITNESS: They just had recently, had  
25 one down at Kealia. And I actually met with some of

1 the homeowners that live on the top, because my  
2 brother-in-law, and I have family that live up there.

3 I notice that there was an interest,  
4 because I had my brother-in-law who lives on -- they  
5 own land there. Asked me if their son could be able  
6 to afford that. And I said, yes, they would. The  
7 reason I know that was they took time to meet with  
8 me. And he's taken the time to meet with a lot of  
9 the local people there.

10 One of the earlier testimony here was from  
11 a rancher. There's a Kealia roping arena there, and  
12 the kids get a chance to go to rope there, and high  
13 school rodeo is there. Mr. Nolan is encouraging that  
14 and allowing that.

15 So he's met with the roping community down  
16 there. As far as the amount of meetings that he's  
17 held, I'm not fully aware of that, but I know there  
18 has been.

19 COMMISSIONER CHANG: When you say like the  
20 roping or the ranching, current ranching, when the  
21 landowner bought the property, were those activities  
22 on the property?

23 THE WITNESS: Yes.

24 COMMISSIONER CHANG: As well as the taro?

25 THE WITNESS: Yes.

1           COMMISSIONER CHANG: Do you know whether  
2 this project, what he's proposing to do, would it  
3 impact the existing roping activities and the taro?

4           THE WITNESS: To be honest, I believe his  
5 words when he said that it's not going to impact,  
6 because it's in an area that is pasture right now,  
7 kind of an area that the public doesn't go there.  
8 You don't see people go there. Mainly they're  
9 walking in the road, and even if people hunt, it's in  
10 the other areas, because close to the highway.

11           I actually like where they're putting it  
12 because the majority of the property will be left in  
13 open area. And so it's not going to impact any of  
14 the activities.

15           In fact, Mr. Nolan has said that he wants  
16 to improve on the roping arena and perhaps get it to  
17 a state of the art, because he wants to promote that  
18 kind of activity, keiki, high school rodeo. But they  
19 get nothing, no funds for that. So my brother-in-law  
20 who testified earlier, he runs the arena there and  
21 allows all the kids to come here.

22           COMMISSIONER CHANG: Thank you so much. I  
23 appreciate your testimony.

24           ACTING CHAIR CABRAL: Thank you. We're  
25 going to go ahead and proceed with Dan, because he's

1 lined up. Then we are going to take a couple minute  
2 break, because our court reporter needs a break.

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

5 THE WITNESS: I do.

6 ACTING CHAIR CABRAL: State your name and  
7 address.

8 THE WITNESS: Dan Freund, F-R-E-U-N-D, 5609  
9 A Honua, H-O-N-U-A, Road in Kapaa.

10 ACTING CHAIR CABRAL: Thank you. Proceed.

11 DAN FREUND

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

15 DIRECT EXAMINATION

16 THE WITNESS: Thank you.

17 I'm a homeowner, since the question has  
18 been asked. And I'm going to refer to a couple of  
19 exhibits attached to the written document I passed  
20 off today with yellow highlighting.

21 I'll do an off-topic comment that I'm in  
22 favor of more housing for Kaua'i. We need it, but we  
23 need it in a smart place, not just anyplace. And the  
24 problem, as you heard today from many other speakers,  
25 is that Kapaa-Wailua corridor where cars simply do

1 not move during the business day, make it difficult  
2 for emergency vehicles, unpleasant for residents and  
3 visitors and the source of CO<sub>2</sub> emissions, which I  
4 didn't read the whole EIS, but I didn't think it  
5 addressed additional CO<sub>2</sub> from automobiles that are  
6 going to be stuck on that corridor, even more so with  
7 the construction of this project where it is on the  
8 north side of that corridor instead of the south  
9 side, closer to Lihue.

10 I heard someone, a couple speakers before  
11 talk about the lack of specificity, and I want to  
12 point to one in particular in the limited time I  
13 have.

14 The document says that, proposed roadway  
15 projects, such as the KAPAA BYPASS EXTENSION, all  
16 caps, will provide some mitigation.

17 So I was wondering about this proposed  
18 Kapaa bypass extension. The EIS doesn't say who's  
19 proposing it. Doesn't say where it will run.  
20 Doesn't tell us when it will be built.

21 So I went to Google, and you'll see in my  
22 document the results of my searches. There were two  
23 unique hits, one is for the bypass that's on the  
24 south side of the project, and was built a decade  
25 ago; and the other one is for the EIS statement.

1           So this statement is not sufficient to the  
2 extent that it relies on a bypass extension that  
3 evidently the drafter of the EIS drempt up. And I  
4 would say at least for that reason, in addition to  
5 the lack of information about CO<sub>2</sub> mitigation in  
6 addition to, I'll throw in there as well, we are  
7 going to build a berme or a fence. We don't know  
8 which one. We're not going to tell you what quality  
9 fence in terms of the visual ability.

10           Those are just three of the items that make  
11 this insufficient.

12           Thank you for your time.

13           MR. MATSUBARA: No questions.

14           MR. COURSON: No questions.

15           MS. APUNA: No questions.

16           ACTING CHAIR CABRAL: Commissioners, any  
17 questions?

18           We're going to take a five-minute break and  
19 come back and try and finish the next about 12 or 15  
20 people who have signed up to testify. At that point  
21 we will take lunch break.

22           (Recess taken.)

23           ACTING CHAIR CABRAL: Back in session at  
24 12:30.

25           So I'm going to take Lokelani. Can I swear

1 you in?

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

4 THE WITNESS: Yes.

5 ACTING CHAIR CABRAL: State your name and  
6 address.

7 THE WITNESS: Lokelani Mahuiki, and I live  
8 on 5032 Kaiulua Road.

9 ACTING CHAIR CABRAL: Go ahead.

10 LOKELANI MAHUIKI

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

14 DIRECT EXAMINATION

15 THE WITNESS: Aloha everyone. My name is  
16 Lokelani Mahuiki, and I'll be speaking on behalf of  
17 myself and my coworker Torilyn Kaulan Farias-Asai who  
18 couldn't make it with us this morning.

19 After we carefully read through the EIS and  
20 did some research on our own, it wasn't long before  
21 we found an issue in regards to the land title for  
22 the Petition Area.

23 We have provided you with an attached  
24 timeline of the known landowners and the title  
25 exchanges, as well as the information that we felt



1 was important from 1848 through 1933 when Makee  
2 Plantation was completely taken over by Lihue  
3 Plantation.

4 Page one through one, paragraph three of  
5 the EIS only addresses as far as back as Lihue  
6 Plantation having the title or deeds to this land.  
7 However, if you start at the beginning of our  
8 timeline, you will see Miriam Kekauonohi was granted  
9 the land for the Kealia Ahupua'a in 1848. She passed  
10 away in 1851. Her husband Levi Haalelea gets married  
11 to Andarderla in 1858 which extinguishes any interest  
12 in Kakauonohi's land.

13 On or about 1876 to 1877 there was a  
14 reference to Ernest Krul purchasing the land in  
15 Kealia for \$200 from Kalakaua, however, it is unknown  
16 where or when Kalakaua obtained the land and from  
17 who.

18 If there is no clear exchange of the land  
19 title or deed is the land really Kealia LLC's to sell  
20 or develop?

21 Nowadays everyone just goes as far back as  
22 the plantation and forgets to analyze everything that  
23 comes before that because no one wants to do the  
24 work. We feel that this is something that needs to  
25 be looked into more and included in this EIS because

1 there are missing pieces in the story of this place.

2 With that being said, we ask that you do  
3 not approve this Final Environmental Impact Statement  
4 until this has been cleared up, after all we are the  
5 future of Hawai'i, so it will affect us in making a  
6 decision to make purchases or not.

7 ACTING CHAIR CABRAL: Thank you very much.  
8 Petitioner, questions?

9 MR. MATSUBARA: No questions.

10 MR. COURSON: No questions.

11 MS. APUNA: No questions.

12 ACTING CHAIR CABRAL: Commissioners?  
13 Commissioner Chang.

14 COMMISSIONER CHANG: Aloha, Lokelani.

15 Did you have a chance to look at their  
16 title report?

17 THE WITNESS: Yes. But it was only talking  
18 about Lihue Plantation and nothing before it.

19 COMMISSIONER CHANG: Are you like a  
20 genealogist? Do you do work doing genealogy?

21 THE WITNESS: No, I just graduated from  
22 high school.

23 COMMISSIONER CHANG: Thank you very much.

24 ACTING CHAIR CABRAL: Thank you.

25 EXECUTIVE OFFICER: Greg Bataluco, followed

1 by Bree Boerner, followed by Alfred Alesna, followed  
2 by Rebecca --

3 UNKNOWN SPEAKER: Rebecca is not here.

4 EXECUTIVE OFFICER: Followed by Clayton  
5 Arinaga.

6 ACTING CHAIR CABRAL: This is Bree.

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

9 THE WITNESS: Yes.

10 ACTING CHAIR CABRAL: State your name and  
11 address.

12 THE WITNESS: My name is Bree Boerner, and  
13 I live 4646 Ka'ao Road in Kealia.

14 BREE BOERNER

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

18 DIRECT EXAMINATION

19 THE WITNESS: My house is on the corner,  
20 like the very first house. So if you add in the  
21 Kealia Road is the only entrance to this subdivision,  
22 I'm going to be breathing all of that traffic.

23 And it already like now the paved, it  
24 already attracts a ton of attention because of  
25 farmers market, they don't know where they're going.

1 They come up, turn around in my driveway. So it's  
2 useless traffic, along with you're going to add in  
3 five to 700 more cars.

4 So it's kind of stressful to think that,  
5 like, my house is consistently like dusty because of  
6 constant cars coming up and down.

7 And there is no time limit. People are  
8 going to leave at 6:00 and come back at 3:00 or 4:00.  
9 It's going to be traffic nonstop, so noise included.

10 We already have an issue like people living  
11 and using the monument road up Kealia Road further  
12 from our housing district, which brings in like drug  
13 addicts, homeless people.

14 So that attracts more attention in the  
15 negative direction, like as far as environmentally  
16 too, because they just drop cars off. They drop off  
17 trash. They drop off things that they don't want.  
18 Or they move into the bushes and they don't take  
19 anything out of the bushes, and it's like left either  
20 to the people who develop or people who maintain like  
21 County or State maintaining. And all they do is mow  
22 the yard.

23 They don't take out trash. They don't take  
24 out cars. So there's just more trash, negative  
25 behavior, and also like with more like drug activity.

1 That's just more people.

2 And in a park where the park is going to be  
3 behind our house, like who's to say that people  
4 aren't partying at the park so there is noise,  
5 constant noise. And because we are going to have  
6 noise barrier from the highway, what about all of us  
7 in the neighborhood who have the constant noise of  
8 cars and loud radios and people yelling, you know?  
9 Just -- to me it doesn't make sense to add in more  
10 houses.

11 ACTING CHAIR CABRAL: Can you summarize,  
12 please?

13 THE WITNESS: I feel like it's not a good  
14 decision. I don't think environmentally it's a good  
15 decision. And with dirt and dust and trash, just  
16 more negative trash. I don't agree with it.

17 ACTING CHAIR CABRAL: Thank you very much.  
18 Any questions from the Petitioner?

19 MR. MATSUBARA: No questions.

20 MR. COURSON: No questions.

21 MS. APUNA: No questions.

22 ACTING CHAIR CABRAL: Commissioners? Thank  
23 you very much.

24 EXECUTIVE OFFICER: Alfred Alesna.

25 ACTING CHAIR CABRAL: Do you swear or

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

3 THE WITNESS: Yes.

4 ACTING CHAIR CABRAL: State your name and  
5 your address.

6 THE WITNESS: My name is Alfred Alesna. I  
7 live at 4646 Ka'ao Road, Kealia.

8 ALFRED ALESNA

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

12 DIRECT EXAMINATION

13 THE WITNESS: I never get the chance to  
14 read everything, I mean nothing at all, because I  
15 never had any letters, anything. But I just want to  
16 say my peace that I'm for the housing and all that.

17 But all these guys who's testified about  
18 it's good and all that, but they don't go through  
19 what I have to go through. I have to fight off  
20 druggies that come to my house. I have ladies that  
21 crying in my yard. Then I got to go find whoever  
22 that lady belong to.

23 I get people coming into my house, because  
24 people fighting each other and they running into my  
25 house for get shelter, because I live right at the

1 corner. And that's the kind of stuff I going  
2 through.

3 Now, if you put 200-something more houses,  
4 you can imagine what I got to go through because the  
5 cops cannot handle them up there already. In their  
6 property at the Spaulding Monument, they're burning  
7 rubber, they're doing donuts. Cops cannot even  
8 control that.

9 You go alongside the road, going up  
10 monument, you get cars parked doing drug activity.

11 Now, my house is at the corner where that  
12 road you guys talk, where it's going go through.  
13 They're going to come to my house, and I got to  
14 protect my family because -- and they are high on  
15 drugs. And I'm one small guy. I can't fight one big  
16 guy like that. I going to have to shoot it.

17 But anyway, another thing too, the water  
18 pressure. I'm at the corner house, my water pressure  
19 is under the regular pressure. I cannot even run my  
20 tankless water heater. I talked to Aqua Engineers,  
21 they told me that they trying to get the County to  
22 take over the water tank, but the County no like take  
23 over the water tank because of the -- I don't know if  
24 you call the regulator that does the pressure.

25 So I have to go return my tank and go get

1 one regular tank heater, because I couldn't put that,  
2 because when you turn on the hot water and you put on  
3 the cold water, the, whatchamacallit, the thing that  
4 ignites, the pilot, it runs on pressure, and it shuts  
5 down.

6 So if you guys going to tie into water  
7 tank, it's not going to work. Already if I washing  
8 clothes, I cannot jump in the shower. You know, and  
9 it's just my da kine. And I never did get any notice  
10 or whatever. So I never read nothing.

11 You can ask me questions. I just tell you  
12 what I think.

13 ACTING CHAIR CABRAL: Thank you.

14 Are you neighbors with the prior testifier?

15 THE WITNESS: Yeah, that's my wife.  
16 Really, really close.

17 ACTING CHAIR CABRAL: Any questions from  
18 the Petitioner?

19 MR. MATSUBARA: No questions.

20 MR. COURSON: No questions.

21 MS. APUNA: No questions.

22 ACTING CHAIR CABRAL: Commissioners? Thank  
23 you very much.

24 EXECUTIVE OFFICER: Clayton Arinaga,  
25 followed by Lianne Kobayashi, followed by Albert



1 Banach.

2 ACTING CHAIR CABRAL: Do you swear or  
3 affirm that the testimony you're about to give is the  
4 truth?

5 THE WITNESS: I do.

6 ACTING CHAIR CABRAL: State your name and  
7 address.

8 THE WITNESS: Clayton Arinaga, 4627 Ka'ao  
9 Road, 96751.

10 ACTING CHAIR CABRAL: Thank you.

11 CLAYTON ARINAGA

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

15 DIRECT EXAMINATION

16 THE WITNESS: Let me preface by first  
17 saying thank you for all in attendance. It's been a  
18 long tedious process. I just want to add that I'll  
19 try to focus specifically on the EIS statement and  
20 not my own personal opinions about anything else.

21 I think there's some shortfalls and  
22 shortcomings on this EIS statement as it relates to  
23 the traffic description, specifically the roadway.

24 I know there is remark or some kind of  
25 reference to Mr. Kidani saying that it's going to

1 cause somewhere in the neighborhood of \$10 million to  
2 do the projected improvement and necessary  
3 requirements to make the roadway the minimum that  
4 they describe, which is ten-foot roadway, shoulders,  
5 plus another access on the side.

6 What it fails to do though is -- and I  
7 asked the County last year -- if this is the only  
8 roadway access into our area, why are you allowing  
9 all of this traffic to come up Kealia Road? More  
10 specifically, because the culvert or the bridge on  
11 the bottom right by where Adam has his farm, there's  
12 no weight restrictions or limitations or designation.  
13 And every bridge on this island should have something  
14 on it.

15 We contacted the County Public Works  
16 Engineering, asked them if they could provide us with  
17 some data on that and on the three culverts that  
18 intersect Kealia Road, they don't have any records of  
19 that.

20 So my question to the developer would be:  
21 How can you allow the 75,000-pound truck, which is a  
22 fully loaded cement truck, to travel over Kealia Road  
23 if you want to get to your development? I don't  
24 think that's a possibility, especially at the bridge.

25 The second thing is, we brought up to the

1 presenters prior meeting them, that we had -- or I  
2 had concerns about the Kumu Camp area, specifically  
3 that it harbored or storage of hazardous chemicals by  
4 the plantation in the past.

5 I know it was the site where they stored  
6 their fertilizers, Round Up and the rest of the  
7 things that they were using. And I know the fields  
8 in that area where they plan to have their  
9 subdivision was sprayed regularly by the plantation.

10 So my concern would be, although they said  
11 that they tested the soil, there is no reference here  
12 that says it's free from pesticides or any other kind  
13 of chemicals.

14 ACTING CHAIR CABRAL: Can I have you  
15 summarize?

16 THE WITNESS: Okay.

17 The last point would be this recreational  
18 area and detention basin that they want to utilize  
19 4.3 acres, adjacent to the Rosa's property down  
20 there. It's going to catch all the pollutants that's  
21 in the soil above them and transfer it all the way  
22 down there.

23 So my question, it's got to be addressed  
24 now before anything is developed up there.

25 So for those reasons specifically I would

1 reject this EIS because it doesn't go into full  
2 details to make a decision of this magnitude.

3 MR. MATSUBARA: No questions.

4 MR. COURSON: No questions.

5 MS. APUNA: No questions.

6 ACTING CHAIR CABRAL: Commissioners,  
7 questions?

8 EXECUTIVE OFFICER: Lianne Kobayashi  
9 followed by Albert Banac.

10 ACTING CHAIR CABRAL: Do you swear or  
11 affirm that the testimony you're about to give is the  
12 truth?

13 THE WITNESS: I do, yes.

14 ACTING CHAIR CABRAL: State your name and  
15 address.

16 THE WITNESS: Lianne Kobayashi. I live at  
17 4626 Ka'ao Road in Kealia.

18 LIANNE KOBAYASHI  
19 Was called as a witness by and on behalf of the  
20 Public, was sworn to tell the truth, was examined and  
21 testified as follow:

22 DIRECT EXAMINATION

23 THE WITNESS: Thank you for all of your  
24 time. I know everybody's time is precious. Thank  
25 you very much.

1           I would like to read, it's -- between 2016  
2           and 2018 the General Plan Update was underway.  
3           During the same time, the County was negotiating with  
4           Kealia Mauka Homesites. But according to some of the  
5           most diligent civil-minded residents who  
6           painstakingly participated in the update process, the  
7           Kealia project was never mentioned at public  
8           presentations, or at County Council hearing on the  
9           General Plan update.

10           The fact that Kealia Mauka was omitted from  
11           the General Plan demonstrates a lack of transparency.  
12           And the project was not grounded in a community-based  
13           process from its inception.

14           Had Kealia residents like us been afforded  
15           petition opportunities for early input, the project  
16           might have garnered some support. It might have been  
17           designed with appropriate density consistent with the  
18           Kealia contract neighborhood to preserve the rural  
19           ambiance and community character.

20           Also the project is inconsistent with the  
21           General Plan recommendation. The 2018 General Plan  
22           Update has no references or narrative about expanding  
23           density adjacent to the Kealia contract.

24           General Plan 2000 calls for new growth in  
25           and around the Waipouli-Kapaa Urban Center as the

1 lands in Anahola, not in rural Kealia.

2 The plan clearly states residential  
3 expansion in outlying areas designated agriculture  
4 is specifically discouraged.

5 Appendix A in the FEIS, which is the County  
6 Planning letter, explains that Kealia was earmarked  
7 for greater residential community development in the  
8 1984 General Plan.

9 This is unsubstantiated, and basically  
10 interpretation, no citations or references are  
11 provided as proof. Similarly, assertions in Appendix  
12 A that residential expansion mauka is spatially  
13 consistent for the past 35 years is also  
14 questionable.

15 Here is the 1982 General Plan Update.

16 In Chapter 3 of the 1982 plan titled Growth  
17 Resource Management Parameters, there is a ten-year  
18 growth allocation by community chart. And Kealia is  
19 omitted from that of the 20 communities.

20 I would like to address urban sprawl and  
21 impact of the FEIS alternatives.

22 Increasing density in this rural community  
23 miles away from the core would be considered sprawl.  
24 The County has not kept up with needed infrastructure  
25 improvements, and therefore, it is critical to

1 regulate the space and development in the east Kaua'i  
2 corridor.

3 To be clear, we support affordable housing  
4 efforts, but this proposal is not within the FEIS.  
5 Please assess this FEIS by its negative cumulative  
6 affect. The location of development; the timing of  
7 development; and the amount of development are all  
8 inappropriate.

9 ACTING CHAIR CABRAL: Please summarize.

10 THE WITNESS: In conclusion, we urge the  
11 Commission to reject the FEIS. There are still  
12 significant unanswered questions. This project  
13 exemplifies sprawl which requires commuting to jobs,  
14 schools, shopping and other needs through a congested  
15 traffic corridor.

16 The General Plan recommends Urban infill  
17 placing higher density development near jobs and  
18 services as a preferred means to achieving housing  
19 solutions, not upzoning ag land.

20 Granting this entitlement to redistrict  
21 this land will allow the owner to (indecipherable) --  
22 2000 agricultural acres with no benefits to the  
23 existing Kealia residents such as us.

24 Residents will suffer from this impact of  
25 high density proposals. Thank you.

1           ACTING CHAIR CABRAL:   Petitioner, any  
2 questions?

3           MR. MATSUBARA:   No questions.

4           MR. COURSON:   No questions.

5           MS. APUNA:   No questions.

6           ACTING CHAIR CABRAL:   Commissioners?  
7 Commissioner Chang.

8           COMMISSIONER CHANG:   Thank you, Ms.  
9 Kobayashi.

10                  When was the first time you heard about  
11 this Kealia Mauka plan?

12           THE WITNESS:   It was last year, 2018, when  
13 they came out with this first meeting, when they  
14 first came out with it.  They're saying, okay, we'll  
15 invite your community to come in, since it's -- it  
16 was almost kind of like an afterthought that they did  
17 it.  Since you are a part of this program, we'll  
18 invite you guys to come and see what we're doing.

19                  It wasn't, okay, we will have a public  
20 meeting to say, okay, you guys can come in, and you  
21 guys can give your input.  No, it wasn't that way.

22           COMMISSIONER CHANG:   Were you aware -- was  
23 that the only meeting that you know that they held?

24           THE WITNESS:   They held the second meeting  
25 which was recently.  That was the only two meetings.



1 COMMISSIONER CHANG: So one in 2018?

2 THE WITNESS: And just last week Saturday.

3 COMMISSIONER CHANG: When does the County  
4 hold their General Plan meetings?

5 THE WITNESS: I'm not sure.

6 COMMISSIONER CHANG: I'll ask the County.  
7 Thank you.

8 ACTING CHAIR CABRAL: Commissioner Okuda.

9 COMMISSIONER OKUDA: Ms. Kobayashi, are you  
10 related to Joe Kobayashi?

11 THE WITNESS: No, I'm not.

12 COMMISSIONER OKUDA: Okay. I just wanted  
13 to see -- okay, thank you.

14 EXECUTIVE OFFICER: Albert Banac, Mark  
15 Baldwin, Anne Walton, Andy Bushnell.

16 ACTING CHAIR CABRAL: Do you swear or  
17 affirm that the testimony you're about to give is the  
18 truth?

19 THE WITNESS: Yes. My name is Albert  
20 Banac, B-A-N-A-C. I live at 5790 Kaehulua Road,  
21 Kapaa.

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

## DIRECT EXAMINATION

THE WITNESS: I strongly agree with this proceedings going on with this building and everything like that.

I now have three new grandchildren, three-year old, two-year old, and two-week old, just born.

My daughter lives with me with her boyfriend. He's a local boy. We have been here about 30 years. Affordable housing is something that I would like to be able to get for them, since I don't think I'm going to be here that much longer now that I'm getting older and stuff like that.

It's really hard on Kaua'i. I've been at this house for 16 years, and my landlord just gave me a notice saying that I have to find another place, and it's really hard right now. I've got kids and a dog. Affordable housing -- this one being able to afford it on everything that I have and stuff like that.

The gentleman was talking about drugs and people going up there and doing that. If you have neighborhood watch, you have people there. They're not going to go there. They're going to go to a place where there is hardly anybody, if they have

1 nowhere else to go. But if you have people traveling  
2 and being there, going to stop them from going there.

3 If they come by my house, I'm going to say  
4 you can't do that here. So I can't understand why  
5 you would want something like this on Kaua'i.

6 I mean, we are trying to stop from  
7 developing, but you have to have affordable housing.

8 ACTING CHAIR CABRAL: Thank you. Questions  
9 from the Petitioner?

10 MR. MATSUBARA: No questions.

11 MR. COURSON: No questions.

12 MS. APUNA: No questions.

13 ACTING CHAIR CABRAL: Commissioners? Thank  
14 you.

15 EXECUTIVE OFFICER: Mark Baldwin, Anne  
16 Walton and Andy Bushnell.

17 ACTING CHAIR CABRAL: Do you swear or  
18 affirm that the testimony you're about to give is the  
19 truth?

20 THE WITNESS: Yes.

21 ACTING CHAIR CABRAL: State your name and  
22 address.

23 THE WITNESS: Anne Walton, A-N-N-E,  
24 W-A-L-T-O-N. 444 A Puuopae Road, P-U-U-O-P-A-E,  
25 Kapaa.

1 ANNE WALTON

2 Was called as a witness by and on behalf of the  
3 Public, was sworn to tell the truth, was examined and  
4 testified as follows:

5 DIRECT EXAMINATION

6 THE WITNESS: Welcome to all of you to  
7 Kaua'i. Thank you for coming here today.

8 I'm going to speak specifically to the  
9 FEIS, and the first is Kaua'i's 2018 General Plan did  
10 not set the stage for Kealia Mauka Homesites. I'm  
11 someone who closely followed the Kaua'i General Plan  
12 Update process for a two-and-a-half period, including  
13 attending every public meeting, Council Meeting, and  
14 Planning Commission meeting.

15 I can honestly say that I don't remember  
16 any mention of Kealia Mauka nor the intention to  
17 rezone and develop this area.

18 I have attached to my testimony two pieces  
19 of evidence from the General Plan to substantiate  
20 this. You can see in your handout. First of all,  
21 Table 2-2, major designation changes by planning  
22 district.

23 And then another on the goals and  
24 priorities for East Kaua'i. There's no mention of  
25 this area at all in either of those pieces.

1           These are components that the General Plan  
2 even mentions the possibility. It is extremely  
3 disingenuous for the former Planning Director to  
4 refer to the 1984 General Plan as a placeholder for  
5 the upzoning of this area, particularly when that  
6 placeholder was not carried over into the 2018  
7 General Plan.

8           Additionally, what was stated in 1984, 2000  
9 or any other time in the past is not just by  
10 association necessarily relevant in 2019.

11           Please do not use this as a justification  
12 for moving forward with the proposed boundary  
13 amendment as it has been misrepresented.

14           Point No. 2. Determining the profile  
15 potential residents of Kealia Mauka. The FEIS states  
16 that the majority of future Kealia Mauka residents  
17 are expected to be current residents, therefore,  
18 there will be a negligible increase in County  
19 population. Close quote.

20           Additionally, it is stated an estimated 700  
21 persons are expected to reside in Kealia Mauka  
22 subdivision after full buildout and occupancy. Of  
23 these, 658 are currently living on Kaua'i, and 42  
24 will be nonresident second home buyers, close quote.

25           This is a pretty bold statement without any

1 clear rational for the numbers. Even if that is the  
2 desired situation, how can you put controls on who  
3 can purchase land and who can't?

4 Also keep in mind that the current  
5 residential sales trend, as stated in our 2018  
6 General Plan, is that 40 percent of residential sales  
7 on this island are either to mainlanders or  
8 foreigners. The sales pattern has also led to a very  
9 high vacancy rate, meaning a house that is largely  
10 unoccupied for a good portion of the year, as in a  
11 second home or investment property, only further  
12 contributing to our affordable housing crisis.

13 Also concerning future residents, the  
14 Kealia Mauka Homesites developer wants to develop 234  
15 residential lots with 36 lots priced as workforce  
16 housing. This would then satisfy requirements of  
17 Ordinance 860.

18 As stated in the FEIS, quote: "The final  
19 requirement will identify the number of lots and the  
20 price levels for the workforce housing requirements  
21 and will be included in the subdivision or zoning  
22 conditions. Lot prices will depend on federally  
23 established income levels at the time." Close  
24 quotes.

25 There are many variables that apply to this

1 equation, and they could very well change over the  
2 7-year buildout timeframe. This includes home buyers  
3 on income often based on multiple jobs which is not  
4 accounted for by the feds, interest rates, cost of  
5 living rates in the amount of a down payment.

6 ACTING CHAIR CABRAL: Please summarize.

7 THE WITNESS: Yes. So this will not meet  
8 the needs of workforce housing.

9 The other -- my other two concerns are  
10 mitigation of traffic and the cumulative impact study  
11 did not account for the fact that there are actually  
12 right now a slated additional 1356 single homes and  
13 872 resort units for the Wailua-Kapaa corridor.

14 And then I also speak to the wastewater and  
15 infrastructure issues and how it's misguided and what  
16 they're specifically analyzing and addressing there.

17 So final analysis is that the major  
18 components of the Kealia Mauka FEIS analysis have  
19 been generalized and do not provide sufficient  
20 justification to warrant the upzoning 53 acres of  
21 agricultural land to residential.

22 Please ask the consultants to complete the  
23 analysis in the areas identified above before making  
24 decision on the most suitable alternative.

25 Thank you for taking time.

1           ACTING CHAIR CABRAL: Thank you.

2           Petitioner, questions?

3           MR. MATSUBARA: No.

4           MR. COURSON: No.

5           MS. APUNA: No.

6           ACTING CHAIR CABRAL: Commissioners, any  
7           comments?

8           Andy Bushnell. That would be our last  
9           testifier.

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

12          THE WITNESS: Yes.

13          My name is Andy Bushnell, and I live at  
14          6510 Olohena Road, Kapaa.

15          ACTING CHAIR CABRAL: Please proceed.

16                   ANDY BUSHNELL

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

20                   DIRECT EXAMINATION

21          THE WITNESS: I wanted to talk a little bit  
22          more about traffic. I think that the EIS is  
23          insufficient in dealing with the broader picture of  
24          traffic. It deals with the traffic in the vicinity  
25          of the development. It mentions the extension of the



1 bypass road, which is really a very minor change  
2 ultimately, but it doesn't deal with the potential  
3 for huge numbers of additional cars being on the road  
4 because of the addition of new resort development in  
5 Waipouli where there are presently two hotels in the  
6 process of -- well, they're not being built yet,  
7 because apparently, although they were on the way,  
8 the developers ran into funding issues. I don't know  
9 for sure they did, but they stopped and we assumed it  
10 was because they had problems with funding.

11           And there was also the Coco Palms  
12 Development. There also is another development, the  
13 name of which I have forgotten. But it's located in  
14 the vicinity of the Kapaa middle school, and it's a  
15 substantial residential development that is likely to  
16 come before you folks within the next few months, or  
17 at least within the next year or so. And it is  
18 located probably in a better place relative to Kapaa  
19 because it's in walking distance of the town.

20           I won't say it's necessarily a better  
21 development, because the prices may well be more  
22 expensive than the ones that are in this, in the one  
23 that we're considering today.

24           But the result of all of that additional  
25 development means that traffic in Kapaa is going to

1 get tremendously worse. And even if some of that in  
2 Waipouli, at the other end of Kapaa, if you get on  
3 that road in the morning and come into town, you  
4 might -- well, as I come down from Wailua Homesteads,  
5 I'm sometimes waiting a half a mile back from the  
6 highway, finally get on the highway and say, okay, I  
7 can zip into Lihue. And I head on the highway, past  
8 the golf course, and then I come bam, stop, because  
9 the cars all backing up from Lihue or from Hanamaulu.

10 And we did talk -- we had Ray McCormick of  
11 Department of Transportation come to speak to our  
12 Wailua-Kapaa Neighborhood Association several years  
13 ago.

14 First of all he said we were going to have  
15 the beginning of widening the highway past Coco Palms  
16 within the year. We haven't gotten it yet. That was  
17 like three years or four years ago.

18 ACTING CHAIR CABRAL: Please summarize.

19 THE WITNESS: I'm almost finished here.

20 The point is that they said that any  
21 significant way to take care of the traffic would be  
22 to build a major bypass. We said, well, when is that  
23 likely to happen? And they said never. They didn't  
24 say quite never. They said it's going to cost at a  
25 minimum a 100-and-something-million dollars.

1           So you can't tell it's happening any time  
2 soon. I don't expect it in my lifetime.

3           MR. MATSUBARA: No questions.

4           MR. COURSON: No questions.

5           MS. APUNA: No.

6           ACTING CHAIR CABRAL: Commissioners, any  
7 questions?

8           Do we have anyone else, in an effort to be  
9 open? Anyone that has not testified that wants to  
10 testify? At this point we are concluding our area of  
11 public testimony, and I need to look if we are going  
12 to try to take any kind of a lunch break or power  
13 through.

14           Mr. Executive Director, we are going to  
15 take a break for 45 minutes. Be back here at 1:50.

16           COMMISSIONER CHANG: Does that mean -- are  
17 we going to conclude today? Or are we going to --

18           ACTING CHAIR CABRAL: Can I ask the  
19 Petitioner, how long is your presentation planned  
20 for?

21           MR. MATSUBARA: Approximately two hours.

22           ACTING CHAIR CABRAL: So we come back at --

23           COMMISSIONER WONG: Madam Chair, I think  
24 our flights are at 4:00 something, so we should be at  
25 the airport by 3:00.

1 COMMISSIONER CHANG: Can we push through?

2 COMMISSIONER WONG: I cannot. I have other  
3 meetings.

4 COMMISSIONER OHIGASHI: I'll be gone.

5 ACTING CHAIR CABRAL: We are on the record  
6 for discussion.

7 MR. MATSUBARA: We will try to reduce --

8 EXECUTIVE OFFICER: Madam Chair, after  
9 consultation with the Commissioners and with our  
10 Chief Clerk, this matter, the time period for making  
11 this matter is August 12. We have tentatively  
12 discussed holding an additional meeting on August 8th  
13 to complete this matter.

14 COMMISSIONER WONG: Madam Chair, can I make  
15 a statement?

16 For the people out there, because of this  
17 issue, we heard all the public testimony at this  
18 point in time. Again, I said, if we leave this and  
19 don't make a decision and don't come back, it's  
20 automatically accepted. Because of all the public  
21 testimonies, a lot of the Commissioners have  
22 questions for the Petitioner, and if we don't do it  
23 in a very correct way, again, we won't be able to  
24 vote on this.

25 So I would like to come back and have a

1 discussion on this and hear the Petitioner and  
2 question them on the EIS. So if we don't do that,  
3 and come back, then it's going to be automatically  
4 approved.

5 But we heard your statements and we would  
6 like to ask them questions.

7 EXECUTIVE OFFICER: If I may, we have one  
8 witness who has been subpoenaed for today, so a  
9 suggestion that we break for lunch, come back, hear  
10 testimony from Mr. Dahilig, who is subpoenaed to  
11 testify today, and then see where we're at.

12 COMMISSIONER CHANG: I guess in all due  
13 respect to everybody that is here, that rather than  
14 taking a lunch break, can't we just continue to go as  
15 long as we can knowing we are going to lose quorum?  
16 We're going to have to leave at 3:00 o'clock, that's  
17 2:00 o'clock and one more hour. I just think we  
18 should respect the people who are here and go as far  
19 as we can.

20 ACTING CHAIR CABRAL: Our court reporter  
21 needs a break at some point in time because she has  
22 to be thinking all the time, so what we would need to  
23 do -- I don't know if there's food close by or  
24 anything. I'm on a diet and not eating, so water and  
25 coffee are good, so I'm okay.

1           What is the pleasure of my fellow  
2 Commissioners? I'm fine to keep going. Jean, how  
3 much of a break do you need?

4           COURT REPORTER: You know, I can just get a  
5 donut or something from here.

6           ACTING CHAIR CABRAL: I have an energy bar  
7 for you.

8           What we are going to do is take a short  
9 recess for ten minutes, so be back at 1:20, that's  
10 less than ten minutes, and then we're going to  
11 continue.

12           (Discussion held off the record.)

13           (Noon recess.)

14           ACTING CHAIR CABRAL: Thank you for our  
15 imperfections. Thank you for coming together again.  
16 We're reconvening and I'll call it back together.  
17 And our court reporter is ready, and I think people  
18 have had enough to eat or drink to be alert now.

19           What we're going to do is, we did subpoena  
20 the former Planning Director Michael Dahilig to come  
21 and testify. So we would like to have him, since the  
22 subpoena was to appear today. Take care of that  
23 order of business, if that's acceptable. Then we  
24 probably will see what our timeline is if Petitioner  
25 would do any of the presentation today. We're going

1 to reconvene on August 8th at 9:30. August 8th in  
2 this room or somewhere --

3 CHIEF CLERK: Undetermined.

4 ACTING CHAIR CABRAL: To be determined.

5 Petitioner, since you would otherwise be  
6 next on our agenda today, are you okay with that  
7 change in our agenda?

8 MR. MATSUBARA: Yes. Let me make a brief  
9 statement.

10 Mike Dahilig was subpoenaed, and he's here,  
11 but we wanted to call a public witness who testified  
12 earlier to clarify basically the location on the  
13 property of some pictures that were earlier  
14 referenced so there is no confusion.

15 ACTING CHAIR CABRAL: Why not. Let's go  
16 ahead and do that. If you would call back the public  
17 testifier and clarify that since we are only just  
18 concluded out public testimony section.

19 MR. TABATA: So Bruce Laymon, would you  
20 come forward.

21 ACTING CHAIR CABRAL: I would like to  
22 remind you that you've been sworn in already, so that  
23 is still in effect and you will tell the truth.

24 THE WITNESS: Yes.

25 ACTING CHAIR CABRAL: Thank you. Go ahead,

1 Petitioner.

2 BRUCE LAYMON

3 Was recalled as a witness by and on behalf of the  
4 Petitioner, was previously sworn to tell the truth,  
5 was examined and testified as follows:

6 DIRECT EXAMINATION

7 BY MR. TABATA:

8 Q Mr. Laymon, thank you for your prior  
9 testimony as a public witness, and thank you for  
10 agreeing to be called as our witness, Petitioner's  
11 first witness.

12 During the public testimony there was  
13 testimony by some of the folks from Kealia that said  
14 they do hunting and kalo farming on the property.

15 Do you recall that?

16 A Yes.

17 Q Are you familiar with where the kalo is  
18 grown?

19 A Yes, I am.

20 Q Are you familiar where the hunting takes  
21 place?

22 A Yes.

23 Q I'm going to go up there and be your  
24 pointer, because I do not have a laser pointer here.  
25 So please ask me to point where the kalo is located



1 after I do that.

2 After I do that, please ask me to point  
3 where the hunting takes place.

4 Prior to this, you told me and showed me  
5 where those activities take place on the map;  
6 correct?

7 COMMISSIONER OHIGASHI: Madam Chair, would  
8 it be possible for the witness to go up there and  
9 show us, since he would be the one directly -- if he  
10 could borrow your microphone.

11 ACTING CHAIR CABRAL: We just need him on a  
12 microphone, so the recording and court reporter can  
13 transcribe this.

14 THE WITNESS: I don't know if you have the  
15 map or EIS, another one better than that in the  
16 booklet, because you can see the breadth and length  
17 of the land. That's kind of like half of the  
18 property.

19 COMMISSIONER WONG: Madam Chair, if you  
20 look at the EIS, looks like Figure 1-3.

21 THE WITNESS: I think it's page 28, 29.

22 ACTING CHAIR CABRAL: In light of the fact  
23 that's what's up here, can you go ahead and refer to  
24 it in that area.

25 THE WITNESS: So your first question?

1           Q       (By Mr. Tabata): First question.

2                   Please point out where our Petition Area  
3 is, the 53 acres?

4           A       This area shaded in black, that's adjacent  
5 to the existing housing (indicating).

6           Q       Thank you.

7                   And could you on the same map, could you  
8 please point out where kalo is being grown in the  
9 area?

10          A       Right now there's a road -- for those of  
11 you that don't live here -- a main road that runs up  
12 through here. And so there's an arena here where  
13 roping takes place, and then in the back there,  
14 there's taro growing in the lowland. And the  
15 property is elevated, so it's that portion in the  
16 lowlands down in this area around here (indicating).  
17 That's where the kalo is.

18          Q       Thank you.

19                   Could you also point out for the  
20 Commissioners where hunting takes place, pig hunting  
21 to be specific?

22          A       If you're not familiar with pig hunting,  
23 the pigs run all over the place, but if you're a  
24 hunter, you know that it takes place in the mauka  
25 areas and in the forest. And most of the land Mr.

1 Nolan owns was in sugar. And when it went out of  
2 sugar, the plantation needed people to come in there,  
3 to keep their taxes down, they wanted to keep it in  
4 ag.

5 So easiest thing was to get ranchers and  
6 farmers. So they divided up a plot so that nice  
7 grazing land was all the flat, where all the sugar  
8 was. So most of the hunting took place in the valley  
9 and the forest, because the pigs hide in --

10 ACTING CHAIR CABRAL: Could I ask you to  
11 either turn around, or put the mic in your other hand  
12 so the public could better see that?

13 THE WITNESS: So in the dark shaded areas  
14 that's typically where you're going to find the pigs,  
15 and they're hiding in there. And because right now  
16 it's used for cattle throughout the property. At  
17 night the pigs do roam around.

18 But this particular area here (indicating)  
19 doesn't affect any access or any of the hunting at  
20 all. In fact, I can tell you this because I hunt  
21 there myself, and I've hunted there since I was a  
22 young boy. This area behind the housing is not  
23 conducive to hunting. We didn't want our dogs, we  
24 didn't want to hunt with guns in this area. Not to  
25 say that pigs down don't go in there, pigs go in the

1 yard. Run across the highway.

2 But generally the hunting takes place in  
3 the forest and up in the mauka area as far as the  
4 hunting.

5 And the reason I know about the kalo, and I  
6 really appreciate Commissioner Chang's question about  
7 that, because it's a big concern.

8 My brother and Stuart Wellington started  
9 the taro. I built the first lo'i down there, which  
10 all those kids now enjoy. And there was a different  
11 owner at the time. Mr. Nolan is allowing all that.  
12 He's encouraging that, and I appreciate that,  
13 including all of the activities for the kids related  
14 to the rodeo arena.

15 Nothing is -- this thing doesn't impact the  
16 kalo or hunting at all, and that's a fact.

17 Q (By Mr. Tabata): Real quick. Thank you so  
18 much for pointing out the map for us.

19 For the record, the kalo therefore does  
20 not -- is not being cultivated in the 53-acre  
21 Petition Area; correct?

22 A I don't know if it ever was in history  
23 ever. I know that, at least a century there hasn't  
24 been kalo there. It wouldn't be a conducive area to  
25 be plant taro. You need water.

1           Q       And traditionally hunting does not take  
2 place in the Petition Area, correct?

3           A       No, no, not at all, uh-uh.

4           MR. TABATA: No more questions. Thank you,  
5 Mr. Laymon.

6           ACTING CHAIR CABRAL: County, questions?

7           MR. COURSON: No questions.

8           ACTING CHAIR CABRAL: Office of Planning,  
9 any questions?

10          MS. APUNA: No questions.

11          ACTING CHAIR CABRAL: Commissioners,  
12 questions at this time?

13          COMMISSIONER OHIGASHI: Is this part of the  
14 record, this map? I just want to be sure it's  
15 identified.

16          ACTING CHAIR CABRAL: Yes, it is already in  
17 the EIS.

18          MR. TABATA: It is in the EIS. I believe  
19 the project is the map in the EIS.

20          ACTING CHAIR CABRAL: I think that one is.  
21 There's a couple of them in the EIS.

22          COMMISSIONER WONG: Madam Chair, so I guess  
23 the figure on the board right now is Figure 1-3, the  
24 one that also the witness just stated -- oh, sorry,  
25 that's 1-2, and the one he was trying to talk about

1 was 1-3.

2 MR. MATSUBARA: Both of them are in the EIS  
3 on page 1-8 and 1-9.

4 ACTING CHAIR CABRAL: Any other questions  
5 from the Commission? Thank you very much, sir.

6 THE WITNESS: Congratulations on your son.

7 ACTING CHAIR CABRAL: I just met this  
8 gentleman. He told me his son is a cowboy champion,  
9 and I had to brag, because my son is a rodeo champion  
10 also. But I will not let my love for rodeo affect my  
11 judgment. Thank you.

12 Moving right along. We have our witness  
13 that we subpoenaed Michael Dahilig. Can you come to  
14 the witness stand. Thank you.

15 Can I swear you in?

16 THE WITNESS: Yes.

17 ACTING CHAIR CABRAL: Do you swear or  
18 affirm that the testimony you're about to give is the  
19 truth?

20 THE WITNESS: I will.

21 ACTING CHAIR CABRAL: Please state your  
22 full name and address for the record.

23 THE WITNESS: My name is Michael Dahilig.  
24 My business address is 4444 Rice Street, Lihue,  
25 Hawai'i 96766.

MICHAEL DAHILIG

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

ACTING CHAIR CABRAL: Questions?

DIRECT EXAMINATION

BY MR. TABATA:

Q Mike, you're here today because you're  
under subpoena?

A Yes.

Q And in connection with this project, you  
wrote two letters as the Director of the Planning  
Department; correct?

A That's correct.

Q And are you familiar with those letters?

A I am familiar with those letters.

Q Thank you.

Could you please describe for us the  
context and content of those letters?

A Under Section 7-1.7 of the Kaua'i County  
Code, the Director for the Planning for the County of  
Kaua'i is responsible for making interpretations for  
proposed land use actions as to whether they are  
consistent or inconsistent with the duly adopted

1 General Plan that is required under Chapter Section  
2 46-4.

3 And during that time, previous to this  
4 hearing, I was contacted on a number of occasions by  
5 representatives from the Petitioner to see whether  
6 the proposed land use action would be consistent with  
7 the General Plan as required under, I guess, the  
8 Chapter 205 land use requirements and whatever  
9 administrative rules that follow for that.

10 I was formally asked to make a  
11 determination under the code back in, I believe,  
12 2016, and then subsequent to that as part of the  
13 Draft EIS process.

14 And in both of those scenarios, I had,  
15 under the authority of the code, taken a look at not  
16 only the textual language in the General Plan, but  
17 the spatial maps that lay out the land use  
18 development pattern for the overall County, and made  
19 determinations that I felt were consistent in reading  
20 the text and the maps together, and found that the  
21 proposed development would be consistent with County  
22 policy as under the 2000 General Plan, and then  
23 subsequent to that, the 2018 General Plan that was  
24 recently adopted.

25 So when I was first asked to make this



1 evaluation, it was premised on the 2000 General Plan,  
2 and then in March of 2018 a new General Plan was  
3 passed. In both of those scenarios, both General  
4 Plans carry the spatial designation for this area in  
5 both versions of the maps. And in further research,  
6 this area was generally designated for some degree of  
7 expansion for residential community going back all  
8 the way to 1984.

9           So there was 1984 amendment to the General  
10 Plan, and that also included some degree of expansion  
11 for this Kealia area.

12           In my most recent letter, which I believe  
13 was in September of 2018, I had reconfirmed that the  
14 base off of the 2018 General Plan that was adopted a  
15 few months prior by the County Council, that nothing  
16 had changed with respect to the County's Land Use Map  
17 policy.

18           What had changed had been a lot more  
19 emphasis on concerns about coastal development and  
20 sea level rise, and how development along the  
21 shoreline could raise some issue with respect to the  
22 land use development pattern.

23           And so it was noted in my determination  
24 that the mauka situation of the overall development  
25 seemed to be aligned more tightly with that new

1       textural directive in the 2018 General Plan.

2               So that was noted as part of that  
3       subsequent evaluation, because my prior determination  
4       had been premised on the 2000 General Plan.

5               That's all I can elaborate on.

6           Q       Thank you. I have no further questions.

7               ACTING CHAIR CABRAL: County Planning  
8       Department, any questions of our witness?

9               MR. COURSON: No questions.

10              ACTING CHAIR CABRAL: Office of Planning?

11              MS. APUNA: No questions.

12              ACTING CHAIR CABRAL: Commissioners,  
13       questions? Commissioner Chang.

14              COMMISSIONER CHANG: Aloha, Mike. Nice to  
15       see you.

16              THE WITNESS: Aloha.

17              COMMISSIONER CHANG: You actually conducted  
18       the public meetings for the 2018 amendment to the  
19       General Plan?

20              THE WITNESS: Yes.

21              COMMISSIONER CHANG: In your opinion -- let  
22       me ask you this question first.

23              During those public meetings, was the  
24       Kealia Mauka Homesites proposed development ever  
25       discussed during the public hearing process for the

1 2018 General Plan amendments?

2 THE WITNESS: To my recollection, not  
3 specifically. But we did receive a number of  
4 comments from the meetings specifically in that area  
5 concerning housing and the desire to not want  
6 gentlemen farm development.

7 COMMISSIONER CHANG: In your opinion, if  
8 the Kealia Mauka Homesites proposed development had  
9 been disclosed and discussed publicly during the  
10 general planning process, your general planning  
11 process, and the community had an opportunity to  
12 discuss that in relationship to the General Plan, do  
13 you believe that the General Plan would have -- what  
14 impact, if any, would it have had to the General Plan  
15 if you can speculate?

16 THE WITNESS: Philosophically when we went  
17 into the General Plan process, we started under the  
18 premise that everything was fair game. So all  
19 presumptions and policies in the 2000 General Plan  
20 were available for the public to make any comments on  
21 regardless of whether it was for or against it.

22 And in particular, the very first public  
23 charrette that we had on this particular -- on the  
24 General Plan where we laid out a draft and provided  
25 posted notes and mark-up pens and whatnot, nothing

1 seemed to indicate that this particular area that had  
2 been in the 2000 plan was up for discussion with  
3 respect to a reduction in the spatial designation.

4 So, for example, when we had the spatial  
5 designation in the 2000 plan that had areas next to  
6 the resort area near the airport, that was areas that  
7 the public seemed to focus on with respect to taking  
8 those things off the map.

9 So what tended to drive the changes in the  
10 maps were not necessarily anything that was directed  
11 by our department, rather things that came through  
12 the public process that seemed to gather, you know,  
13 some degree of, I guess, interest.

14 So I forget the area, but right next to  
15 Kaua'i Beach Resort, Nukolii, that was an area that  
16 was taken off the map at public suggestion. There  
17 was other areas out on the west side that were taken  
18 out at the public suggestion. This did not get, to  
19 my recollection, anything from the public saying that  
20 the resort community designation should be taken off.

21 COMMISSIONER CHANG: In your opinion, the  
22 fact that the mauka -- Kealia Mauka Homesites was not  
23 publicly discussed during your 2018 General Plan  
24 public hearings, do you think it may have led the  
25 community to believe that that wasn't going to be a

1 development, so there really was no reason for them  
2 to come out and raise those issues during the general  
3 planning public hearing process?

4 THE WITNESS: I would say that it's -- it  
5 could have been, it could not have, but I think the  
6 reality was everything was on the table. So what  
7 areas that were not developed were highlighted as  
8 areas that are open for change, and we did not limit  
9 any process throughout the General Plan discussion to  
10 say that certain areas were off limits for  
11 discussion.

12 So as comments and, you know, public  
13 testimony throughout the forming process seemed to  
14 coalesce around certain areas. This particular area  
15 did not garner any attention from the public as being  
16 something that, based off of the 2000 maps, needed to  
17 be changed going into the 2018 development.

18 COMMISSIONER CHANG: Do you think the  
19 public -- it didn't garner any attention because they  
20 may not have known about the proposed development at  
21 Kealia?

22 THE WITNESS: I think that's a subjective  
23 question, because the responsibility to pay  
24 particular attention to certain areas around the  
25 island, we did not want to taint the public process

1 by highlighting certain areas as being controversial.

2 We wanted to get the tenor of the  
3 community, see where there was interest in change in  
4 the land use maps, and this was not an area that I  
5 recall as having the outcry that an area like Nukolii  
6 had when we were making adjustments to the land use  
7 map.

8 Ultimately, as part of the process, we laid  
9 out a schedule of all the land use map changes in the  
10 General plan, and made it very clear to the public  
11 what areas were being taken out or put into different  
12 categories.

13 So that was also laid out to the whole  
14 public with all Land Use Map changes across the whole  
15 island as part of the Commission's and the Council's  
16 process once they started going through the adoption  
17 phrases of the General Plan.

18 COMMISSIONER CHANG: Let me ask you this  
19 question.

20 When did you first hear about this Kealia  
21 Mauka project?

22 THE WITNESS: There was something rattling  
23 around, I would say, prior to 2016. In terms of the  
24 scope and size or what was, you know, in process, it  
25 was only pretty much just conversational, nothing

1 formally submitted.

2 So we don't take any official stand until  
3 we're asked to make a determination under Section  
4 7.1.7 under the code.

5 So any due diligence process we get a  
6 number of landowners or perspective land purchasers  
7 asking what can we do with this? What can we do with  
8 this or not? And we treated these folks the same.

9 COMMISSIONER CHANG: Thank you.

10 ACTING CHAIR CABRAL: Commissioner Wong.

11 COMMISSIONER WONG: Good afternoon, sir.

12 THE WITNESS: Good afternoon.

13 COMMISSIONER WONG: I'm going to go off  
14 script, even though we're just talking about the EIS  
15 itself.

16 Going back to 2018 plan. Now, in the 2018  
17 plan, did it talk in general in terms of the need,  
18 how many houses were needed for the island?

19 THE WITNESS: Yes. The 2018 General Plan  
20 lays out a target of 9,000 housing units needed by  
21 the year 2035, presuming a one percent growth rate in  
22 the population.

23 COMMISSIONER WONG: So then during this  
24 2018 planning, the charrette, you did talk about the  
25 housing needs and where it should be, shouldn't be;

1 is that correct?

2 THE WITNESS: We first started off these  
3 processes by informing the public about the  
4 statistics. So, you know, presuming that we don't  
5 force everybody on island to have abortions, and that  
6 we, you know, do those types of unconstitutional  
7 things like preventing people from flying in, we  
8 pretty much have to lay out, you know, your bedroom  
9 activities are creating one percent growth every  
10 year.

11 And that seemed to be what was carried  
12 through as the driver in a lot of the land use  
13 discussions amongst the community, because one of the  
14 things that seemed to come up as a very hot topic of  
15 public concern was, okay, where do we put our kids?  
16 How do they find them jobs? Those types of things.

17 So we took the data first, and always,  
18 without judgment, tried to push data and have the  
19 public make a determination what that meant for them  
20 and then provide us feedback.

21 So getting to the particular housing unit  
22 question really came as part of the balancing act  
23 when we got questions about traffic; when we got  
24 questions about sea level rise; when we got questions  
25 about whether a sewer infrastructure can happen.



1           This was an islandwide conversation, not  
2           limited to the Petitioner's particular area. And  
3           what seemed to be our sense, and was endorsed by the  
4           Council through their process, was that housing  
5           seemed to be of paramount concern to the overall  
6           population.

7           That's why it was given a high degree of  
8           priority within the overall text of the plan.

9           COMMISSIONER WONG: Going back to your  
10          statement about one percent growth.

11          In terms of the one percent growth there is  
12          going to be a need for housing, but that also means  
13          there will be an increase traffic problem.

14          So how would that taking care of was talked  
15          through, or what happened?

16          THE WITNESS: We were very careful in the  
17          text of the plan to say that, in recognition of  
18          whether constitutional mandates to look at nexus and  
19          proportionality with exactions and so forth, that the  
20          particulars of some of these things had to be fretted  
21          out through a quasi-judicial process as required by  
22          the law, which is about -- may start here.

23          So general philosophical items regarding  
24          keeping nodes where development nodes are, keeping  
25          static the map without expanding residential

1 community areas, and looking at infill were what was  
2 emphasized.

3 But what we also got back from the Council  
4 was some discussion and discourse about the fact that  
5 not everybody wants to live in an apartment.

6 So the balancing tended to be that  
7 residential community areas, like this particular  
8 area, were left alone rather than looked at as areas  
9 for pulling the map designation out.

10 So the plan calls for these areas to be  
11 considered in some degree antiquated, given some of  
12 the theories surrounding infill development, mixed  
13 use and so on and so forth.

14 But there was a desire to have those areas  
15 that didn't seem to garner community issue to remain  
16 as-is and see whether that would carry through the  
17 process. So there was no expansion of this  
18 particular area.

19 COMMISSIONER WONG: Prior to your  
20 testimony, we had public testimony, and some of the  
21 individuals stated that they have three, six people  
22 in their houses. And they're looking at some of them  
23 saying three to six families -- sorry, that they want  
24 to get them out pretty much.

25 THE WITNESS: My parents wanted the same

1 too.

2 COMMISSIONER WONG: So the issue was, in  
3 the General Plan, as you state, there was need for  
4 housing by 2035 of 9,000, approximately. And some of  
5 them don't want to live in apartments, don't want  
6 high-rises; is that correct?

7 THE WITNESS: That's correct.

8 COMMISSIONER WONG: So would this EIS going  
9 forward with six to 7000 help alleviate that 9,000?

10 THE WITNESS: 7000 --

11 COMMISSIONER WONG: Square foot lots.

12 THE WITNESS: Right now the average lot  
13 size for a development under code is I believe 8000.  
14 My mind is starting to escape me already with  
15 specifics of Chapter 8.

16 One of the concerns we did raise was  
17 whether or not the larger product tends to actually  
18 create a land basis cost that is unattainable for  
19 your average medium family given the AMI data at the  
20 time.

21 So like with any development, there's two  
22 metrics, right, either the cost of the vertical or  
23 the cost of the land. So if the smaller the lot the  
24 more obtainable the house would be for AMI 100, 120  
25 families.

1           So that tended to be, in discussion, to  
2     some consternation with the developer, because there  
3     was a desire to have 10,000 square foot lots. And  
4     those things are quite valuable.

5           And if the desire was to look at the area  
6     for affordable housing, one of our comments to them  
7     was, well, you have to look at lot sizes being one of  
8     the drivers accelerated cost here, so the higher  
9     cost.

10          So we think it's a step in the right  
11     direction. At the time, it was hard for us to make  
12     any judgment whether or not one product like that  
13     goes on the market, whether or not it would float  
14     lower than what you would see as your average unit  
15     throughout the County of similar type and size.

16          What we looked at from a comp standpoint  
17     was what was happening with the Hooluana development  
18     in Lihue which is right down the road here and the  
19     average lot size again was smaller than what you  
20     would normally see, partly because of the way density  
21     was calculated and so on and so forth.

22          But it did bring the land basis and the  
23     vertical basis down enough that you saw 100 percent  
24     of those units sell out to local families at a  
25     single-family product type.

1           So we know that there is the ability for  
2     those on the island to be able to carry the debt  
3     necessary for a single family product on smaller lot  
4     sizes. But whether that would transpose to that with  
5     a particular condition or particular development type  
6     in this particular area, it's only speculative.

7           COMMISSIONER WONG: So I'm going to -- we  
8     may not see -- we're going to continue this meeting  
9     again on August 8th, but we may not see you again, so  
10    I'm want to ask the question now.

11           Some of the public witnesses stated that  
12    this development would bring outside owners coming  
13    in, mainland people or whoever.

14           Do you foresee that?

15           THE WITNESS: There's always the  
16    opportunity for it, because of the things like the  
17    federal right to travel and so on, so forth. One of  
18    the questions that we have always had was when they  
19    built Hooluana, whether the County's condition that  
20    it be offered to Kaua'i's residents first was in that  
21    realm of constitutionality. I'm not going to -- hold  
22    the judgement here. I'll leave it to the attorneys  
23    whether or not someone from the mainland would like  
24    to sue, that's up to them.

25           But providing that opportunity to have it

1 offered first to Kaua'i residents at a land and  
2 vertical cost basis that was at least attainable was  
3 very, very well received by the market.

4 So, again, from all reports, 100 percent of  
5 those units that were in that development that were  
6 single family on smaller lots got bought up by Kaua'i  
7 residents.

8 So those are things that, again, where  
9 regulatory mechanism to do so. And I don't think it  
10 would be appropriate for me to advocate to the  
11 Commission whether or not something like that would  
12 make sense here, but it was something that our  
13 previous Council at the County decided to institute  
14 with the developer's consent, and it worked.

15 But it has to be a product that actually is  
16 attainable. So to make it right for the developer,  
17 developer does have to look at trying to pair the  
18 smaller lot size with the house and make things a  
19 little tighter to be able to have a local family  
20 carry the debt for it.

21 COMMISSIONER WONG: Thank you. No other  
22 questions.

23 ACTING CHAIR CABRAL: Commissioner  
24 Ohigashi.

25 COMMISSIONER OHIGASHI: One of the concerns

1 raised is the public testimony was that this was a  
2 toe in the door situation where the developer comes  
3 in and asks for 53 acres; and next six months from  
4 now asks for 300 acres or 500 acres.

5 I'm concerned about what the limits of your  
6 letter is. Is the limits of your letter in 2018  
7 limited only to the 53 acres, and any kind of  
8 subsequent analysis would have to occur later on?

9 Or is it a situation where it provides an  
10 open end? And the reason why I ask that is to be  
11 clear, we support -- you say in a letter -- to be  
12 clear, we support efforts to pursue entitlement for  
13 future development within the 2035 planning horizon.

14 My question is really, does this letter  
15 offer an opportunity for a toe in the door to realize  
16 the 2035 future development based upon your statement  
17 that we need about 9,000?

18 THE WITNESS: Let me preface this first  
19 again that I'm under subpoena, and I'm not speaking  
20 on behalf the County of Kaua'i by saying this, even  
21 though I'm an officer in another realm. So I would  
22 like to --

23 COMMISSIONER OHIGASHI: I want you to  
24 interpret your letter.

25 THE WITNESS: -- so I'm just providing all

1 the disclaimers that my lawyer is making me give.  
2 And again, a lot of that is going to be relied on, on  
3 the future Planning Director to also take my words,  
4 and whether or not he has to live with his  
5 forefathers on this.

6 That being said, I will say this, that we  
7 just looked at it at face value. When the proposal  
8 came in, it was for an area of 50-somewhat acres, and  
9 that was it.

10 The science of interpreting the General  
11 Plan consistency with the proposal is not a clear  
12 rubric or a clear science. But what we do know is  
13 that the textural factors have to be taken into  
14 account with the spatial factors. And I would find  
15 it hard to swallow if, let's say, if the proposal  
16 were to start really expanding spatially beyond what  
17 was the general size of the mauka to makai situation  
18 in the spatial designation.

19 So I would not say that this area would  
20 have to bear the burden of all 9,000 units. I think  
21 that would be irresponsible. There is a number of  
22 other areas that have been designated around the  
23 island for absorbing some of that 9,000 deficit in  
24 the housing inventory that is needed.

25 So this was really looked at as almost a



1 boutique type of proposal versus something that  
2 transcended or was indicative of the overall picture.  
3 It really was one line in the water where many lines  
4 are needed.

5 COMMISSIONER OHIGASHI: So it was just  
6 limited to your proposal, that's what you're trying  
7 to say?

8 THE WITNESS: Yes.

9 COMMISSIONER OHIGASHI: Any future proposal  
10 comes from this area or this property, or anything  
11 else, would have to take the same factors that you  
12 took into effect when you made a determination on  
13 this? I mean, not you, but the future Planning  
14 Director?

15 THE WITNESS: That would be my expectation  
16 of the future Planning Director, but it was not my  
17 intent with the particular two letters that the size  
18 and scope of the project extended beyond what was in  
19 front of me at that time.

20 COMMISSIONER OHIGASHI: And by good graces  
21 we have him here to be able to talk to him about  
22 that, right?

23 THE WITNESS: Yes.

24 COMMISSIONER OHIGASHI: Thank you.

25 ACTING CHAIR CABRAL: Commissioner Okuda.

1                   COMMISSIONER OKUDA: Thank you, Ms.  
2 Chairperson.

3                   Again, good to see you again, Mr. Dahilig.  
4 Congratulations.

5                   Just so that the record is clear about your  
6 background and experience, I'll leave out the high  
7 school part, but --

8                   COMMISSIONER OHIGASHI: That's the most  
9 important part.

10                  COMMISSIONER OKUDA: -- can you give us a  
11 very short summary of your education and experience  
12 so that we can place your testimony in context?

13                  THE WITNESS: I graduated from the  
14 University of Hawai'i at Manoa, school of Ocean,  
15 Science and Technology with a degree in geology and  
16 geophysics with a Bachelor with Honors in 2003.

17                  I received a juris doctor with  
18 certification in Environmental Law from the William  
19 S. Richardson School of Law in 2006. And I received  
20 a Master's in Urban and Regional Planning from the  
21 University of Hawai'i at Manoa, Department of Urban  
22 and Regional Planning in 2011.

23                  I worked in the private sector for PBR  
24 Hawaii & Associates prior to joining Judge Randal  
25 Valenciano's chambers as his clerk here at the Fifth

1 Circle Court. I served for approximately two years  
2 as Deputy County Attorney responsible for the  
3 Planning and Public Works Departments, upon which  
4 time I was appointed in 2010 as Director of Planning  
5 and served in that capacity until 2018, when I was  
6 asked to serve as Derek Kawakami's Managing Director.

7 COMMISSIONER OKUDA: Mr. Dahilig, you used  
8 the word, and I might be paraphrasing, that certain  
9 interpretations don't really rely on a clear rubric.

10 THE WITNESS: Yes.

11 COMMISSIONER OKUDA: What do you mean by  
12 that?

13 THE WITNESS: In some cases where you're  
14 evaluating land use entitlements, you're required to  
15 check boxes, and that is for use of public  
16 transparency as well as judgment by decisionmakers.

17 In this particular case, all that is said  
18 in the County Code is that the Director of Planning  
19 is entitled to -- is the interpreter of the General  
20 Plan when it comes to consistency.

21 So when I look throughout the plan as it  
22 was adopted by the County Council, there are many  
23 disclaimers both in the land use policy area as well  
24 as the textural policy area that neither are  
25 regulatory; and rather they are guiding, and that

1 they are meant to inform decisionmakers as they go  
2 through the zoning and permitting processes.

3 So that essentially, in my words, doesn't  
4 provide a clear rubric as to what value is placed on  
5 any particular policy element one over the other.

6 It is a bit of a totality of the  
7 circumstances-type of interpretation that comes into  
8 play.

9 COMMISSIONER OKUDA: And so when you are  
10 using this totality of the circumstances  
11 interpretation, you're looking at the General Plan as  
12 a whole; is that correct?

13 THE WITNESS: Yes.

14 COMMISSIONER OKUDA: You not only look at  
15 the spatial maps, but you look at the text, you look  
16 at other documents related to the General Plan to  
17 reach whatever interpretation you're reaching;  
18 correct?

19 THE WITNESS: Right.

20 COMMISSIONER OKUDA: And, you know, having  
21 known you, but I disclosed I think except for one  
22 lunch maybe over ten years ago with our friend  
23 Dr. Jan Javenar, which I believe I paid for that  
24 lunch, we don't socialize for like that; right?

25 THE WITNESS: No, we do not.

1 COMMISSIONER OKUDA: That's correct.

2 Getting back to the letter that you wrote,  
3 you took into account all these different factors and  
4 documents in reaching your interpretation; correct?

5 THE WITNESS: That's correct.

6 COMMISSIONER OKUDA: If someone else, not  
7 you, had come to a different interpretation based on  
8 looking at not only the maps, but the text of the  
9 General Plan and, you know, taking other evidence  
10 into account, that person wouldn't necessarily be  
11 automatically wrong; would you agree with that?

12 THE WITNESS: I would 100 percent agree  
13 with that statement.

14 COMMISSIONER OKUDA: So in other words,  
15 this is not a case where we have the traffic light  
16 and the traffic light is red and, hey, if you say the  
17 traffic light which was red was green, you're totally  
18 wrong; this is a case where reasonable people may  
19 come to a different reasonable conclusion about what  
20 the interpretation should be, and that reasonable  
21 conclusion might be different than the letter that  
22 you wrote; correct?

23 THE WITNESS: I would agree with, I guess,  
24 this caveat, Commissioner, that those types of  
25 evaluations, in as much as they were part of my

1 responsibility under the County Code, are left  
2 inherently for that quasi-judicial process down the  
3 line.

4 As I understand, again, the question before  
5 the Commission is whether the EIS is sufficient  
6 enough to be accepted by the body in terms of  
7 disclosures, and to create an informed process that  
8 the Commissioners, as well as the public, can then  
9 engage in that discourse that you're describing.

10 My role in this has been one small sliver  
11 of that overall disclosure process, which was really  
12 limited to the General Plan consistency. So things  
13 that relate to traffic, things that relate to  
14 cultural concerns, in as much as they were values  
15 throughout the plan, where things started to flow to  
16 the top, were elements that gain related to the  
17 conflicting housing demand with the spatial policy.  
18 That's where my weighing analysis ultimately sorted  
19 out.

20 So it's not to give the impression that my  
21 value judgment should be subplanted for others in the  
22 community that may feel that certain area of the plan  
23 may be more important. But given the data that was  
24 driving my analysis, it seemed to me that what I knew  
25 and where my words were going to be used, that its

1 place in the EIS disclosure process was where I was  
2 intending to contribute my analysis for.

3 COMMISSIONER OKUDA: And you know from  
4 prior hearings, at least I personally really value  
5 your input, because I do recognize your vast amount  
6 of qualifications, both educational experience.

7 The reason why I was asking these questions  
8 is I think we recognize that accepting the Final EIS  
9 is not an acceptance of the project itself, or the  
10 request for a boundary amendment. It's whether or  
11 not the EIS has enough information in there so, as  
12 the Supreme Court said we must do, we can balance the  
13 advantages and disadvantages of what is being asked  
14 for.

15 And the reason why I was asking these  
16 questions, because if, in fact, reasonable people  
17 might disagree or have different opinions about the  
18 interpretation of whether this proposed subdivision  
19 or development is consistent with the plan, then, you  
20 know, we really got to see what the plan really says.

21 So that is just a background, but I thank  
22 you very much for your testimony.

23 Again, congratulations on the promotion.

24 THE WITNESS: Thank you, Commissioner.

25 ACTING CHAIR CABRAL: Commissioner Giovani.

1           COMMISSIONER GIOVANI: Hi, Michael. I just  
2 want to follow up on Commissioner Ohigashi's  
3 question.

4           My interpretation of your answers to him  
5 was that this letter, the two letters that you wrote  
6 specifically with respect to the 53-acre parcel and  
7 the development that was proposed by the Petitioner.

8           And then if the same landowner came back  
9 for a second, or another development in that area,  
10 they could not rely on these two letters, they would  
11 have to start the process over or get a second  
12 opinion; is that correct?

13          THE WITNESS: My intent was never to have  
14 it snowball into something broader than what was  
15 proposed as part of the 343 process.

16          ACTING CHAIR CABRAL: Thank you,  
17 Commissioner Giovani, your first statement.

18          Commissioner Chang.

19          COMMISSIONER CHANG: Thank you, Mike.  
20 Commissioner Okuda and the other Commissioners, I  
21 appreciate the questions they asked you.

22          I just -- based upon Commissioner Okuda's  
23 questions to you, is it fair to say that your  
24 opinion, your intention in the two letters you wrote,  
25 when you talked about your experience, your role as



1 the Director and the values that you were looking at,  
2 that those letters were not intended to opine on the  
3 adequacy of the infrastructure, water, sewer,  
4 traffic, wastewater; that your opinion, or those two  
5 letters were really focused on, for lack of a better  
6 word, kind of the kuleana that you were looking under  
7 as the Planning Director, but not looking at saying  
8 it is consistent with the General Plan with respect  
9 to all of these other infrastructures; is that  
10 correct?

11 THE WITNESS: Yeah. I wanted to be very  
12 clear about that. And you look at the second to last  
13 paragraph before the phone number. I state:

14 We believe the State Land Use Commission  
15 and County regulatory processes provide the structure  
16 and opportunity to confirm, refute and/or mitigate  
17 any specific concerns members of the public may raise  
18 regarding impacts.

19 So it was not to provide, again, that  
20 judgment that the EIS provides a dispositive call on  
21 where things have to go. It's rather that the letter  
22 was meant to be informative as part of the overall  
23 spectrum of information that is required in order to  
24 have a sufficient disclosure document.

25 And that this particular did differ from my

1 previous letter which was an actual determination.  
2 This aligns with that previous call, and in effect  
3 updates the read based off of the new General Plan  
4 that had been adopted in between the last letter and  
5 this one.

6 COMMISSIONER CHANG: Very good. Thank you.

7 ACTING CHAIR CABRAL: Any other comments  
8 from Commissioners?

9 Do we have any questions, any more  
10 questions from the Petitioner?

11 MR. TABATA: No more questions. Thank you.

12 ACTING CHAIR CABRAL: County?

13 MR. COURSON: No questions.

14 ACTING CHAIR CABRAL: Office of Planning?

15 MS. APUNA: No questions.

16 ACTING CHAIR CABRAL: I guess we can  
17 dismiss our witness. Thank you very much for coming.  
18 Come any time. Don't require a formal invitation.

19 At this time, since it is 2:45, and it's my  
20 understanding that if all things work out with us  
21 obtaining a place to meet, and we're able to get all  
22 the airfares put together and all of the various  
23 things that it takes for this lovely little body to  
24 move everywhere we go as well as the Office of  
25 Planning and the Petitioner -- you're not my problem.

1           So anyway we will adjourn at this time, and  
2 we will reconvene on the same agenda, continue this  
3 agenda on August 8th, which is a Thursday, at this  
4 time we assume it will be at 9:30. But an official  
5 notification will go out, so always know to check the  
6 Land Use Commission website for the details and the  
7 agenda for a meeting.

8           So at this point in time, unless there is  
9 anyone else to make a statement, including staff to  
10 correct me, I'm going to adjourn this meeting and go  
11 to the airport.

12           MR. MATSUBARA: Thank you, Madam Chair,  
13 Commissioners. We will see you on the 8th.

14           ACTING CHAIR CABRAL: Thank you. At that  
15 time Petitioner will start and do your presentation.

16           We are in recess.

17           (The proceedings were recessed at 2:45  
18 p.m.)  
19  
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25

## CERTIFICATE

STATE OF HAWAII                    )  
  ) SS.  
COUNTY OF HONOLULU            )

I, JEAN MARIE McMANUS, do hereby certify:

That on July 25, 2019, at 9:45 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 25th day of July, 2019, in Honolulu,  
Hawaii.

/s/ Jean Marie McManus  
JEAN MARIE McMANUS, CSR #156