AGENDA

I. Adoption of Minutes

II. Tentative Meeting Schedule

III. Status Report and Action (If Necessary)
A94-706 Ka'ono'ulu Ranch (Maui)

IV. Executive Session

V. Adjournment

BEFORE: Jean Marie McManus, CSR #156
APPEARANCES:

COMMISSIONERS:

NANCE CABRAL, Acting Chair
AARON MAHI, Vice Chair
EDMUND ACZON
ARNOLD WONG
GARY OKUDA
DAWN CHANG
LEE OHIGASHI

RANDALL S. NISHIYAMA, ESQ.
Deputy Attorney General

STAFF:

DANIEL ORODENKER, Executive Director
RILEY K. HAKODA, Planner/Chief Clerk
BERT K. SARUWATARI, Planner
ARIANA MASUOKA, Secretary

RANDAL SAKUMOTO, ESQ.
CATHERINE TASCHNER, ESQ.
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CURTIS TABATA, ESQ.
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TOM PIERCE, ESQ.
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Attorney for Maui County Department of Planning

DAWN APUNA, ESQ.
Deputy Attorney General, State of Hawai'i
RODNEY FUNAKOSHI, Planner
LORENE MAKI, Planner
Attorney for State Office of Planning
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ACTING CHAIR CABRAL: Good morning, I would like to call the meeting to order today.

My name is Nancy Cabral from the Big Island here as Acting Chair and substituting because our Commissioner Scheuer was not able to be here, so I know everyone will be supportive of our volunteer effort.

This is the July 11, 2018 Land Use Commission meeting.

The first order of business is the adoption of the June 28, 2018 minutes.

And I ask my fellow Commissioners, any corrections, comments on these minutes?

COMMISSIONER CHANG: I move to approve the minutes.

COMMISSIONER MAHI: Second.

ACTING CHAIR CABRAL: Motion from Commissioner Dawn and seconded by Commissioner Mahi to adopt the minutes.

Do I hear any other comments on them?

All those in favor say "Yea"; any opposed?

Thank you. The minutes are unanimously adopted.

Next agenda item tentative meeting schedule. Mr. Orodenker, can you please provide that?
EXECUTIVE OFFICER: Thank you, Madam Chair.

On July 25th, once again on Maui for Hale Mua Order to Show Cause.

On August 8th, we'll be on Oahu for Kualoa for agricultural land hearing.

On August 22nd we will be in Kona for Waikoloa Mauka Order to Show Cause.

On September 12th, we will have a continued hearing on this matter, if necessary.

On September 13th we will be here in Kihei High School matter.

And on September 26th, we will be on Oahu for Kapolei Development.

I would also note for the Commissioners that we have scheduled hearings, public hearings on our Administrative Rule Amendment, and we will be on Kaua'i on August 9th; on August 15th, we will be in Hilo; August 16th we will be on Oahu; on August 23rd we will be on Maui; and on August 28th we will be in Kona.

Those are not hearings, just -- Commissioners aren't required to attend.

Commissioners are welcome to attend if they would like.

Also want to note for everybody today, our
new secretary Ariana Masuoka. Like to welcome her and thank her for coming to work for us.

    ACTING CHAIR CABRAL: Thank you very much.

On our next agenda item, we will be hearing status report on Docket A94-706, Ka'ono'ulu Ranch in Maui. There is a Petition for reclassification of approximately 88 acres of land from the State Land Use Commission Agricultural District to the State Land Use Urban District for a mix of retail, office, light industrial, and commercial uses with approximately 200 apartment units at Ka'ono'ulu, Makawao, Wailuku, Maui, Tax Map Key No. 3-9-1:16, Parcels 170 through 174.

    Will the parties please identify themselves for the record?

    MR. SAKUMOTO: Good morning, Randall Sakumoto and Catherine Taschner are here for Piilani Promenade North and South

    MR. TABATA: Good morning, Curtis Tabata for Honua'ula Partners.

    MR. HOPPER: Deputy Corporation Counsel Michael Hopper for Maui County Department of Planning. With me is Ann Cua with Department of Planning.

    MS. APUNA: Deputy Attorney General, Dawn
Apuna on behalf of Office of Planning. Here with me is Lorene Maki and Rodney Funakoshi.

MR. PIERCE: Tom Pierce on behalf of Intervenors Maui Tomorrow, South Maui Citizens for Responsible Growth and Daniel Kanahele.

ACTING CHAIR CABRAL: Thank you very much.
Let me update the record for this docket.

On July 10, 2017, Honua'ula Partners filed a Motion to Designate the Land Use Commission as Approving Agency for Environmental Statement Under HRS Chapter 343 and for Authority to Prepare Environmental Impact Statement.

On July 20, 2017, and by the Findings of Fact, Conclusions of Law and Decision and Order Denying the Acceptance of a Final Environmental Impact Statement filed July 27, 2017, the LUC determined that the FEIS, which is the Final Environmental Impact Statement filed by Piilani Promenade on April 26th, 2017, did not meet the requirements of HRS 343 or HAR Chapter 11-200 and denied the acceptance of the Final Environmental
Impact Statement.

On July 25, 2017, Honua'ula withdrew its Motion to Designate the LUC as Approving Agency for the Environmental Impact Statement.

On July 2nd, 2018, the LUC mailed the July 11th, 2018 agenda to the Parties and to individuals and entities on the Statewide and Maui County mailing list.

For the members of the public, please be reminded that the Commission will not be considering the merits of the Petition A94-706; rather the Commission is interested in learning what the current state of the proceedings related to this docket is.

Public testimony regards to this report will be heard after the Applicant has completed its report and the Parties and Commission have completed their questioning.

Let me go over our procedures for this docket.

First, I will call on the Petitioner, Piilani Promenade, to provide its status update of this matter.

Second, I will call on the Petitioner, Honua'ula Partners, to provide its status update on this matter.
Third, I will then ask the Intervenors, County and OP for their comments in that order. After the Petitioners' reports and the conclusion of presentation by the Intervenors, the County and Office of Planning, and questions by the Commission, those individuals desiring to provide public testimony for the Commission's consideration will be asked to identify themselves and will be called in order to our witness box where they will be sworn in prior to their testimony.

The Chair would also like to note that from time to time I will be calling for short breaks. Are there any questions on our procedures for today?

MR. SAKUMOTO: No questions, Madam Chair.

ACTING CHAIR CABRAL: Thank you.

Petitioners, will you please provide us your status report? Mr. Sakumoto.

MR. SAKUMOTO: Thank you very much. Because this docket was established back in 1994 when the original Petitioner Ka'ono'ulu Ranch filed their Petition for District Boundary Amendment, I thought it might be useful to provide the Commission with an overview of the procedural history of this docket, how it is we got to where we are
today.

I think when I explain to you where we are today, you'll understand why I wanted to go back, if that's okay with you, Madam Chair?

ACTING CHAIR CABRAL: The floor is yours.

MR. SAKUMOTO: Thank you.

On February 10, '95, the Commission issued its Decision and Order to reclassify the Petition Area from State Agricultural District to the State Urban District subject to the conditions specified in the D and O.

In 1998 and 1999 the original Petitioner, Ka'ono'ulu Ranch, applied for and received from the County of Maui a change in zoning and subdivision approval for a large lot subdivision of the Petition Area.

In 2005 the original Petitioner sold the property to Maui Industrial Partners LLC.

In 2009 the County of Maui issued Final Subdivision Approval for a large lot subdivision creating six separate bulk subdivision lots referred to as lots 2A through 2G.

To obtain final approval cash bonds are posted with the county to secure the subdivider's obligation to provide the required subdivision
improvements. These bonds totaled over $22 million. Later in 2009 Maui Industrial Partners sold lot 2B to Honua'ula Partners; and in 2010 they sold the balance of the property to Piilani Promenade North and South.

Piilani's initial plans called for the development of a shopping complex. The community voiced strong opposition to this concept, and in 2012 several groups and individuals filed a Motion for Hearing, Issuance of Order to Show Cause and other relief with the Commission.

After several days of hearings, the Commission ultimately determined that the proposed development would violate certain conditions of the '95 Decision and Order.

In 2013 Piilani Promenade filed Motion to Amend the 1995 Decision and Order to allow the development of a mixed-use project.

Piilani spent the next several years preparing and processing an EIS to support the Motion to Amend and the mixed-use project. Again, the community voiced strong opposition to the mixed use project, and as was just stated by the Chair, in 2017 the Commission rejected the EIS.

After two unsuccessful attempts to propose
new development alternatives, Piilani Promenade has now decided to return to the original development plan that was presented to the Commission when the Decision and Order was issued in 1995.

Earlier this year Piilani Promenade teamed up with Koa Partners to lead the approval design and development efforts for the original development plan.

The first step in this process was for Koa to reach out to community members and other stakeholders to open new lines of communication, to be transparent about the idea of going back to the original 1995 plan, and to listen to the thoughts and ideas of those who are willing to engage in this dialogue.

Mr. Harry Lake of Koa Partners has been conducting meetings with various community members and groups to solicit feedback, and is present today. Harry (indicating). Thank you.

If the Commission has questions about the community outreach effort, Mr. Lake will be glad to answer those questions.

Procedurally, where we want to go with this in the future, I think there are basically several steps.
The first is we would like time to continue
the dialogue that has been initiated with the
community. This was something that was absent from
our process before, but I think that it is started in
earnest. We're not done yet. I think there's still
a lot more discussion that needs to take place, but
we would like to be able to continue that process so
that we can hear the thoughts that are necessary to
be heard before any decision is made on moving
forward.

Based on the feedback that we do receive,
we would refine the Conceptual Plan for Development
that substantially complies with the representations
made per the 1995 Decision and Order.

We would then present the plan to the State
Office of Planning, the County of Maui and the
Intervenors, and we would seek to negotiate a
stipulation with all parties here at the table today
regarding that plan.

Once we are in agreement on that plan, our
thought would be to come back with the stipulation to
the Commission, and a motion to the Commission that
basically asks for four things.

1: We would ask that the Commission
determine that there are no outstanding violations of
the Decision and Order;

2: That Phase II of the Order to Show Cause proceedings be dismissed as there would be no outstanding violation under the D and O.

3: We would request that they approve the withdrawal of the Motion to Amend the Decision and Order that was filed in 2013.

And 4: We would ask that the Commission lift the stay that was imposed back in 2013 on any construction on the property.

So that concludes my statement. I'm happy to answer any questions the Commission may have.

ACTING CHAIR CABRAL: Commissioners, do you have any questions at this time? Commissioner Wong.

COMMISSIONER WONG: Just one question.

So we did an EIS for this project previously. So the EIS, would it be considered still because of the time?

MR. SAKUMOTO: Thank you very much, Commissioner Wong.

The EIS that was presented to the Commission in, I guess the hearing was in 2017, was for a different project. That EIS related to the -- what I refer to in my summary as the mixed-use project, the project that contains affordable
housing. It contains retail, commercial and light industrial.

So that EIS was rejected by the Commission, so there is no EIS at this moment in time.

COMMISSIONER WONG: So the question I have is, will there be an EIS for this new thing that's being bandied around in the community?

MR. SAKUMOTO: So maybe I should go back to the original.

We are going back to the original plan that was approved in 1995, and we're trying to work from there as our base.

The original plan did not trigger the need for an EIS as determined by the Commission. And so there was no EIS that was presented or accepted in connection with that 1995 approval by the original petitioner.

If the question is, however, are we concerned with any impacts which the project may now have? So even if we go back to the 1995 plan, do we -- how do we deal with that?

And so my answer is, I don't believe we will trigger an EIS, however, we still obviously would like to be cognizant of any impacts that the 1995 project would create. And we are willing to
look at what impacts there are, and determine the
appropriate studies that would need to be conducted.

COMMISSIONER WONG: Thank you.

ACTING CHAIR CABRAL: Any more questions?

Go ahead.

COMMISSIONER ACZON: You mentioned about
the 22 million. Are there any of those monies
expended?

MR. SAKUMOTO: Have any of those monies
been expended? Yes. So of those monies, what I
understand is approximately 1,900,000 were spent on
the materials that are presently located on the
property.

I'm not sure if you recall, we did a site
visit last year, and while we were on the site visit
there were a lot of construction materials that were
staged on the property. I believe that's what that
money was utilized for.

COMMISSIONER ACZON: So those are stored on
the property?

MR. SAKUMOTO: Yeah, I believe they've been
stored there.

COMMISSIONER ACZON: Any construction done?

MR. SAKUMOTO: Has any construction been
done? My understanding is that there were grading
permits that were issued, and that also -- yeah. So there was some grading that did take place, as well as a perimeter fence that was established prior to the grading. The grading was not done -- I believe, from what I recall, that it was the grading activity that triggered the community objection to the project, and I don't believe that they ever finished it. But I think that that is what started -- you know, there was a dust fence that was erected around the property.

COMMISSIONER ACZON: That was before the order of banning construction?

MR. SAKUMOTO: Yes.

COMMISSIONER ACZON: Any other expenses besides grading?

MR. SAKUMOTO: In terms of actual hard cost for construction, or are you asking about any cost?

COMMISSIONER ACZON: Any cost, the project.

MR. SAKUMOTO: For the project, I don't have the dollar amounts in front of me, Commissioner Aczon, but I do know that significant amounts were paid for professional services for planners, architects, engineers. The EIS took four years. It involved at least 13 different consulting firms, and so that cost quite a bit of money.
I can provide the Commission with that information if you would like to see it.

COMMISSIONER ACZON: That would be appreciated.

MR. SAKUMOTO: The big picture, there is a mix of hard cost and soft cost. Right now a significant portion of the 22 million is still being held by the County of Maui.

COMMISSIONER ACZON: Thank you very much.

ACTING CHAIR CABRAL: Commissioner Dawn.

COMMISSIONER CHANG: Thank you, Chair.

Is there an opportunity that I could ask Mr. Lake some questions, his consultant that's doing community engagement, who he's spoken to and responses by the community?

MR. SAKUMOTO: I have no other, Commission.

ACTING CHAIR CABRAL: Do you think that would be at this time, or do you want to wait until you hear the other presentations?

COMMISSIONER CHANG: I want to hear what the Intervenors have to say too, but while the Petitioner has -- this is his statement, to follow up with his consultant as to the work that he's done.

ACTING CHAIR CABRAL: If we can have the consultant come forward and be sworn in.
May I swear you in?

THE WITNESS: Yes.

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

THE WITNESS: Yes.

ACTING CHAIR CABRAL: Can you state your name for the record, and then proceed with your testimony.

THE WITNESS: Harry Lake, Chief Executive Officer, Koa Partners, real estate development.

HARRY LAKE

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

DIRECT EXAMINATION

COMMISSIONER CHANG: Thank you so much, Mr. Latham.

MR. SAKUMOTO: Commissioner Chang, his name is Lake, L-a-k-e.

COMMISSIONER CHANG: I apologize. Thank you for the correction.

Mr. Lake, your counsel mentioned that you, that Piilani has engaged in community engagements and been working with the various stakeholders.
Could you provide us a brief summary of who you've spoken to and context or comments that you've received; and if you personally did the outreach or if you had someone else do the outreach?

THE WITNESS: Yes. Thank you so much for your time.

We're excited at Koa Partners to be involved in this process. Born and raised in Hawai'i. Went to McKinley High School, graduated from UH Manoa. Served in Hawai'i Army National Guard. And our whole life purpose is to deliver great real estate projects.

So we have been engaged to partner up with Seraphim (phonetic) just like Randall mentioned to help develop and execute the project. A key component of that is obviously getting feedback from the community.

So as part of that, and in January we started reaching out to people. Really we even went out with blank sheets of paper where we said, hey, let's go back and let's just seek to understand. We're going to start all over essentially.

So we reached out to Vernon Kalanikau. We also reached out to Daniel Kanahele, and I just want to just acknowledge the Intervenors' community
representatives here Lucienne deNaie and her team has been phenomenal in helping us to properly engage with key stakeholders here.

And to that point, Maui Tomorrow, Citizens for South Maui, we have also reached out to them as well. Lucienne deNaie, Mark Hyde, Al Perez are all involved in discussion.

We've also reached out to KCA leaders. Mike Moran who's here, as well as Dick Mayer, Kihei Community Association, and again, great stewards of the community, and dialogue has been very positive and ongoing, and we understand that this is a process, not a conclusion, and we're in the middle of that dialogue right now and others.

But those are the key stakeholders I think were very vocal early on in the process, so we wanted to start there and then radiate beyond that in the next steps. And I can go a little through our process, if you like.

COMMISSIONER CHANG: Perhaps to facilitate this discussion, did you have an opportunity to read through the Findings of Fact by the LUC with respect to the FEIS?

THE WITNESS: Yes, Randall has been guiding us a ton on that.
COMMISSIONER CHANG: Did you have an opportunity to review some of the concerns that were raised by the community with respect to both, one, the community engagement, traditional customary practices, the water issues, the type of development? Did you have an opportunity to review all of that?

THE WITNESS: Yes, we have reviewed it, and we acknowledge that's some work to be done on our side. We are spending a lot of time on cultural issues, and that's where a lot of our efforts are spent right now. And we have some exhibits that we're sharing with you as part of a dialogue, and sort of speaks to what we heard.

And, again, we have a lot more to work on but, again, this is a process that we're going through. First was to seek to understand, which was to review all the historical testimonies, previous plans, as well as re-engage with the community and have a good honest discussion there.

As part of that, we've been authorized to go back and deliver a project that is consistent with the 1995 approvals and the original D and O. So within that constraint, we wanted to seek, okay, how can we deliver a plan substantially compliant with those, and still speak to the interest of the
community. So that's the dialogue we've been having.

COMMISSIONER CHANG: Approximately how many
meetings have you had?

THE WITNESS: It's been ongoing. I've been
in market probably every month, so -- we've had
multiple meetings, I would say at least half a dozen
individual meetings to really coordinate meetings,
but there have been substantial dialogue and
coordination for meetings.

Also had some conference calls as well with
Pierce and others.

COMMISSIONER CHANG: Has there been an
attempt to do a general public meeting like public
announcement and inviting the larger community other
than the intervenors and stakeholders?

THE WITNESS: That is the next step we are
about to have. So what we wanted to do is sort of
present the process that we're going through right
now, and before we go too far ahead, say, hey, are we
consistent, are we heading in the direction we
believe is a good direction for us to go into which
we can actually deliver.

The last thing we want to do is go down a
path and have dialogue with a plan that we can't
deliver. So that's where we are at right now. We're
saying we want to be compliant with the 1995 plan, the original D and O. Have a stipulated agreement with stakeholders, intervenors, does this process feel okay. Then take the next step and broadly solicit additional information and come back to you again for something actual.

COMMISSIONER CHANG: I appreciate the thoughtful process that you outlined. I don't want to get into the substances. I know that that will be the subject of discussion with the community. I was more interested in your process and general community engagement. Thank you.

THE WITNESS: Thank you for your time.

ACTING CHAIR CABRAL: Any more questions of this consultant at this time from our Commissioners? Sorry, Commissioner Okuda.

COMMISSIONER OKUDA: Mr. Lake, just to complete your background. Do you hold any licenses in the State of Hawaii?

THE WITNESS: I am -- I was a licensed broker, but no, we're not actively brokering anything.

COMMISSIONER OKUDA: Just for background, so you have a real estate brokers license?

THE WITNESS: Yes, lapsed. That's not the
COMMISSIONER OKUDA: I'm just trying to put a framework on what background you might have with respect to your testimony and what you're telling. Okay, thank you.

THE WITNESS: Yeah, you're welcome.

ACTING CHAIR CABRAL: Anyone else?

COMMISSIONER CHANG: Sorry. This isn't for you, Mr. Lake. Actually it's a question for counsel.

You made a statement that based upon the original, that Piilani's intent is to go back to the original 1995 project, and that you -- at this point in time you don't believe there's any trigger for an EIS.

Condition 5 related to roadway improvements. Doesn't that affect state land?

Wouldn't that trigger 343?

MR. SAKUMOTO: I believe Condition 5 was the establishment of the frontage road in the project. And the frontage road was the road that I think was originally conceived as a road that ran parallel to Piilani Highway but it was inside the property. So it was a road parallel to the highway but not on the highway, as I understood it.

COMMISSIONER CHANG: Because it was my
understanding that was the reason that you actually
did the EIS was because of the impact to the state
road. What's the difference in your new project
versus the 1995 -- maybe I shouldn't assume -- what
was the reason for doing the EIS in 2013? What was
the trigger?

MR. SAKUMOTO: In 2013 the EIS dealt with
the mixed-use project which, as I mentioned, included
commercial, industrial, light industrial, residential
and the use as described in the EIS, and for those
contemplated uses, the traffic impact analysis that
was provided mandated certain road widening along
Piilani Highway.

Presumably it was a project that would
generate more traffic, or just the types of traffic
that would necessitate widening along Piilani
Highway. That was the trigger for the 2013 EIS.

It was based upon the 2013 project which we
have now abandoned.

COMMISSIONER CHANG: So at this point in
time it's your position that there is -- that there
is no trigger to 343? There's no road widening?
There's no impacts to public roads?

MR. SAKUMOTO: I think my position right
now is that the 1995 project had no trigger. We are
intending to develop a project in substantial
compliance with the representations made for that
1995 project.

The exact project that comes about will
only been known after Mr. Lake completes his
community engagement process. I think at that
juncture we will look to see what happens with
regards to impacts.

So it's very difficult for me to say
conclusively there is none or there will be none.
You know, the only thing I can say is, as I mentioned
earlier, we're committed to reviewing impacts because
the 1995 project may, even if it's done now in 2018,
it may be reasonable to look at those impacts.

COMMISSIONER CHANG: I appreciate that. So
my understanding, what you're saying is it's
premature at this point in time for you to make a
conclusive statement that no 343 trigger until you
see what the final product will be, the design will
be?

MR. SAKUMOTO: That's correct.

COMMISSIONER CHANG: So in 1995 was there
an EIS prepared for this project?

MR. SAKUMOTO: There was not. I think
there was a statement in the record that the
Commission concluded or accepted the Petitioner's conclusion that there was no trigger for an EIS.

COMMISSIONER CHANG: Thank you so much.

ACTING CHAIR CABRAL: Any more comments?

Mr. Okuda.

COMMISSIONER OKUDA: Thank you, Madam Chair. Just to follow up some of the questions.

And it's really, really good that you have community outreach, because that, I think, moves our community and our democracy forward, more outreach, more involvement is always better, more ideas are always better. But to follow up the question.

So can you for sure tell us today that the project that will ultimately be built, will be what we would call the 1995 project? In other words, the project that's approved by the 1995 D and O, or might it be something else, or a modification of that based on the outreach that you're engaging in right now?

MR. SAKUMOTO: That's a very good question. So the D and O, as you know, I believe it's Condition 17, requires that the project be developed in substantial compliance with the representations made to the Commission in connection with that D and O.

And our position is that we will do that. We will build a project in substantial compliance
with the representations made in connection with the 1995 Decision and Order.

Is that going to be exactly the project that was presented to the Commission in 1995? Probably not. We are relying upon the language in the D and O that says develop in substantial compliance.

Now, what is that? It's really hard for me to put a finger on that. I have been discussing this issue with the Commission staff, trying to find some guidance on how much leeway there is in that statement. There isn't much in terms of precedence by this Commission.

However, what we are trying to do is utilize whatever flexibility that language may have to try to, you know, use that so that there's some meaningful engagement with the community, otherwise why would there been any reason for the dialogue in the first place. We believe that there should be enough flexibility in that language to allow us to present a project once this dialogue has concluded, which does substantially comply with the representations made, but which may not be exactly what was shown in 1995.

We think that, and we hope that the process
has some amount of reasonable flexibility built into that. We think that's the best result for all parties concerned.

COMMISSIONER OKUDA: And I appreciate the answer. Please don't take anything what I say as prejudging anything, or you know, showing any feeling one way or the other on any of the issues. And I definitely don't speak for the Commission, the Commission only speaks based on votes taken after a proper procedure.

But aren't we now really starting to get into the real problem which was kind of touched on by the Hawaii Supreme Court case Bridge Aina Lea, which is found at 134 Hawai'i 187, where you have approvals given under D and O's with conditions, and then we have now, what, 20-plus years have passed, many of the conditions haven't been met, and unless someone can tell me that nobody has made money on this project, the Supreme Court in fact quoted from submission by the Office of Planning when these issues were being discussed at the legislature about why the policy should be lose it or use it. In other words, that the tradeoff where developers -- shouldn't say developers -- landowners are given boundary redesignations from Agriculture to Urban or
Conservation to Urban it essentially immediately creates value in the property. So it's not unreasonable to expect that the recipients of this value caused by government action live up to the conditions.

And so I'm just saying, that seems to be -- not seems to be -- that's a policy statement by the Hawaii Supreme Court which we're duty bound to follow, and I think that's a concern. Don't get me wrong, community engagement is really good. Things change in the world. If we can have a better project, we all want to move the community forward. There's nothing inherently wrong with development or anything like that, but the Supreme Court -- and tell me if you disagree -- is giving us admonition that if people get benefits from a government process, they should live up to the commitment they have made. Is that a fair statement?

MR. SAKUMOTO: That's a very loaded question.

Let me respond, Commissioner Okuda, by saying this. I guess maybe I would like to respond maybe to two parts of what you said.

First of all, with regards to compliance with conditions under the Decision and Order, I think
you'll find, as we have shown, the annual reports, basically the finding by the Commission in 2013, which triggered the prohibition on construction, was that there were three conditions that were not in compliance.

The Commission found -- and I'm paraphrasing here -- that if the project that was then in front of the Commission went forward, it would not comply with Condition 5, which dealt with the frontage road, because there was no frontage road in the design of that project. It would not comply with Condition 17, which was that the -- I believe 17 -- that the project be built in substantial compliance with the representations made -- I'm sorry -- Condition 15.

So it was a finding that if they went ahead with that project, it would not comply with those two conditions.

The Commission also found that the Petitioner was delinquent in the filing of its annual report.

So as it relates to those three, those are the three that I think we were aware of at the time that we were not in compliance, so to speak.

I think the frontage road condition, we
will address that in some fashion, whatever the concerns were, I think it was done to alleviate some of the traffic along Piilani Highway.

Our intention is to update our traffic study and try to address whatever concerns were raised by that condition.

Condition 15 with regards to building and substantial compliance, I think I just gave a whole long speech about that is basically what our plan is. We will now build the project in substantial compliance with the representations made.

That's the whole premise of what we plan to do.

And the last thing is, the delinquent reports, the annual reports are now current, by both co-petitioners, by Honua'ula Partners and by Piilani Promenade.

COMMISSIONER OKUDA: Can I ask with more specificity, what construction has taken place on the property before today besides the grading that you described.

MR. SAKUMOTO: I'm not aware of any other construction taking place except what I mentioned previously.

COMMISSIONER OKUDA: Accept for or besides
the grading permit that you described or testified to, what other permits have been obtained with respect to the property?

MR. SAKUMOTO: I believe that there have been two subdivision approvals issued by the county, the grading permits that were issued by the county, and the --

COMMISSIONER OKUDA: Any building permits?

MR. SAKUMOTO: No building permits.

COMMISSIONER OKUDA: Have any construction contracts, or contracts been entered into with contractors for development of the property besides maybe whatever grading contract had been entered into previously?

MR. SAKUMOTO: That I do not know. I would have to research that and come back to you.

COMMISSIONER OKUDA: Final question. Are there any permit applications pending at this point in time?

MR. SAKUMOTO: No, there are none.

COMMISSIONER OKUDA: So would you agree that given those type of factors, there really hasn't been any substantial commencement consistent with the representations made to the Commission with respect to the property?
MR. SAKUMOTO: You know, in terms of substantial commencement, I think that, as I mentioned, Piilani Promenade has invested considerable amounts of money into the property. They own the property now for about nine years. They have, as I mentioned, spent the money to establish the subdivision, or maintain the subdivision approval, and I believe, looking at the Bridge Aina Lea case, and what the court found would qualify as substantial commencement, that there are facts within our case that would support an argument that there has been substantial commencement.

I did not come today with any brief on this, so my answer may be less formal and thorough than you would have wanted, but today I came with just my status report.

If you would like us to submit a brief on that, certainly we can.

COMMISSIONER OKUDA: No, no, I appreciate your response. And again, I'm just asking the questions just to get additional information, because this really probably is not the place and forum to decide any Bridge Aina Lea issues. It's not to say even such issues would arise, but it's just for information. So I really do appreciate the
information you did provide. Thank you.

ACTING CHAIR CABRAL: Thank you, fellow Commissioners. And I see that Consultant Lake has his light on.

I'm sorry, Commissioner Lee.

COMMISSIONER OHIGASHI: That's me. Mr. Sakumoto, I failed in my note taking at the beginning. I believe you outlined four steps you were going to go with. Please just go over those four steps.

MR. SAKUMOTO: Certainly. Step one -- I actually have a handout if you would like that you can take notes on because it's exactly what I'm reading, if that helps the Commission.

COMMISSIONER OHIGASHI: I just wanted to go through the steps.

ACTING CHAIR CABRAL: If you could make sure that our recording secretary gets that in entirety because then it will end up in our testimony.

MR. SAKUMOTO: Let me go over those steps again.

The first thing I said was that we would like time to continue the dialogue with the community that has been started. We think that more time is
needed to finish the process.

The second thing would be that based on the feedback we get, we would refine a conceptual plan that substantially complies with the 1995 Decision and Order.

One thing that was circulated to you, it was Mr. Lake's handout, where it was the document that actually he's been using at the community meetings in order to facilitate discussions with the interested parties. And so what we plan to do is come up with some version of the plan, probably within the range of what is in that handout.

And then the third step would be, we would present it to the parties here at the table, formally present it to Office of Planning, the County of Maui and to the Intervenors, and we would do that with a request, this is a fourth step which is to seek a stipulation from all parties that this plan that we have circulated does substantially comply with the representations made to the Commission.

Thereafter, we would file the stipulation with the Commission along with a request for -- there are four things -- determining that there were no violations of the D and O; deemed the Phase II portion of the Order to Show Cause proceedings moot.
or to discuss them; approve the withdrawal of the
Motion to Amend because we still have a pending
motion which hasn't been heard by the Commission.
But once the Commission basically approves the first
two points, we would withdraw that Motion to Amend.

And lastly, to lift the stays on the
construction.

COMMISSIONER OHIGASHI: Is there hopefully
a timetable that you're looking at to try and resolve
this matter?

MR. SAKUMOTO: We would -- you know, we are
trying to move as quickly as we can. As I mentioned,
the county is holding a significant amount of cash
that has been posted to secure the obligation to do
the subdivision improvements. It doesn't work in
Piilani Promenade's best interest to delay, because
time is money and it's been sitting there for years.

But at this juncture, I think what's more
important to them is that the community engagement
process be done correctly and thoroughly and, you
know, I know that doesn't answer your question.

If I could respond to -- I heard earlier
your tentative dates of meetings, and apparently we
are scheduled to be on in September, September 12th.
I couldn't tell you that we will be finished by
September, it's already July. My guess is we won't. That this process will still be ongoing, and I would just ask for the Commission's indulgence and their patience to allow us to work through this process.

COMMISSIONER OHIGASHI: Assuming that the fourth step about filing a stipulation is not achieved, will you be seeking alternative remedies in the form of some kind of declaratory ruling or other type of relief before the Commission concerning the proposal?

MR. SAKUMOTO: I haven't thought that far ahead. I don't know the answer to that question. Our goal is, certainly, and we have been working in earnest to get to something where we can all agree. And that's our primary objective right now. That's our sole objective right now.

So I honestly have not thought about what else would happen if we weren't able to achieve that. I certainly hope that doesn't happen.

COMMISSIONER OHIGASHI: The result, what you're hoping for is that the stipulation would resolve the issue of whether or not the proposal that you plan to make would conform, would meet substantial compliance that we need -- let me rephrase it.
My understanding is that a stipulation by all parties would be that the proposal that you're making substantially complies with the D and O issued originally in 1995?

MR. SAKUMOTO: That decision is the Commission's decision to make. I think we would just like to show the Commission a unified front.

COMMISSIONER OHIGASHI: I understand that part. I just want to be sure that's what you're seeking, a stipulation?

MR. SAKUMOTO: Yes, yes.

ACTING CHAIR CABRAL: Commissioners?

COMMISSIONER CHANG: Just one last question. This will be the last.

It's just that I want to follow up with the line of questioning you had with Commissioner Okuda. And I realize that you probably were not necessarily prepared for this line of questioning, so -- but it is going to be relevant to the Commission.

Because you made a statement that you believe that the expenditure of funds to date would qualify as a substantial commencement.

Could you tell me what is the estimated total cost of this project? If you have spent approximately $1.9 million, you've got $20 million
with the county, what is your estimated cost of this entire project?

MR. SAKUMOTO: First of all, we have about 23 million that's being held by the county, not 29, just for the record.

I do not have that figure right now. Again, we do not know what the project ultimately will be. I think that will be known after the dialogue has been concluded. But for the same reason why I couldn't answer whether there would be an EIS trigger, I cannot tell you what the project cost would be. We don't know -- we're still talking in very general terms about what the project will consist of, and until we know the general components of the project, we can't plan the more detailed plans that would help us prepare cost estimates.

But that's probably the best answer I can give.

COMMISSIONER CHANG: So would it be fair to say, not trying to put words into your mouth, but would it be fair to say that a determination of whether there's been substantial compliance, substantial commencement based upon the monetary expenditure may also be premature until you know for sure what your project is going to be?
MR. SAKUMOTO: I'm answering this based on my understanding of Bridge Aina Lea and what the Supreme Court held in that case and what they considered to be cost that would validate the fact that there has been substantial commencement.

My understanding is a part of that was not only the hard cost that were expended, but the soft cost. They looked at the aggregate costs that were expended by the petitioner in that situation. And while certainly we may not be in that realm in terms of dollar amount, as I mentioned, we have put up $23 million in cash to secure the subdivision approval.

Of that, a portion has been expended to acquire the infrastructure materials that you saw on the property. And I guess, as I said before, I didn't come today with any kind of legal briefing on Bridge Aina Lea, but based on my understanding of that case, I do believe that the cost that we have spent, incurred to date, would qualify. That's my understanding.

COMMISSIONER CHANG: Do you have an estimate of your soft cost?

MR. SAKUMOTO: I do not have that.

COMMISSIONER CHANG: I don't think we intended to necessarily put you on the spot. We
understand that a lot of this discussion is probably premature until we see what your ultimate plans are going to be, but the opportunity presented itself to ask this line of questioning. Thank you very much.

ACTING CHAIR CABRAL: Thank you.

Consultant Lake, you have your light on. Did you like to say something at this time?

THE WITNESS: I don't know the proper time to go over how we are exploring substantial compliance and design, we can do after all the presentation. I just wanted -- Commissioner Okuda's point we have, in the spirit of transparency, we have sort of how we are trying to put forth something that creates a dialogue.

In terms of the budget, the original plan kind of had industrial lot land sales. To that point there probably wasn't that much more in dollars needed to be spent above what the horizontal cost right now. From that perspective there's substantial -- if we went all the way back to industrial lot sales, there is probably not much more dollars to be spent than what we already posted and already have.

If we just did horizontal -- that's not what we are hoping to do, we're hoping to do a lot
more than that, but depending on which vision we ultimately end up doing.

COMMISSIONER CHANG: Just one follow up. Bear with my ignorance. I'm not really as familiar with -- are you saying that the $23 million, that's the extent of what you would -- of this --

THE WITNESS: No, I'm saying that if we were to do industrial lot sales like A&B is doing, things like that, there wasn't -- the hard cost to go vertical on those pieces with 123 lots -- I'm just saying there is an argument to be said there if we went back to that particular plan, a substantial amount of dollars has been posted and expended. We don't intend to do that. Our hope is to do something slightly different, just to let you know.

ACTING CHAIR CABRAL: Thank you very much. I think we are ready to move on.

As we move on, I want to remind ourselves as the Commissioners today we are interested in learning what the current state of the proceedings are in relation to this docket, because we will not be considering the actual merits of the A94-706.

So at this point, Attorney Tabata, are you ready to make a statement?

COMMISSIONER WONG: Can we take a brief
recess, please?

ACTING CHAIR CABRAL: I guess so. We will take a brief recess. Thank you very much.

(Recess taken.)

ACTING CHAIR CABRAL: Like to call the proceedings back to order.

At this time, Mr. Tabata, are you prepared to make a statement?

MR. TABATA: Yes, I am. Thank you, Acting Chair.

Honua'ula Partners joins in Mr. Sakumoto's Status Report. We have nothing to add, but I'll try to answer any questions that the Commissioners may have. Thank you.

ACTING CHAIR CABRAL: Why thank you very much. Do I have any additional questions that the Commissioners may have at this time? Commissioner Lee.

COMMISSIONER OHIGASHI: The reason why I asked Mr. Sakumoto about the next step, have you gone over these next steps with Mr. Sakumoto?

MR. TABATA: Yes.

COMMISSIONER OHIGASHI: Do you agree?

MR. TABATA: Yes, and we agree.

ACTING CHAIR CABRAL: Any other questions
or comments from the Commissioners? Commissioner Dawn.

COMMISSIONER CHANG: Thank you.

Mr. Tabata, the last time we were -- when this matter came before LUC, your client purchased one of the smaller parcels of land; is that correct?

MR. TABATA: Yes, 13 acres.

COMMISSIONER CHANG: What was your client going to do with that land?

MR. TABATA: At the time the 13 acres was acquired to build 250 units of affordable housing as a requirement for a separate project, a project formerly known as Wailea 670. So for that project zone change approval had a Condition No. 5 that required the 250 units to be built on our 13 acres on the Piilani side, Piilani project.

Since the last time we have been before you, Honua'ula Partners has obtained a change in zone to amend Condition No. 5, so now we are able to build the 250 units of the affordable housing on site at the Wailea site. So we do not need to build our units on the Piilani site. We have the flexibility of doing it on either location and in portions.

COMMISSIONER CHANG: Thank you for that clarification, because that was my understanding that
your client was going to use that 13 acres for the
250 affordable units.

So is it your client's intention to do a
joint development agreement with Piilani? Are you
going to sell your property to Piilani? Or you're
going to develop this property jointly with Piilani?

MR. TABATA: At this point we have agreed
with Piilani to work with them through this process
that Harry Lake is leading for us. So we are in
support of the effort, taking their lead really, and
cooperating.

COMMISSIONER CHANG: Has your client put
any -- made any expenditure of funds for the 13 acres
that you own?

MR. TABATA: I don't have those figures,
but I'm quite certain there must be some planning
cost and engineering cost involved. I don't have
those numbers today.

COMMISSIONER CHANG: Will your 13 acres --
is it your intention that the 13 acres will go back
to the original 1995, the proposal that was put forth
to the LUC 1995 that your 13 acres will be part of
that overall, that new revised development?

MR. TABATA: Just as it was described by
Mr. Sakumoto, our 13 acres we consider to be a part
of current effort involved with. So, yes, for us, it is also our intent to comply with the 1995 D and O to be in substantial compliance with our representations.

COMMISSIONER CHANG: Thank you very much.

ACTING CHAIR CABRAL: Any more questions or comments from our Commissioners?

Thank you very much for your additional input, and I'm sure when we see you again you'll have all kinds of figures and numbers for our Commissioners.

At this time I would like to ask the Intervenor for Maui Tomorrow Foundation, South Maui Citizens for Responsible Growth, and Daniel Kanahele for their comments, and that would be Mr. Pierce.

MR. PIERCE: Thank you, Acting Chair, and thank you Commissioners for being over here on Maui to hear this today. And we really appreciate continuing review of this project.

There's just a couple of things, because we recognize that there are a number of procedural issues that will have to get worked out at some point, and I recognize for purposes of today that it's just a status conference, so I'm not interested in trying to weigh in too deeply on those, but the
one thing that I felt in terms of laying out the
background that would be helpful for the
Commissioners to know today as part of the status is
just a bit more of the background of how we became
Intervenors, because most of the attorneys have
changed, and I believe all the Commissioners have
changed since that happened.

And I can do this very quickly, but in
2012, the spring of 2012 the Piilani Promenade owners
actually started putting up silt fences and
construction fences. That was when we were aware
that there was a project occurring. Then my clients
engaged me. We started doing our investigation. And
during that process what we found was that the county
felt that everything was okay, but when we began to
look at the 1995 LUC D and O, we felt that, based
upon what we were hearing was going to be proposed
for the site, that it was not in substantial
compliance. So that's when we filed a Motion for
Order to Show Cause.

And what actually ended up happening was in
September of 2012, the Commission granted our Motion
for an Order to Show Cause. And then in November of
2012 we had a four-day hearing, contested case
hearing with lots of witnesses testifying. And the
staff probably recall as well because it was some long days, but we got through that and the Commission, majority of the Commissioners voted that the project was not in substantial compliance at that point in time, what was being proposed at that point in time.

So that was very much the issue in contention. What was odd about the case was that at that point in time clearly on the day that the Commission issued its oral ruling, it was clear that we had prevailed on our point which was that there was no substantial compliance.

What then happened, which is required in the administrative rules, is that each of the parties prepared their Findings of Facts, Conclusions of Law, and actually those are still sitting with the Commission today. They have not been -- neither one of the two have been adopted by the Commission, so those are sitting there today, and the reason is because afterwards the petitioner, understanding that that essentially they lost on this issue, asked for a motion for a stay.

So we've been in basically limbo so to speak since 2012, or early 2013.

And that was what actually also happened
there was a bifurcation of the case, so the first phase was whether or not there was substantial compliance. And the Phase II that Mr. Sakumoto mentioned briefly was whether or not the property should be reverted, and that actually goes to this issue that was being discussed which is no substantial commencement of the project, because Bridge Aina Lea came down after our days.

And based upon my reviewing, the one thing that continues to be concern for the Intervenors which I would mention is very clear from the Bridge Aina Lea case is they analyzed Chapter 205 carefully, and they are very concerned in that case that -- the appellate court is very concerned with the fact that projects have -- when you go through all the consulting analysis, those types of things, that has a shelf life, and it will go stale if not used within appropriate period of time.

So they make it clear that the purpose of getting those entitlements is to actually go forward with the project, not to use it for speculative gains in order to convey the property to somebody else which is what happened in this case.

So we don't know whether or not -- Mr. Lake is correct, and my clients will testify about the
ongoing conversations. We are very happy that the Petitioner is engaging with us. That certainly never happened with the former representatives. So we're very happy with that.

We've have, I guess I would call it a peculiar procedural status of this case. We're not prepared to say what should happen at this stage. We do think it is always good to be in conversation with the developer, especially if they're engaging in good faith with the community, so we are happy about that.

But I do think it's helpful for the Commission to understand that background because it is -- we are continuing docket issue, and it would have to be resolution. I think that's clear from the way Mr. Sakumoto laid out four points.

He said that there would need to be a stipulation from the Intervenor that there's no outstanding violations. We're not there today, but that's certainly something that we will engage with them on.

And that Phase II, the issue of reversion of the property back to agriculture would be dismissed. That a Motion to Amend would be withdrawn -- excuse me, Motion to Amend would be withdrawn because they're no longer amending the project, and
the stay would be lifted.

We are not at that stage yet. We think the status conference is helpful in keeping the Commissioners up-to-date.

The other two things I would point out, based upon some of the earlier testimony, there is some -- I believe Mr. Sakumoto said there has been some grading activities. Those are related, as we understand it, to a MECO substation. And it's our understanding that the MECO substation is not related to their proposal, in fact, it's an independent project that's being done by MECO.

There is some grading activity occurring there with respect to that. We do not believe that that would be part of the Petitioners' project, and we would certainly not be part of the commencement of their project.

In fact, that's the only reason, or ability, that any kind of activity could be happening there right now without violating the stay is that it has nothing do with their project.

The second thing in terms of EIS is the fact that the road on all of the various examples of what is being proposed, there is a road that is bifurcating the project by going through the center.
And that is the proposed road for the Up Country between Kihei and Up Country, a very significant road. And, in fact, the earlier Petitioners, that was how they were starting to market the property, major thoroughfare for Kihei.

So this is not a small -- I want to make sure the Commissioners are aware that this is not a small intersection. This is going to be potentially over time one of the largest intersections on the Island of Maui.

And I think with that, unless the Commissioners have any questions, that's it for the procedural aspect. I know that my clients will give a bit of testimony in terms of conversations they're having. Thank you very much.

ACTING CHAIR CABRAL: Do I have any Commissioners who would like to ask any questions of our Intervenor, Mr. Pierce? Commissioner Edmund.

COMMISSIONER ACZON: You mentioned that you have someone to testify?

MR. PIERCE: Yes, sir.

COMMISSIONER ACZON: I would like to hear him first.

MR. PIERCE: I believe we have Lucienne deNaie who has been in one of the conversations will
be testifying, as well as Mr. Perez from Maui Tomorrow, and Mr. Hyde for Citizens for Responsible Growth.

ACTING CHAIR CABRAL: Okay, thank you. We will look forward to their public testimony.

I would like to go ahead. Any other input from Commissioners at this time? If not, then I would like to go ahead and go to the county. Mr. Hopper, would you like to have any input at this time?

MR. HOPPER: Thank you, Madam Vice Chair. The County of Maui Department of Planning's understanding is the status of this project has been mentioned is under a stay that was requested and received by the developers pending a filing of a Motion to Amend, or failing that, alternative proposal as presented by the Petitioners today.

The County of Maui is in a similar position to the Land Use Commission. We are awaiting any specific plans that the developers have. We did receive the status report, status and annual reports filed with the Commission. Our office received them a couple days ago, and it came to my desk yesterday afternoon. So we have had a bit of time to review them, but like the Commission, I think we're awaiting
any particular development plan to be submitted to
the parties and discussed.

So that's the status that we have right
now. We are available for questions if you have
them, but that's essentially where we are at right
now along with the Commission. Thank you.

ACTING CHAIR CABRAL: Thank you very much.

Commissioners, do you have any questions?

Commissioner Dawn.

COMMISSIONER CHANG: Just two questions.

One, and maybe it's premature, so you might
not know.

Pursuant to Mr. Pierce's statement about
the main thorough -- that road, do you know whether
that road will be dedicated to the county?

MR. HOPPER: Whether it's county or state,
I'm not sure of the eventual plan. That's something
that we need to talk with State DOT about.

But as of now our understanding is that's a
private road. So I'm not sure. It's on their
property. So I'm not sure how constructing that
would trigger any type of EIS if it's not state or
county lands.

At that point, unless there is another
determination, but again, that's an issue with
respect to the status report that we have not looked at earlier.

So if there is a question of that, we can maybe have more detailed response, maybe something in the history where that was discussed, but I don't have that for you today.

COMMISSIONER CHANG: And the second question.

There's been representation that the county has the $23 million that you are holding in bonds from Piilani.

MR. HOPPER: My understanding was that that was part of subdivision bond, the estimated cost of all of the improvements. But again, if it's stated -- we can get confirmation, ask the Department of Public Works to confirm that number and how much is remaining, because there should be a record of that. So if the Commission requests that, we can provide that information.

COMMISSIONER CHANG: I'm certain you're not having anticipated me asking this question, but for purposes of 343, if a roadway is going to be dedicated to the county, and it's being required to be built to county standards, and this is totally speculative, because we don't know what the plan is,
but what is the county's practice with respect to
development plan comes in, a proposal is to develop
roadway to county standards with intentions to
dedicate, does that trigger Chapter 343, in your
experience?

MR. HOPPER: Not in every case. I think
it's dependent on individual case, but not every
single time a road is dedicated to a county is an EIS
required. If that happens relatively frequently, I
think in reading the state law, it talks about if
there is discretionary permit along with state or
county.

But in general the mere dedication of a
road would not trigger. We certainly don't require
an EIS every time a road is dedicated to the county.

ACTING CHAIR CABRAL: Any other questions
from the Commissioners at this time?

Moving along, moving along. State Office
of Planning. Ms. Apuna, would you like to provide
any input?

MS. APUNA: We just have a few points of
clarification and maybe some questions.

First, just like to point out Piilani
status report, they mention $2.6 million that would
be expended towards materials and construction,
including 1.9 towards materials and 700,000 spent on labor and construction to clear the property. That might help Commissioner Aczon and Commissioner Okuda in terms of seeing that there is some substantial commencement in the project.

We would ask Petitioner whether they can say on record whether the going back to the original plan, whether they think that they would have to amend the original D and O, if that is a possibility?

And we would also like some clarification as far as these handouts. There's the orange spiral-bound proposed project, and then a single sheet that had a site plan. So we're a little confused as to what is the significance of these different handouts.

**ACTING CHAIR CABRAL:** The handouts, would Petitioner Sakumoto like to comment on the differences between the orange handout and individually not attached conceptual drawing?

**MR. SAKUMOTO:** Thank you, Madam Chair.

The booklet that I believe Ms. Apuna was referring to with the orange cover is the booklet provided by Mr. Lake. And I think I mentioned earlier, this is a reduced-size copy that he has been using to facilitate the community discussions.
As to the other handout, I don't know where this came from. I do see it says "KCA Proposal". Maybe a KCA representative can answer that. I did not provide that handout.

**ACTING CHAIR CABRAL:** Anyone from KCA that would like to comment on that? We will wait until you come up to testify at that time. That would move things along.

Office of Planning, do you have any other comments at this time?

**MS. APUNA:** Add that we're willing to work with the parties and Petitioners as far as taking these next steps that they've outlined.

We're okay with that process going forward.

**ACTING CHAIR CABRAL:** Thank you very much.

Commissioners, any comments or questions at this time?

**COMMISSIONER CHANG:** Was it your statement that the expenditure of approximately $2.6 million is substantial commencement?

**MS. APUNA:** Yeah. I think Office of Planning would say that that counts as substantial commencement. When you talk about that, you're talking about reversion, and we don't think that that's really -- Intervenor says they're very happy
with the process ongoing. We don't think that's really at issue here.

We think they have outlined exactly what the steps are in order to get back on track, and I think we don't have to worry about reversion. I think they probably want to go with what has been developed rather than go back to agriculture.

COMMISSIONER CHANG: Thank you.

ACTING CHAIR CABRAL: Commissioner Gary.

COMMISSIONER OKUDA: If I can follow up Commissioner Chang's questions.

Wouldn't the issue or a determination of how much money is actually spent, whether that constitutes substantial commencement or not, wouldn't you have to also look at the total budget, or the total projected cost of a project?

In other words, $1.6 million where the total projected budget is $2 million, that's a large percentage compared to where maybe the total budget is maybe $1 billion.

MS. APUNA: I don't think it's clear necessarily in the case law, there isn't a certain percentage or proportion or dollar amount. It's not clear, but I think --

COMMISSIONER OKUDA: Again, it's not to
prejudge anything here. Would you agree that to really determine what constitutes substantial commencement, it requires reviewing all facts, and amount of money spent is one fact, but there are also other facts which may be in addition to money spent and other facts including total budget and things of that nature.

I just want to be clear that maybe we are a little premature here judging one way or the other.

MS. APUNA: Yeah, sure.

ACTING CHAIR CABRAL: Any other comments from the Commissioners? I think I failed to ask, Petitioners or county have any questions at this time? I stand corrected, no questions.

What I would like to do then, we're going to proceed after this to our public testimony, but I've been asked to take another short break, so we will take a short break, come back and go directly into public testimony. Thank you very much.

(Recess taken.)

ACTING CHAIR CABRAL: I would like to call the meeting back to order, and at this time --

MR. PIERCE: If I may just make an objection on behalf of Intervenors, take me 15 seconds?
ACTING CHAIR CABRAL: I have no objection to that. Go ahead.

MR. PIERCE: Commissioners, clearly at this time the issue of whether there's been substantial commencement of the project is not before the Commissioners. In fact, as I was laying out the procedural history, that issue, we think, would come up if there's determination by the Commission to go into Phase II which was the issue reverter, because when that's when that issue becomes important.

So we would just, obviously under the administrative rules and agency, evidence -- you as a Commission can accept whatever you want as evidence, but we would just point out that at this point there has been no opportunity by Intervenors to cross-examine, for example, we would want to understand why the Office of Planning believes there has been substantial commencement with the project based upon the very minimal information we have before us today.

So we would object to that line of opinion from the Office of Planning, because we understand the Commission has to defer to some of the opinions that are made by the Office of Planning. So we would object that this is not properly before the
Commission and that clearly that this is a preliminary discussion as Commissioner Okuda said. It has to be taken from that perspective at this point in time.

ACTING CHAIR CABRAL: I know we could go on with that topic, but again, as I've stated a couple of times now, right now we can appreciate that everyone has a right to say whatever they say, but we Commissioners are interested in learning what the current status of the proceeding is related to this docket.

I agree that any determinations to the proceedings, or any decision, any correct presentations or formal presentations will be made in the future.

MS. APUNA: Chair, could I just say something, since Intervenor is directly addressing something that --

ACTING CHAIR CABRAL: If you keep it short.

MS. APUNA: I'll retract any statement that OP is saying that $2 million, or whatever amount, is substantial commencement. I wasn't making any legal point or -- and so I was speaking to or repeating what was in Petitioner's filing as far as the money spent toward the project. So I retract my statement
that there was substantial commencement. I hope that clarifies.

ACTING CHAIR CABRAL: Thank you. I think some of that came about because we started asking questions --

COMMISSIONER OKUDA: Chair, I can clarify my questions. It's not intended to adduce or obtain evidence as far as an ultimate determination on whether or not there's substantial commencement or not. And I do agree with what the Intervenor is stating as far as the right of all parties to cross-examine and develop a full record.

My questions were simply so I can better understand the status reports that were submitted, and that's the limit of my questions.

ACTING CHAIR CABRAL: Thank you.

Any other comments? Are we ready for public testimony? Public testimony. Thank you.

I think at this time I'll ask our Executive Director to proceed with calling those that have signed up in the order in which they have signed up.

I may ask, as the Commissioners rules allow, and to promote efficiency in these proceedings, all individuals providing public testimony limit their comments to no more than three
minutes, and when the time is called by our staff, to please wrap up your comments. Thank you, we will proceed.

EXECUTIVE OFFICER: First witness signed up Mike Moran, followed by Mark Hyde.

ACTING CHAIR CABRAL: May I swear you in?

THE WITNESS: Yes, ma'am.

ACTING CHAIR CABRAL: Thank you.

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

THE WITNESS: I do.

ACTING CHAIR CABRAL: Thank you.

MIKE MORAN

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

DIRECT EXAMINATION

THE WITNESS: Aloha, Chair and Commissioners. My name is Mike Moran, and I'm testifying for the Kihei Community Association.

Mahalo for your volunteer service to our residents.

As you are once again on this ongoing A94-706 Ka'ono'ulu, after your unanimous decision on the prior proposed use of these lands, we ask you to hear our local community input as you receive a status report.
We have been one of the stakeholders invited to meet with the new declared landowner representative Mr. Harry Lake, which we appreciate. We hear positive sounding words that he wants to follow the needs expressed by the local community for this land, while following the parameters set in your decisions.

You may recall we had presented a proposal for mostly residential mixed use to the landowner, and that mysterious green one-page sheet that you have, as truly affordable housing is far and away the greatest need of South Maui and most of our island.

We are aware that the original proposed purpose when land use change was granted was for light industrial. While Maui County zoning allows a wide number of potential uses in this category, because of the stacked zoning, which does include multi-family housing as we understand it for our community, we are using most direct descriptions to avoid misleading conclusions.

We do not need more light industrial facilities in the strict sense of the term. Adjoining on the north edge we have a true light industrial complex that is already full of vacancies. Further, the Kihei Charter High School has been
located within this complex for many years, and they
will be severely downsizing in this use creating more
vacancies as they will open their newly constructed
school down the road in the R & T Park.

So what we do see would be the best outcome
for Kihei region. First, nothing done here until
there is sufficient infrastructure in place following
1998 community plan.

Next, the cultural concerns of the
Hawaiians that must be addressed, followed by overall
environmental concerns. Then, and only then, address
the built environment on the land with emphasis on
workforce housing. Mahalo.

ACTING CHAIR CABRAL: Thank you very much.

Do we have any questions from the
Commissioners? Do the Petitioners have any questions
of this member of the public?

MR. SAKUMOTO: No questions.
MR. TABATA: No questions.
MR. HOPPER: No questions.
MS. APUNA: No questions.
MR. PIERCE: No questions.

ACTING CHAIR CABRAL: Thank you very much.
EXECUTIVE OFFICER: Mark Hyde followed by
Charlene Schulenburg.
THE WITNESS: Good morning.

ACTING CHAIR CABRAL: May I swear you in?

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

THE WITNESS: Yes, I do.

ACTING CHAIR CABRAL: Go ahead and please state your name for the record and your address.

MARK HYDE

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

DIRECT EXAMINATION


ACTING CHAIR CABRAL: Please proceed.

THE WITNESS: It was nearly a quarter of a century ago, 1994, when the Ka'ono'ulu Ranch appeared before your predecessors in this body, and presented a plan that included a 123 lot light industrial park for this 88 acres of land.

When the Commission approved that, it made an order, one provision of which was that there would be an appropriate amendment of the community plan to permit this kind of development at that site. As I recall the order was actually made in 1995 which folded nicely in with the process that the community
was engaged in at the time to update the community plan. And as a consequence, this particular development was folded into the language of the plan, it was adopted by the council in 1998, and specifically bolted into the plan at page 18 in paragraph K.

The point I would like to bring to your attention is that to the extent that this Commission were to approve a variation on that representation, that I would hope and expect that you would condition any change requiring a congruent approval and amendment of the community plan to accommodate a different development. Thank you very much.

ACTING CHAIR CABRAL: Thank you. Any questions from the Commissioners? Commissioner Dawn.

COMMISSIONER CHANG: Mr. Hyde, have you participated in the outreach efforts by Mr. Lake?

THE WITNESS: Yes.

COMMISSIONER CHANG: Thank you.

THE WITNESS: You're welcome.

ACTING CHAIR CABRAL: Any other questions from the Commissioners? Any questions from our Petitioners?

MR. SAKUMOTO: No questions.

MR. TABATA: No.
MR. HOPPER: No, Ma'am.

ACTING CHAIR CABRAL: Dawn?

MS. APUNA: No.

MR. PIERCE: No.

ACTING CHAIR CABRAL: Thank you very much, sir.

EXECUTIVE OFFICER: Charlene Schulenburg followed by Lucienne deNaie.

ACTING CHAIR CABRAL: May I swear you in?

THE WITNESS: Yes.

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

THE WITNESS: Yes, I do. Charlene Schulenburg, 1390 South Kihei Road in Kihei.

CHARLENE SCHULENBURG

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

DIRECT EXAMINATION

THE WITNESS: First of all, I want to welcome you all back. We were all here not too long ago. Thanks again for coming.

We know these are big issues, especially when it deals with 88 plus 13 acres.

Just some general comments based on what I
listened to today. Not sure what the actual purpose of today's meeting was, so I apologize if I'm ignorant of that, so I'm not sure what the outcome plan for this meeting was. I appreciate all the updates for sure.

In no particular order, I guess I'm just a little confused about their needing more time. They have owned it for nine years, and they did the amendment for the mixed-use thing back in 2013. They've been through this process. And there were lots of information given that they needed to provide, and I'm just really confused as to what else they need do.

When this last LUC meeting ended last year, I mean, they had a very clear cut list of things that they needed to do, and community outreach certainly is one of them. And I feel like that could have been done in the time that's taken place since then.

The thing about the substantial commencement is odd in that they do have to provide reports, annual reports. So I'm confused why they can't say how much soft cost has occurred. I would think that would be in the reports already.

So this commencement issue is a big one, and it just feels a little disingenuous that they
don't have the numbers.

And what is the substantial commencement number? Is it a percentage of something? Is it a percentage of their budget? Is it a percentage of -- what is it? So that needs to be defined, at least for the community to understand what this is all about, please.

And then it's just disappointing that it started with their fences going up, and that the community didn't know what the new plan was. So EIS stuff is super important. That's what kind of brought a lot of issues that dealt with the cultural aspects that hadn't been addressed properly, and the flooding aspects that are absolutely huge to everything makai of this property plus the kai itself.

So there's major flooding issues that are still not being addressed in some of this. And I take them for their word that they want to be concerned with these issues, but without it being a requirement, without it being written that they have to do additional studies, it's very concerning that these issues that the community have would actually be properly addressed in a formal and legal way.

So that's kind of my overall view. Yeah,
traffic. I mean the traffic study, anybody can do a traffic study and bring people in and say there is no significant impact, but we're already overdeveloped in Kihei, and Piilani Highway is already suffering as a result of that. And everybody knows that. So this would be a major -- a major intersection as was defined by counsel for Maui Tomorrow, and you know, we have to take that really seriously, that can't be just brushed over.

I can say lots more, but those are my main points. Thank you.

ACTING CHAIR CABRAL: Thank you very much.

Any questions from the Commissioners on this? Commissioner Edmund.

COMMISSIONER ACZON: Have you attended any of those outreach by Mr. Lake?

THE WITNESS: I was not personally contacted. I am a member of KCA, although I'm representing myself today. And Mike Moran, our head of KCA, did say that he was contacted by Mr. Lake. I would love to be part of it, absolutely.

In fact, I would think that anybody who testified at that last LUC meeting would have been contacted, so I'm kind of surprised that we all weren't, but I do appreciate the outreach.
COMMISSIONER ACZON: Pretty sure Mr. Lake is going to get in touch with you.

ACTING CHAIR CABRAL: Any other comments from Commissioners or questions? Any questions or comments from the Petitioner?

MR. SAKUMOTO: No.

MR. TABATA: No.

MR. HOPPER: No.

MS. APUNA: No.

MR. PIERCE: No.

ACTING CHAIR CABRAL: Thank you very much.

EXECUTIVE OFFICER: Next witness, Lucienne deNaie followed by Alohalani Smith.

ACTING CHAIR CABRAL: May I swear you in?

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

THE WITNESS: I do. Lucienne deNaie. My address is 320 Door of Faith Road in Haiku.

LUCIENNE DENAIE

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

DIRECT EXAMINATION

THE WITNESS: Mahalo, Acting Chair Cabral and members of the Commission. Thank you for coming to Maui.
I'm testifying today in my position as President of the Board of Maui Tomorrow Foundation. We very much appreciate the outreach that Mr. Lake and his partners have done with us and other members in the community, and agree that much more is needed, but it's much better to have this kind of consultation.

This project started back in the 1990s with a lot of community consultation which resulted in the original project that was approved in the community plan and by the LUC. So it's really what is needed when you have a good-sized development on 88 acres.

The process also needs to be based on truthful disclosures, and we do have some concerns that the statements about there be no need for updated EIS, there are going to be impacts, and there needs to be a way to examine those impacts and see what can actually be done to mitigate them.

I will move on to some of the things that we have in our meetings thus far with Mr. Lake and his folks.

I also want to point out that it's my understanding from looking at county files that most of that $23 million bond is for relocation of the county's main water pipe, 36-inch transmission line
that brings water from Iao Valley all the way to South Maui, and that pipe diagonally crosses the property. It will need to be relocated and a new pipe will need to be installed, and that's what those pipes are. So probably most of the bonding is for that improvement.

What we have heard thus far from folks in the community meetings is that Kulanihakoi is not some barren weed covered acreage along Piilani Highway, it has the remains of a small Hawaiian village. It's built within the bend of one of the South Maui major gulches, and I will say here that all the engineering studies you see for South Maui note that this gulch, because it has five tributaries, is the major drainageway in all of South Maui, carries the most flows.

So because of that, probably 500 years ago this project could have been like in a little delta area. It has another gulch going through it that also carries water.

So we need to go back, look at conditions before the slopes were deforested, when Kihei had shining palms all along the coast, major fishponds immediately downslope from here, what was the significance of this land based on that?
And we know there are several heiaus on the beach at the mouth of this area. There's a muliwai. There is a special spring. So all of these are impacts that upslope development had impacts on these things that are just immediately downslope within a half mile to a mile.

So what we heard from the community is that any future plan needs to start by minimizing the impacts to these cultural features both on and off-site. That would include preserving the natural gulch onsite as a feature of the plan, and preserving cultural sites that are associated with ongoing cultural activities on the land.

The lineal descendants and the cultural practitioners must not only be consulted, but have their views respectfully included in the plan.

That's it.

ACTING CHAIR CABRAL: Thank you.

THE WITNESS: We have not heard a plan that does that, so we want to let you know that's what we are hearing from the community.

ACTING CHAIR CABRAL: Any comments or questions from our Commissioners?

COMMISSIONER CHANG: I want to follow up with your closing comment about cultural
practitioners, cultural descendants. Have they participated in the community engagement process with --

THE WITNESS: There is an outreach to the Hewahewa family who were the LCA holder of record during the Mahele, and there will be outreach to Mr. Alvin Liu, who is also a descendant of that family that has not yet occurred due to scheduling. But our concern is it's not just, oh, we met with them, check off the box, but that what is heard becomes part of the plan.

COMMISSIONER CHANG: Thank you.

ACTING CHAIR CABRAL: Any other questions from our Commissioners?

Questions or comments from the Petitioner?

MR. SAKUMOTO: None.

MR. TABATA: No.

MR. HOPPER: No, Ma'am.

MS. APUNA: No.

MR. PIERCE: No.

EXECUTIVE OFFICER: Alohalani Smith followed by Vernon Kalanikau.

ACTING CHAIR CABRAL: May I swear you in? Do you swear or affirm that the testimony that you're about to give is the truth?
THE WITNESS: Yes, I do.

ACTING CHAIR CABRAL: Proceed, state your name and address.

ALOHALANI SMITH

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

DIRECT EXAMINATION

THE WITNESS: Alohalani Smith, and Piilani Highway out in Kaupo. We are better known as our mile marker, so it's mile marker 33.

I'm here -- I'm the Aha Moku Island Council representative for Kaupo and I'm one of 12 representatives. I'm in support for the affordable housing as long as it's smart development.

My concern -- first of all I wanted to commend the community engagement, and I suggest that you guys also reach out to the Aha Moku Island Council because we're a wealth of information.

I am one of the Hewahewa family descendants, and my concern is the cultural sensitivity that should be respected on the site for our traditional and cultural practices and our gulches, especially not to alter them.

We look at the Waiohuli destruction, the Kula forest had a fire, so they pushed all the trees
in the gulch, and that resulted in the flood that hit
down by the Hawaiian Homelands that kind of took one
home off its structure. So that's an example.

But our recent example is the Kaua'i one
where they filled in the muliwai. So what a muliwai
is, is the mouth of the river meeting the ocean.

So they filled that 88 acres in, put a
buffalo farm and housing, and look what happened.
The homes that were not in the flooding area got
affected as well.

So I'm just wanting to make sure the impact
to our gulches is not altered at all. So I just want
to thank you for that.

ACTING CHAIR CABRAL: Thank you very much.

Any comments or questions from our Commissioners?

COMMISSIONER CHANG: Thank you.

Ms. Smith, you said you're a member of the
Hewahewa family. Has your family participated in the
community outreach?

THE WITNESS: No. Some of the cousins
have, but because I'm out in Kaupo, sometimes it's
hard, but yeah, I would like to be involved so I can
support it too and be a resource too.

COMMISSIONER CHANG: Thank you.

ACTING CHAIR CABRAL: Any other questions
or comments from Commissioners? From our Petitioners?

MR. SAKUMOTO: No questions.

MR. TABATA: No questions.

MR. HOPPER: No.

MS. APUNA: No.

MR. PIERCE: No.

ACTING CHAIR CABRAL: Thank you very much for your input.

EXECUTIVE OFFICER: Next witness is Vernon Kalanikau, followed by Syl Cabral.

ACTING CHAIR CABRAL: May I swear you in?

THE WITNESS: Yeah, go ahead.

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

THE WITNESS: Yes.

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

THE WITNESS: My name is Vernon Vernon Kalanikau. I live at 426A Kinolina Road in Kihei, right below this project.

VERNON KALANIKAU

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

THE WITNESS: So again, my name is Vernon Kalanikau. Here we are again.

I'm the representative for this area South Maui or Kula Makai under Aha Moku Council. I'm the representative for that.

I live right below this property, right across the street. My concern is always the cultural features, and I mentioned that in our last meeting that we had here previously that we got to really malama that. We cannot change the terrain, that's for sure. We have to keep the terrain that we have.

Cultural practices are still being done when they choose to. Most recently Hewahewa ohana and others from Oahu and throughout Maui have participated on that property.

I do cultural practices right below the property in Kulanihakoi River, which runs right through this property. So just know the cultural practices will always be ongoing. It will never stop.

But as far as the terrain and the features and the cultural features on the property, that needs to be cared for and not interfered with, so I really appreciate Harry Lake. He's been meeting with us
several times and making a great effort in communicating with us through emails or phone calls. And he's really taken into heart about working with our Moku Council and KCA and other members in the community to come up with something but in a smart way, in a cultural way.

Like for us our concern is the runoff, the water, it's going to end up below. It's always flooding makai of this property. So we have suggested some ideas on how we can keep the water, surface water on the property.

So that's working out fine. So appreciate what Harry has been doing with us. There's some concerns about need to update our inventory, other features that was not inventoried, cultural features on that property from what I understand or was told by others like Lucienne and the families that have concerns about that.

We need to include the Hewahewa ohana. They couldn't make it today to say what they have to say, but first things first, you know, family first, then everybody else come after.

So culturally we need to focus on that first. That's the kuleana first and then we can figure out what works for that area.
Traffic going to be horrendous. Whatever we decide to do in that area off Piilani and the high school right down the road, traffic light. You don't want to be on Piilani Highway in the future, but it's going to happen.

So that's all I have to say. Thank you.

ACTING CHAIR CABRAL: Commissioners, any comments or questions of this public witness? How about from our Petitioners?

MR. SAKUMOTO: No questions.

MR. TABATA: No.

MR. HOPPER: No, Ma'am.

MS. APUNA: No.

MR. PIERCE: No.

ACTING CHAIR CABRAL: Thank you very much.

EXECUTIVE OFFICER: Next witness Syl Cabral.

ACTING CHAIR CABRAL: I would like to comment, no relationship that I know of, Cabral. Or we haven't met yet.

Can I go ahead and swear you in, please?

THE WITNESS: Yes.

ACTING CHAIR CABRAL: Do you swear or affirm that the testimony you're about to give is the truth?
THE WITNESS: It is to the extent of my knowledge, yes.

ACTING CHAIR CABRAL: Can you give us your full name and address?

THE WITNESS: Syl Cabral, Walaka Street, Kihei.

SYL CABRAL

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

DIRECT EXAMINATION

THE WITNESS: Well, we can either get -- I'm going to go on a little short rant, I'm sorry. Well, we can either get rid of Monsanto, or I suggest 30-foot walls around the project to stop the impact of the daily spraying of poison for your potential employees, residents and tourists.

There is a glut of vacant land units in the island, especially at the Queen Mall, Kihei Mall, Lahaina Gateway.

As far as residential requirements, I think they should buy land from the 36,000 acres in Central Kihei to build truly affordable homes, 250 homes with a little plot of land, tiny home, ohana, a carport, so that we can live. I beg you. I beg you that we get some housing, not these fake affordable villas
that nobody can afford. Kalamaki Villa, the Kihei
Ali'i Villas. We don't want villas, we want homes.
I beg you, we need homes.

And first choice is the people that have
employed here, that have jobs here, that are working
here. Our children, the people that are born here.
Not these people that fly in and get into these
villas the next day.

Now, according to the U.S. Census our
median price is 32,000 a year. So I don't know where
you guys are getting this $92,000 a year median price
which jacks up these houses so 20 people out of the
200 Kalamaki people qualified. Five people qualified
for the affordable Kihei Kalama Villas which are now
500,000 for a studio.

This project, this land, this road is
state, federal money. The federal money has come and
gone for the last 50 years waiting for the road. Now
it's moved from the tech center to the Promenade.
It's federal money. It's a state highway. It's
going to connect to Hailemaile. Everything is on the
map. They could open it tomorrow if anybody had any
sense to open up a road.

This project is going to be a billion
dollars, so the 2 million sitting there paid is
nothing to compared to the billion, because even at half a billion, it's 4 million an acre.

And that's it. And I'm glad to be here. I came here by accident, and I'm glad I got to speak.

ACTING CHAIR CABRAL: Thank very much.

Would our Commissioners like to make any comments or have any questions of Ms. Cabral? None.

Petitioners have any questions?

MR. SAKUMOTO: No questions.

MR. TABATA: Nope.

MR. HOPPER: No.

MS. APUNA: No.

MR. PIERCE: No, thank you.

ACTING CHAIR CABRAL: Thank you very much for your testimony.

Since we have no one else to testify, I would like to ask --

MR. PEREZ: I would like to testify. I did not sign up.

ACTING CHAIR CABRAL: Come forward and give us your -- I will swear you in.

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

THE WITNESS: I do.

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

THE WITNESS: My name IS Albert Perez. My address is 55 North Church Street in Wailuku.

ACTING CHAIR CABRAL: Thank you, proceed.

ALBERT PEREZ

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

DIRECT EXAMINATION

THE WITNESS: Thank you for coming to Maui again. We appreciate the opportunity to testify in this status update.

We do appreciate the outreach by Mr. Lake, the new consultant for the developer. We can verify that we have had two meetings with him. I would like to say that we are always willing to engage in discussion that has the potential to lead to compliance with our community plans, and respects the significant cultural sites and ongoing cultural practice that occur on the site.

When you walk on this land, you realize that it's not just a flat bunch of weeds and kiawe. The land is rolling and varied. There are gulches and high points. The gulches provide shelter, and the high points provide excellent views for astronomy, weather observation, and ocean
observation.

With regard to discussion of affordable housing, there's been some talk about. There haven't been any real commitments that we've heard of. And the Honua'ula Partner side could occur, to my understanding, it could occur on this 88 acres, or it could occur on the Wailea 670 acres, so we're not sure if that's going to occur on this site.

I would just like to wrap up by saying that while we appreciate the outreach and the community opportunity to work with the developer, and we did make suggestions along the same lines that we're making to the previous consultant that were essentially ignored.

But our willingness to engage in this dialogue should not be construed as approval of any new plans, but we remain hopeful. Thank you.

ACTING CHAIR CABRAL: Any questions or comments from our Commissioners? How about from our Petitioners?

MR. SAKUMOTO: No questions.

MR. TABATA: No, Ma'am.

MR. HOPPER: No.

MS. APUNA: No questions.

MR. PIERCE: No, thank you.
ACTING CHAIR CABRAL: Thank you very much, sir, for your input.

Anyone else in the audience? Thank you very much for everyone's input. You know we will return on this matter.

At this point in time I would like to go ahead and ask if we have any final comments from our Petitioner. Mr. Sakumoto, would you like to make any closing remarks?

MR. SAKUMOTO: I have nothing further, Ma'am Chair.

ACTING CHAIR CABRAL: Mr. Tabata, would you like to make any closing remarks?

MR. TABATA: I have nothing further. Thank you.

ACTING CHAIR CABRAL: I'll go to Intervenor. Mr. Pierce, any final comments?

MR. PIERCE: Nothing further. Thank you for being here.

ACTING CHAIR CABRAL: Now I would like to go ahead and ask Mr. Hopper with Maui County, any closing comments?

MR. HOPPER: No, thank you, Madam Vice Chair.

ACTING CHAIR CABRAL: And State Office of
Planning, Ms. Apuna, do you have any comments?

MS. APUNA: No comments, thank you.

ACTING CHAIR CABRAL: Thank you very much. Do our Commissioners have any final comments?

COMMISSIONER CHANG: I can't resist. I do have one request when we do come back, sort of goes back to the Petitioner Piilani's statement about substantial compliance with the 1995 D and O.

Most of us who are sitting on the Commission were not here at that time, so it would be very helpful if you could outline what was the proposed development in 1995? And as you propose your new -- the revised development -- how does that substantially comply with the original one?

That would be very helpful, again, most all of us, all of us were not here at that time. Thank you.

ACTING CHAIR CABRAL: Petitioner, can you comment on that?

MR. SAKUMOTO: That's an excellent suggestion and we would be very happy to provide that information.

ACTING CHAIR CABRAL: We will look forward
to that.

Commissioner Gary.

COMMISSIONER OKUDA: Chair, just one statement. Although not to part ways too much with my fellow Commissioner, but I think D and O's speak for them self.

ACTING CHAIR CABRAL: Thank you for your comments.

Any other comments from the Commissioners?

I would like to remind the Commissioners at this point we are -- it's a status report, and we're not required to take any kind of action.

If there is no further discussion, I would like to declare that this meeting will be adjourned as a meeting. I'm going to call for a recess because we are going to go into executive session to discuss LUC matters that are not related to this issue at all.

(Recess taken and Executive Session.)

(The proceedings adjourned at 12:06 p.m.)
CERTIFICATE
STATE OF HAWAII     )
) SS.
COUNTY OF HONOLULU )

I, JEAN MARIE McMANUS, do hereby certify:

That on July 11, 2018, at 9:04 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 11th day of July, 2018, in Honolulu, Hawaii.

/s/ Jean Marie McManus

JEAN MARIE McMANUS, CSR #156