

PLANNING COMMISSION  
COUNTY OF HAWAI'I

HEARING TRANSCRIPT  
OCTOBER 1, 2004

A regularly advertised hearing on the application of **KONA HALE, ALII, LLC (REZ 04-022)** was called to order at 10:58 a.m. in the Ohana Keauhou Beach Resort, Kahaluu Ballroom, 78-6740 Alii Drive, North Kona, Hawai'i, with Second Vice-Chairman Hannah Springer presiding.

PRESENT: Hannah Springer  
C. Kimo Alameda  
William Graham  
Rene' Siracusa  
Francis Smith

ABSENT & EXCUSED: Fred Galdones  
Earl Fujikawa  
Jeffrey McCall  
Bill P. Thibadeau

Ivan Torigoe, Deputy Corporation Counsel  
Christopher Yuen, Planning Director  
Phyllis Fujimoto, Staff Planner  
Jeff Darrow, Staff Planner  
Kiran Emler representing Department of Public Works

And approximately 12 people from the public in attendance

**APPLICANT: KONA HALE ALII, LLC (REZ 04-022)**

Change of Zone for approximately 6.2 acres from a Resort – Hotel 1,250-square foot (V-1.25) and an Agricultural 1-acre (A-1a) district to a Multiple Family Residential – 2,500-square foot (RM-2.5) district. The property is located along the south side of Hualalai Road, approximately 1,100 feet from the Hualalai Road – Kuakini Highway intersection, Hienaloli 6<sup>th</sup> and Auhaueke 1<sup>st</sup>, North Kona, Hawaii, TMK: 7-5-09: 67 and portion of 54.

SPRINGER: At this time, we're taking up an application by Kona Hale Alii, LLC for Change of Zone (REZ 04-022), for approximately 6.2 acres from a Resort-Hotel 1,250-square foot (V-1.25) and an Agricultural 1-acre (A-1a) district to a Multiple Family Residential 2,500-square foot (RM-2.5) district. The property is located along the south side of Hualalai Road, approximately 1,100 feet from the Hualalai Road-Kuakini Highway intersection, Hienaloli 6<sup>th</sup> and Auhaueke 1<sup>st</sup>, North Kona, Hawaii, TMK: 7-5-09:67 and portion of 54. Mr. Darrow?

DARROW: Thank you, Madam Chair. If I may direct your attention to the location map, the area, again, of this application is within the North Kona district. This white line coming in a north-south direction is Queen Kaahumanu Highway. This red line that you see running in a north-south direction, parallel with Queen K is the Kuakini

Highway. The red line is actually the SMA line. The location of this application is identified with this red dot here, just south on Hualalai Road.

The application is going to be on two parcels: Parcel 67, which is identified in purple and is zoned Resort-Hotel 1,250 square feet; and a portion of Parcel 54, this parcel identified in green, which is zoned Agricultural 1-acre. The Applicant, in this case, Kona Hale Alii, LLC, is requesting a Change of Zone from the Resort 1,250 square feet and a portion of 54, Agricultural 1-acre, to combine these two into a Change of Zone for a Multiple Residential Family - 2,500 square feet.

The Applicant has submitted with our office a consolidation/resubdivision; and if approved, these two, this parcel will be consolidated into one parcel and the remainder of 54 will be a lot of record.

The subsequent, subsequently, the Applicant would like to develop a 92-unit condominium project. Originally, there was approval for an 80-unit condominium project on Parcel 67 alone. This was an approximately 2.3-acre lot. And if I may direct your attention to this illustration on the board, this is what the previous proposal looked like. It was basically a 4-story large project on a smaller parcel. This is what the actual project looks like from a conceptual site plan view.

The new project will consist of a larger area, approximately 6.2 acres and increase the density from 80 to 92, and be consisted of twenty-three 2-story fourplex structures; and these are identified on this conceptual site plan here located on the board.

If I can also mention that this application has gone before the Kailua Village Design Commission, we just recently learned, on September 21<sup>st</sup>; and they did recommend approval to the Planning Director for the Change of Zone.

We have not received any letters of opposition for this project. We have sent out to the Commissioners a revised fair-share condition, Condition M, and that should be located in your packet.

The Planning Director is recommending a favorable recommendation by the Planning Commission to the County Council. Are there any questions?

SPRINGER: Commissioner Graham?

GRAHAM: Jeff, I have a question for the Planning Director. I understand this particular situation we already have as far as Plan Approval an 80-unit project and this is only a relatively small addition as far as unit count to their project. But it does seem like, you know, simply a little less dealt with, any substantial project in a Change of Zone situation in Kailua-Kona -. We do have the new County-wide circumstance where the Kim administration is indicating something in the general major concurrence. And so I just would like the Planning Director, if you could speak a little to that issue about what

he feels are, you know, guidelines that this administration feels are appropriate as far as concurrent requirements as far as any change of land use in this area.

YUEN: Concurrency refers to the idea of infrastructure improvements being concurrent with this particular development. The problem that we've seen is that sometimes we approve developments expecting improvements to be made, and then they haven't happened for one reason or another. We've actually implemented concurrency pretty well with things like water system. You don't get your water, you don't develop the project until you have water commitments and the Department of Water Supply furnishes those. Where we've fallen behind really is in the regional road network. Obviously, in Kona the regional road network is inadequate. There are projects that are planned, some funded. We've had some difficulties, as you see, recently in getting some of them built.

We are applying concurrency, we are not applying concurrency at the moment to housing in Kailua-Kona because we think that part of the solution to traffic in the Kona area is to get housing, specifically a moderate-income housing, affordable housing into the Kailua-Kona area. Now, this project is not specifically a moderate-income housing project but it will have a, if it's approved with the recommendations that we have, we'll have a, you will have to include affordable housing under County Housing Code, Chapter 11. We're hoping that before any, the Council is considering modifications to that that would beef up the requirements; we're hoping that those pass sometime soon.

So, and then, on-site, we do expect projects, even housing projects, to deal with the immediate impact of their development on the local road system. So that's why we have these conditions on improving Hualalai Road.

SPRINGER: Commissioner Siracusa?

SIRACUSA: I don't know if this is the proper time to ask, but since Director Yuen mentioned it, I'd like to know if we can include something about affordable housing in our conditions?

SPRINGER: Mr. Yuen?

YUEN: We have a recommended condition on this and this is, the condition that we recommend is that they comply with the affordable housing policy. There are weaknesses in the current affordable housing policy. The worst thing about it is that there's a possibility of an in-lieu fee, which is very, very low, which really works out to \$470 a unit. The Council can also reject the in-lieu fee, and they have on the last two or three applications that have come before it, not allow the in-lieu to be used. But we are, our recommendation is that we include the standard affordable housing condition in this rezoning application and deal with it, not specific to this project, not have a different condition for this project than other residential rezonings.

We have put in a higher, we've recommended a higher condition where we have given, where people have come in and said that they will do an affordable housing project and wanted some accommodation on things like infrastructure or road improvements. And we've, in order to lock that in we've been, said -. And I'm thinking particularly of the Westpro application that the Commission dealt with about two months ago. We did have an increased housing condition on that, because we did give some accommodation on the off-site road improvements, and we were expecting for that. So in, really, a quid pro quo for that, we had a lower, we locked in, or at least recommended a lock-in of a higher affordable housing requirement for that. We're not doing anything like that with this project, so we're recommending a standard condition.

SPRINGER: And, Director Yuen, that's Condition K. And as I read it, "This requirement shall be approved by the Hawaii County Housing Agency prior to the receipt of Plan Approval."

SIRACUSA: I did want to mention that we will be having a whole new picture on the County Council, also, and so we may see some, where they had been reluctant in the past, you know, on certain things we might see a change in attitude there, too, coming up.

SPRINGER: Thank you. Other Commissioners, questions or comments of the staff? Seeing none, at this time, I'd like to invite the Applicant and their representative and any one who signed up to testify. At this time, I have Joel Gimpel and Mary Murphy, and I'll ask the four of you then to raise your right hands? Mr. Fuke, you're already under oath. Thank you, sir. Do you swear or affirm to tell the truth on this matter now before the Hawaii County Planning Commission?

TESTIFIERS: I do.

SPRINGER: Thank you, all. Beginning with the Applicant and its representative, if you could you please state your name and your address into the record?

SAUNDERS: Certainly. Thank you. Good morning, all. My name is Robert Saunders. I reside at 551 Akala Road, Hilo, Hawaii.

SPRINGER: Again, Mr. Fuke, you're already sworn in.

FUKE: Thank you.

SPRINGER: Mr. Fuke and Mr. Saunders, did you receive the Planning Department's Background Report and Recommendations?

FUKE: Yes. Both, as well as the amended Recommendation, were received by the Applicant, was also reviewed by the Applicant, and they found them to be acceptable, accurate.

SPRINGER: Thank you. Do you have any additional comments?

FUKE: Sure. I feel rather awkward, you know, appearing before this Commission, you know, on applications like these, largely because, you know, in light of all of the concerns raised about traffic and more and more development in that area. And, you know, it's as though they are like, gee, you know, aren't you sensitive to this situation; and, you know, I feel very badly. But, at the same time, you know, I'm looking at a situation and just trying to see like, well, you know, we still are a government of laws and, you know, just trying to see like, well, you know, we have a lousy situation many times but can we make lemonade out of a lemon situation. And I think that, and I hate to put, cast it in that light, but I think that this is a situation along that line. If you just look at the newspapers, they probably would say, well, another 92 condominium project being proposed by the developer and probably the Commission is going to take a position one way or the other; and, you know, that's how it would look.

But if you get down deep into like what is already existing and then look at like what can or cannot be done on the properties, then maybe you might take a different light on that; and this is how I looked at this situation. And as Jeff had pointed out, the two middle pictures, you know, beginning on your right, you know, the second and the third on your right, you know, that's already like an approved project based on an existing zoned property. You know, it's currently zoned Resort and it was for like an 80-unit condominium project on a 2.3-acre parcel. So it's a relatively small parcel. They had applied for a building permit. But at the last minute they kind of like yanked it out, you know, after Mr. Saunders and his group bought this property and then, you know, just felt that overall that this was not really like the kind of project that was desirable and would be fitting within the Village; and, you know, he'll explain a little bit further, but -. So they acquired this additional parcel; and in acquiring this additional parcel, they wanted to spread out the project, have a lower density project, and basically have 2- and 3-story type of structures, to the point we're now over like 2.3 acres of land. You know, you'll be looking at essentially about a 9-acre area and increasing the density by 12. So if you look at the existing zone, you know, the current Resort-zoned property, and you look at the adjoining property, which is essentially the newly-zoned area, you know, you'd have like a total of 88 units would be possible on both properties right now. And they're proposing 92, so, basically, you would have an increase of 4.

But, in exchange for that, what you have is like a series of improvements not only on Hualalai Road but there's like, on the adjoining parcel, there's like about 3-plus acre area that's going to be kept in perpetuity as an archaeological preserve; and that's reflected in Condition I of the staff's Recommendation, which the Department is recommending that that portion, a preservation plan be prepared for that area. So although it's not part and parcel of the zone change action, but that is nonetheless a zone change requirement, a proposed condition that the Applicant is accepting.

Aside from that, I think, I'll just turn it over to Mr. Saunders, and he can give you a little bit more detail relative to the project concept.

SAUNDERS: Yes, thank you. I do think it's appropriate to give you some context, and I'll be as brief as I can. I've lived in Hawaii for 10 years. Long story short, I came across an investment group out of San Francisco in my former position, got to know them and vice versa. I ended up joining them. They decided that they needed for their various development projects to have a local person that maybe was a little more sensitive to how it is to live and work in Hawaii as opposed to where they are in San Francisco, so I joined them.

One of my tasks was to implement the project that you see on the wall right there. I started out by reading the Kailua Village Design District manual to see what that was all about and understand that. I came here numerous times, talked to a number of people, realtors, people in the business community and others; and the more and more I talked to them, it occurred to me that the design that we had in place, the 80 units, certainly achieved the density that was allowed. No question about it. But it seemed to do it at the expense of some other important things that you might put under this heading of "A Lifestyle." For instance, the project had what's called the "Double-loaded Corridor." You'd get out of an elevator and you'd have a dark corridor, there'd be no opportunity for cross-ventilation. It would be almost like a mainland-style project, which when you think of it if you're from San Francisco, maybe that's something that you're used to seeing.

So we got talking more and more and decided that we really ought to look at dropping down the density and coming up with something that was more appropriate to the community. And I must say it was a situation of putting your money where your mouth was 'cause hundreds of thousands of dollars have been spent on a building permit set of plans for the existing plan. With the investors' concurrence, we pulled, we stopped the permit down at the County and said let's go back and see if we can go back to the drawing board.

We, also, another break-through was we found the adjacent property was owned by the Greenwells, Lanihau Corporation. I sat down with Jimmy Greenwell and we talked about our thoughts; and long story short, we thought that it might make sense to acquire that property from them and see if we couldn't do a better lower density design.

So, in the course of that discussion, we both recognized there are considerable archaeological sites on the Greenwell property. We had an archaeologist go through it, review earlier studies; and we basically concluded that there was a mauka half, that except for one burial site, was clean. A lower half, there was just, as my daughter says, "choke archaeological sites." And we thought it did make sense to do it, yes, you might be able to get some development on there. But we and the Greenwells agreed that we would acquire the entire 6 acres that basically runs from the Kuakini Wall down to Kuakani Highway and we would do a consolidation and resubdivision. The makai half that has the, most of the archaeological, we would put a deep restriction on the site that would preclude any development, not only if we owned but anybody subsequent to us.

So that's how we did the deal with Lanihau. We closed on the property and did our designing; and what you see is what we believe is something that's much more appropriate to the community. I think from just living in and around it, it's going to be a lot less imposing. Instead of having a basically monolithic building along Hualalai Road, which is 45 feet plus, you'll have these individual fourplex buildings -.

PUBLIC: Four-plex?

SAUNDERS: That have the appropriate building separation. Correct. Those average about 30 feet. The top, the third floor is a loft area so the massing is much, much less, and additionally it's broken up with the appropriate setbacks.

The lower portion of the property, again, will be kept as is. We're going to, it helps us in terms of preserving views for our residents there. But we think we achieved something that's more in line of what's appropriate here in the community, and hope you folks see it in the same line. Thank you.

SPRINGER: Mr. Saunders, can you point out on one of the site maps where the archaeological concentration is, or Mr. Darrow?

SAUNDERS: You know, it doesn't show here. I think it -.

DARROW: It would be right in this area here.

SAUNDERS: Right.

DARROW: Right here. So that would be separate from the actual proposed development.

SAUNDERS: Yeah. Here's our archaeologist.

RECHTMAN: It'd be this parcel.

DARROW: Yeah, right here.

RECHTMAN: It'd be the makai portion, remainder of the makai portion.

NOMURA: Microphone -.

RECHTMAN: I'm sorry. It'd be in the remainder of the makai portion of this parcel here.

SPRINGER: Dr. Rechtman, if you could please raise your hand? Thank you. Do you swear or affirm to tell the truth on this matter now before the Hawai'i County Planning Commission?

RECHTMAN: Yes, I do.

SPRINGER: Dr. Rechtman, could you please give us your name and your address for the record?

RECTMAN: My name is Bob Rechtman. My address is HC-1, Box 4149 Keaau, Hawai'i 96749.

SPRINGER: Thanks, Dr. Rechtman. If you could now explain to us where the archaeological concentration is.

RECHTMAN: This is a separate parcel. There are two parcels here; and it's the makai portion of this parcel running below the project area all the way down to the next road, which is Kuakini Highway.

SAUNDERS: Excuse me, if I could direct you to, I think you all have a handout, the last sheet. You'll see -.

FUKE: It's the staff's Recommendation. On the last sheet has the proposed ordinance and then there's a map attached to that.

RECHTMAN: So to answer your question, it's Parcel A-1a.

SPRINGER: Thank you for your comment. Commissioners, any questions or comments to the Applicant's representative? Commissioner Graham?

GRAHAM: Mr. Saunders, thanks for your presentation and I certainly agree with what you say about this scheme fits much more into the Kona style; and the Planning Director did speak before about concurrence and how about housing is something that's really needed. And one little issue comes to my mind in regards to that is any kind of like entry gate. It seems like when you put in controlled entries you kind of break the local style and you also make it less attractive to sort of local people as opposed to mainland people. So I wondered if it would be permissible or would it suitable for you that we make it clear that there will be no controlled entry into the roadways in this system?

SAUNDERS: We concur with that. County is recommending and we agree that the makai entry should be gated for emergency use only, and the everyday entry would be the mauka entry which we are not planning to gate, in part because of what you said.

GRAHAM: And the mauka entry is going to be, excuse me, makai entry will be closed off and that's because of traffic and roadways issues, right?

SAUNDERS: Correct.

GRAHAM: And would it be inappropriate, or would it be a problematic, or does the Planning Director believe it's appropriate that we indicate that, you know, the condition of the Change of Zone be such that there will not be gated entry on the mauka side, or am I kind of being too sticky about something as -?

SAUNDERS: I wouldn't have a problem. I'm just thinking in the real world it'll be a problem to have that be gated. You got people coming on and off the highway, and waiting for the gate to open and shut, and all the grief. I just don't see it as something that we want to do. So if you folks feel you need to throw something like that in, unless my consultant tells me I'm going to shoot myself in the foot, I would agree.

GRAHAM: All right. Well, I'm not trying to be a sticker on it. Thank you.

SPRINGER: Commissioners? Commissioner Siracusa?

SIRACUSA: Well, because I come from Puna, which is a cul-de-sac district and has many subdivisions within it which are also cul-de-sacs, so I look at this and that's what I see. And you know Puna, Bob, so -.

One of things I'm wondering about, looking at the layout here, is if there was a fire, would a fire engine be able to get in and turn around in those little circles?

SAUNDERS: I could only answer this by saying that our architect, that's one of the many tests he had to do. There are, as you know, standards for radiuses, turning radiuses; and I believe we've met all those.

SIRACUSA: Okay, because I know the Fire Department has just sent a standard form saying what the, you know, what the rules are. But I'm trying to, in my mind, to apply that to what I see visually here.

FUKE: Usually what happens is that when you submit your plans for building permit, the Fire Department must review and sign off on it. So if you don't have the required radiuses, then they won't sign off on the building permit.

SIRACUSA: Okay, so that's one question. Another question I had was, as far as the comments from the various agencies, the Department of Education -. Excuse me, while I just review this momentarily. I don't understand since DOE is a State agency, does the County have jurisdiction to require or not to require impact fees? It seems like that's apples and oranges. Could you explain that, please, or address it.

SPRINGER: Mr. Yuen?

YUEN: The DOE, as a standard request on rezonings, asks us to put a school impact fee condition when the rezoning involves more than 50 units. We, the Department had been putting it on and the Council has been taking it off. The Council

feels that the State does not have the authority to ask for that condition to be put in, at least when the project doesn't go through the Land Use Commission.

I decided to stop recommending it, given that the Council is clearly not inclined to put it on the application. I do think there is a, there's a legal, there is a definite legal issue with whether we're authorized to put, whether we are, in fact, authorized to put that on. I wouldn't say that it's illegal, but there's a legitimate question about it.

The other thing to note with respect to this project is that it's only 12 additional units, actually, over the existing zoning. So, in a way, it's not a 50 or more. But it's my intent not to be, I'm going to stop putting this on as a recommendation with these 50 or more rezonings. There's an overlying philosophical problem or issue. Certain things to me are legitimate impact fees. But, to me, the building schools is something that comes out of the general tax revenue, it is not really a developer impact. If you're building a major new subdivision or a major new area in an area where there are no schools, I can see requiring the developer to set aside a school site for it. But I don't know -. To me, the building schools is different than the impact fee for roads or parks and is something that really should come out of the general tax revenue, but I've -. This is a, you need sharp eyes to pick this up that they made this. I think this is the first one that has come through that doesn't involve more than 50 on a rezoning when we haven't put it on; but we are not going to be putting it on as a recommendation in the future.

SPRINGER: Commissioners? Commissioner Graham, question for the Applicant or the Director?

GRAHAM: Yeah, I got a question for Mr. Fuke. I'm concerned about, you know, ground water and impact on the ocean and all, and, so, consequently, the sewage disposal. And I see in the Recommendations, somewhere in the text I was reading in the Recommendations it says the Applicant intends to connect the sewage treatment plant, sewage treatment system. But, generally, on ones we've had before they will say, "shall connect." Is there any problem with "shall connect" here?

FUKE: No. We would have no objection with the mandate as such because it was always the developer's intention to have it, have this project connect to the County's wastewater system.

GRAHAM: Thank you.

SPRINGER: Other Commissioners, questions for the Applicant's representative?

FUKE: Just one comment. If the Commission is receptive to a proposed amendment, you know, this relates to Commissioner Graham's issue about the gate, the appropriate place as I would think would probably be like proposed Condition E. You can just kind of begin by saying, "a non-gated access to Hualalai Road."

SPRINGER: Mr. Yuen?

YUEN: Just, please let's say, "As agreed by the Applicant, a non-gated access -."

FUKE: Thank you.

SPRINGER: Commissioners, any questions of the Applicant's representative or the staff? Seeing none, if you gentlemen could stand back, I'd like to invite the testifiers who have signed up and any others who wish to sign up at this time to give public testimony. We have Joel Gimpel and Mary Murphy signed up.

DARROW: Madam Chair? Ki from the Department of Public Works also wanted to address the Commission.

SPRINGER: Sure, if folks from the public could please bear with us, we would just welcome Mr. Emler with his comments.

EMLER: I'm sorry I didn't jump a little faster. Mr. Saunders brought up or did mention something, he said that the County had preferred the mauka access. And I don't know if Planning had preferred that access, but I can tell you that Public Works did not indicate any preference in our comments. We did ask for an engineering study of the proposed access. And we actually had been working on this based on some already approved project in the area that's across the road, and we were concerned about conflicts with that; and that's why we put the recommendation in there for the engineering study. We're not closing the door on either one. We were working, actually preferring the makai one at the time we made the comments.

SPRINGER: Thanks for that clarification, Mr. Emler. Commissioner Siracusa?

SIRACUSA: As long as he's up there, could I -? Okay, I'm looking at the Police Department letter dated August 18<sup>th</sup> and Item No. 2 states, "Presently, there are only two available connector roadways to the project on Hualalai Road, Queen Kaahumanu Highway and Kuakini Highway. Both of these roadways are at capacity and scheduled for improvements sometime in the future." I wonder if you could clarify "sometime."

EMLER: Okay, Kuakini Highway has a project on the table, and that is a widening project from Palani Road to Hualalai Road, correct; and the construction on that is tentatively scheduled to begin in November of this year. The Queen Kaahumanu Highway is under State jurisdiction and there is a proposed project for widening from, well, the first phase from Keahole, I mean, Kealakehe Parkway to Henry Street. As far as the scheduling on that, that keeps changing; and I'm not sure when that's going to happen. It was supposed to begin, I believe, this year but it's a year behind schedule or two years possibly behind schedule for various reasons. Does that answer your question?

SIRACUSA: I wish it were better but, you know, that'll have to do. Thank you.

SPRINGER: Thanks, Ki. Now, if you could please raise your hands, to the testifiers. Sorry, thank you. If you could please read your name and your address into the record. Starting with you, Mr. Gimpel.

GIMPEL: My name is Joel Gimpel. I reside at 73-4686 Hinalani Street here in Kailua-Kona, and I'm testifying here on behalf of the Kona Traffic Safety Committee. I'm the Public Affairs Chair of that organization. You want me to start?

SPRINGER: Please.

GIMPEL: Okay. Well, we've reviewed this application and understand that approval had been granted back in November of 2001 for the 80-unit project on little more than two acres, and that this new application will therefore result in less density but, of course, 12 more homes. We also acknowledge that the Applicant will construct curb, gutter and sidewalk all along Hualalai Road, and provide 184 parking stalls even though only 115 are required by the ordinance.

Our principal concern focuses on the additional vehicle traffic that will be generated by the project in an area that's already experiencing significant congestion during the morning and afternoon peak hours. Furthermore, the area will soon be burdened, as you've heard just a few minutes ago, with additional delays due to the widening of Kuakini Highway from Hualalai Road to Palani Road, waterline improvements on Kuakini Highway, which you haven't heard about, from Hualalai Road south for nearly two miles, and that is going to start in April of 2005 and go through November of 2005, and, of course, the Phase 1 widening of Queen Kaahumanu Highway, which was supposed to start in July of this year and as you've just heard hasn't been started and probably won't start for a while. So the traffic "Levels of Service" are already at minimally acceptable levels at several of the affected intersections and at an unacceptable level at another. We therefore take exception with the traffic study, the report's absurd conclusion that "mitigating measures wouldn't be required" and suggest that construction of this project be delayed until the planned Kuakini Highway roadway and waterline improvements are completed, otherwise you're going to have real gridlock in the area.

We also question the need for two driveways on Hualalai Road, because each additional driveway, in other words, each additional intersection will further disrupt the flow of vehicular, bicycle and pedestrian traffic and create yet another dangerous intersection. The intersections are where most traffic accidents occur. Furthermore, the sight lines from the driveways at each end of the project's Hualalai Road frontage as contemplated in the plan are too short because Hualalai Road curves before, on the mauka side and makai of the project. It would be safest to place one driveway in the middle of the project's frontage along Hualalai Road, rather than at each end, that way you'd have better sight lines going both to right and to the left.

In addition, the curbs, gutters and sidewalks to be constructed should not result in changing the present configuration of Hualalai Road, whose curvature and narrow width serve to calm excessive speed.

Finally, the project's proximity to several major arterial roads also argues strongly for encouraging access to and use of mass transit by the residents. Accordingly, the Mass Transit Agency should be asked to consider expanding bus service to this section of Hualalai Road, and whether the Applicant should be required to contribute a "fair share" toward that expansion.

Thanks for the opportunity to comment, and I'll be happy to answer any questions you may have.

SPRINGER: Thank you, Mr. Gimpel. Commissioners, any questions of the testifier? Commissioner Graham?

GRAHAM: Joel, thanks for your testimony.

GIMPEL: Thank you.

GRAHAM: I think if I heard correctly, you said like back in 2001, you folks commented on this original project and all.

GIMPEL: No, you heard incorrectly. I said you granted approval back in November 2001 to this project. I don't know that we presented any comments at that time. I wasn't on the committee at that time.

GRAHAM: Okay. I guess that's where I was kind of coming from, is that we're really looking at something that went as far as Plan Approval already on the old configuration, and this is a change of configuration and a smaller vision. So I'm presuming the Planning Commission approved the old configuration and the County Council went ahead and approved the zoning there. But as far as you know, your organization had no comments that you're aware of?

GIMPEL: That's correct. I'm not aware of any comments on the project before.

GRAHAM: Thanks.

SPRINGER: Commissioners, any questions of the testifier? I have a question of the Director peaked by the testifier's comments. I'm wondering about that mid-project entry. Mr. Yuen, can you tell us if there was any discussion of that or we can wait until the Applicant's representative returns to the table?

YUEN: Well, I think that's what Mr. Emler was referring to, that we have a condition that talks about evaluating the sight distance and the location of the final evaluation of the entry.

SPRINGER: Thank you. And, also, Mr. Gimpel's comment regarding the mass transit and the contribution of the fair share toward that expansion, is that contemplated yet by the Planning Department?

YUEN: You know, that really is a good idea. I'd really -. My thought is that rather than, I would like to, I'd like to leave this as is for the Commission, because I would like to talk with the Council staff about changing the standard wording of the road condition, not adding any money to it but saying that the fee can be used for roads in transit. It's, later on in the condition it says that the fair share can be used for roads and traffic. And I may be, you know, we've collected a certain amount of money. We have, maybe, I think we have about a million in fair share on the roads, not that much really has been collected over time. It seems to me that trying to do transportation improvements, you want to have the flex -, we have to have the flexibility to use funds for roads or for mass transit, and that we ought to start tacking this on to our, changing the language on our rezoning ordinances. I'd rather talk to, simply because this is being an overall change, I would like to talk with the Council staff, people that work on planning, and perhaps with the Council people about doing this rather than making this change for this application. We could make the change. If they want to make the change, they can make it up at the Council level. But that is an awfully good suggestion, rather than always saying that the money has to go into roads.

SPRINGER: Thank you, Mr. Yuen. Commissioners, any questions or comments? Thank you, Mr. Gimpel. Ms. Murphy, if you could please give us your name and your address for the record.

MURPHY: My name is Mary Murphy and I live at 75-232 Hualalai Road in Kailua-Kona.

SPRINGER: And your testimony, please.

MURPHY: I represent a group of five property owners just mauka of this project, in fact, on the other side of the Kuakini Wall; and we moved to that development as it was newly completed in September of 2001. And we have heard lots of brakes squealing, lots of noises, lots of traffic; and I am concerned about the new traffic that this project will bring to Hualalai Road. Makai of us is Aloha Kona, that a very dangerous blind curve and to, I mean, mauka, and makai of us runs around the corner towards the Regency.

We've had crashes on this road, we've had one fellow that landed in a neighbor's front yard. And we're just five people, we come and go on a daily basis. This is going to add over a hundred cars coming and going out of this development on a daily basis, and I'm concerned about the traffic. We have heard a lot today about traffic. It's a big topic here

in Kona, obviously. I don't know what to suggest. Widening Hualalai Road, is that a, make it a four-lane road? I don't think that's going to happen. But I'm just here because I'm concerned about the safety of the neighbors, the traffic on that road. I'm living there, I hear the traffic all the time and people, as Mr. Gimpel suggested. That curves can calm excessive speed, a lot of people don't even slow down when they go on those curves. That's all I can say. You hear brakes squealing all hours of the night, and that is why I'm here today. Because living that neighborhood, we're very familiar with the traffic problems, and I'm just worried about the new traffic problems that this project is going to present.

SPRINGER: Thank you, Ms. Murphy. Commissioners, any questions or comments?

ALAMEDA: Madam Chair?

SPRINGER: Commissioner Alameda?

ALAMEDA: Thank you. For both Mr. Gimpel and Ms. Murphy. If in my mind, I know this sounds like you -. Ms. Murphy, if you could prioritize your main issue or concern. It sounds like traffic.

MURPHY: Yes.

ALAMEDA: And, so, and -. Oh, go ahead.

MURPHY: No -.

ALAMEDA: And Mr. Gimpel, if you could prioritize maybe your top two issues or concerns with this particular project, it would be -?

GIMPEL: We're concerned, as the Traffic Safety Committee's concern, first, with traffic safety. So we're trying to make sure that the configuration for traffic is as safe as possible, recognizing that the more traffic, the less safe it is as well. So, obviously, if you have a lot more volume of traffic, which this will bring into the area, you're going to have less safe conditions on the most -. Our idea is to make it as safe as possible.

ALAMEDA: Okay. Thank you.

SPRINGER: Commissioners? Commissioner Siracusa?

SIRACUSA: Yeah, regarding the suggestion that instead of two entrances or exits from the project that there'd be one in the center where there would be a much greater line of sight, I'm wondering if that would, however, hamper evacuation if there were a need to evacuate from there. If there was only one place where people could, all of those dwellings would all have to go out from one place instead of from two different

places -. I don't know if there's anybody who would like to comment on that. I'll accept a comment on that question from anyone who wants.

SPRINGER: Mr. Gimpel?

GIMPEL: My question to you, Ms. Siracusa, would be, this is too high for a tsunami-caused evacuation, so -.

SIRACUSA: Fires, for example, fire.

GIMPEL: There'd have to be one heck of a fire. But the driveway could be wide enough to permit both right and left turns out. I think that should be a principle problem.

SIRACUSA: Okay.

SPRINGER: Thank you, Commissioners. Any other questions or comments of the testifier?

SIRACUSA: I'd like to know how the developer would feel about that option?

SPRINGER: They'll be returning to the table after we excuse the members of the public. Thank you for contributing to the record today. If the Applicant's representatives could come forward at this time. Welcome back to the table. You've heard the testimony and the comments made by the Commissioners and the staff, and I believe Commissioner Siracusa has a specific question for you.

SIRACUSA: Yes, it was suggested by Mr. Gimpel that it would be a lot safer traffic-wise to have the entrance and exit from the parcel as being a single one right in the center instead of on either end, so that there would be more line of sight for safety, more safety in the traffic pattern. And then he further suggested, when I was concerned that things would get jammed up if there was a fire, that it could be wider than, you know, more than just a single lane, possibly two lanes out, something like that. So I'd like you to comment on that if, what you think about that suggestion, and if it seems to you that it would be feasible, or if it would interfere with your other plans in some way.

FUKE: I'd like to take an initial stab at it and maybe Mr. Saunders later on. I think that we had originally conceded to the fact that, you know, we would have like only one primary access and, if anything, that the second access would be reserved only for emergency purpose; and this would be exactly like what the Department of Public Works had recommended.

You will note earlier that when Mr. Saunders testified, you know, he was assuming that the primary access would be on the mauka portion and Mr. Ki comes up and said like, "Well, they're thinking a little bit more on the makai side," and then Mr. Gimpel is saying, "Maybe it should be right in the middle." And, so, I think that the way that the

Director had structured the recommendation is probably the best, and which is that it would be engineeringly studied, looking at all of the access points, not only along the south end of Hualalai Street but also like on the north end, and see like where the best connection point should be, taking into account sight distance.

SAUNDERS: And I would add, and Ki I apologized, I misspoke there -. I would add also to try and coordinate with what's happening across the street. I mean, to try and think -. We certainly have the flexibility to move that access point. I would like to be able to maintain that secondary access, in part, for the points that you talked about, gated but an emergency access. I think it makes good sense.

SPRINGER: Commissioners, any further questions of the Applicant or their representative? Sirs, do you have any concluding comments for us? Commissioner Graham?

GRAHAM: Excuse me for being late on this. I kind of want to broach a different subject and, I guess, now is a good time to do it. I kind of wanted Mr. Rechtman's attention on it and the Planning Commissioners', Commissioner Springer's in particular. Let me just explain my feeling. The makai part of the agricultural parcel, prime agricultural parcel, which was described as "choke full of archaeological valuable sites" and all, and then the adjoining parcel on the south side, I believe, which is maybe No. 55, which also has numerous archaeological sites, and I think if the Commissioners wanted to look at what I'm referring to, this is in Mr. Rechtman's archaeological survey, and there's a map on page 6 -.

My concern is just that, kind of thinking of the native culture here that came long before any of us, it's so easy to say, "Well, it needs to be preserved and certainly in the case of burials, I think the best you can do is leave them alone." But when I look at North Kohala, for example, when Chalon bought up all the property up there, there's a heiau called the "Kukui Pau Heiau" up there and that heiau just sort of sat under kiawe trees and fountain grass and stuff for years and years. And the Chalon people from request of the community fenced the site and brought in earth-moving equipment, or whatever equipment was appropriate that cleaned out the kiawe trees; and there have been some community groups that have, from time-to-time, worked on the site to keep it sort of an alive site. I'm sure it's not visited very much but, anyway, pulling that into the particular discussion, we have a parcel here where half of the parcel was kind of cleaned for development and the other half and the adjoining parcel have three possible heiaus and other things. I'm wondering if in the long run it's not, this may not be, could this be an area that could be important for the Hawaiian community, not just leave it buried in its grass and kiawes and let it just sit there and we're not going to mess it up, or could those who are developing on portions of these parcels may be could do something like that was done in Kohala and try to bring community involvement into this site so that it becomes more like an alive site for the Hawaiian culture? That's the gist of where I'm coming from, and I just want to put that forth.

SAUNDERS: May I comment?

GRAHAM: Please.

SPRINGER: Mr. Saunders?

SAUNDERS: With Mr. Rechtman's help, we are cautiously putting out feelers to see if we can find entities that would responsibly take care of that property. We haven't found them yet, we're just in the early stages of that. But I, too, think there's a wonderful opportunity to do something with that site. What it might end up being, I don't know yet. I think a big key is to find an organization that has a track record of taking care of those types of properties. It's very special. We have no interest in owning it forever. If we could find such an entity, we would be willing to long-term lease it, a dollar a year or potentially even, you know, signing it off manuahi. It's something that we have to determine. So, I don't think we want to get into it at this meeting; but if people have thoughts on who those entities might be, we'd be very interested to hear, either direct them to myself or Dr. Rechtman.

SPRINGER: Thank you, Mr. Saunders. Commissioner Graham, any follow-up?

GRAHAM: Does Dr. Rechtman have a sense that this particular area, these two parcels, as far as the significance to the Hawaiian community might be an area where the community would like further active involvement and actually cleaning, restoring, and making these sites more alive rather than just sequestered out of development?

RECHTMAN: The answer is yes and no. There are burial sites in here and in Hawaiian community. Those sites, people tend to want those sites to be out of the public eye. There are other sites in here that are non-burial sites which could lend themselves to some sort of interpretive development. We are actively looking for a group, whether it's a Kona-based local group or perhaps a larger group. There are stewardship organizations that take on properties like this. The answer is yes. I think this could be a property that could provide the public with sort of an avenue of education and understanding for its resources, given that we keep the burial sites sort of out of the public eye.

GRAHAM: Thank you. I certainly recognize everyone's thoughts on the subject here, and I appreciate that. I guess when I was first thinking about it, I was thinking maybe this could be similar to what Chalon did in North Kohala where the developer might allocate a fund to be used for equipment work that might come in and remove kiawe trees, or things like that if, in fact, this were to move forward. But maybe it's not so clear that this project wants to be bothered with actively.

SAUNDERS: No, I think it's a good idea. The difference is in the case of Kukui Pahu, there were, they are descendants. There are people who are of that land who the developer worked with directly; and the Kona picture is broader. There are more individuals involved in descendency in the Kona area; and it's not such a clear-cut picture of who you work with in developing treatment and long-term preservation plans with, as it was in the Kukui Pahu case.

GRAHAM: Thank you.

SPRINGER: Thank you, Commissioner Graham and Dr. Rechtman.  
Commissioner Siracusa?

SIRACUSA: I understand the concern about keeping the burials hidden. At the same time, this is sort of a two-edge sword, you know, because here you've got an area that's growing wild, it's becoming weed-infested, that certainly doesn't show respect. But it's right in the middle of Kona. Whenever you have that which is in an area which is developing faster and faster every time we turn around, and whenever you have vacant lots, you have kids going and playing in the vacant lots, and you're not really giving, sure, they're going to come across them, and you're not really giving those burials any kind of protection. Whereas if you have group that's taking responsibility and "malamaing" the land over there, then you have a presence; and that presence is concerned about those sites and would be able to prevent desecration. So, yeah, I can see what you mean about that; but, you know, there's two sides to it. You can work it out if the will is there. And I do commend you for setting that whole area aside and not planning to bulldoze it flat, and showing some respect for the people of this land.

SPRINGER: Mr. Saunders?

SAUNDERS: I don't know if we're heading this way, but I would ask that we not get into any conditions as to this particular parcel. Sitting here right now, I will tell you we don't have, as the owner, and we've only owned it since July, so we don't have the knowledge to do the right thing by that piece of land; and it's only going to be the result of talking with a lot of other people. And I think the key word is going to be "respect;" and I could see all kinds of different directions this thing may head. I just don't know, and I don't want, if at all possible, to be bound up by any conditions that might come out of the discussion here this morning.

SPRINGER: Thank you, Mr. Saunders. Mr. Fuke?

FUKE: The only thing I would add is that, you know, like the Director's proposed recommendation includes the preparation of a preservation plan, you know, for this particular area. And it's my understanding that when you have such a plan prepared, which is subject to the approval of the State DLNR, HSPD, there will have to be some measure of discussion in terms of its possible maintenance; and some of the issues that were described today possibly could be incorporated in it. But, as Mr. Saunders had indicated, it may be premature, you know, given the nature of the land ownership tenure right now.

SPRINGER: Thank you, Mr. Fuke. Commissioners, any questions or comments? Seeing no indication of that, we're at the point of decision-making on this application, which is by Kona Hale Alii, LLC, for a Change of Zone (REZ 04-022) for

approximately 6.2 acres from a Resort-Hotel 1,250-square foot (V-1.25) and an Agricultural 1-acre (A-1a) district to a Multiple Family Residential 2,500-square foot (RM-2.5) district.

Our decision will be based upon the Findings and Recommendations of the Planning Director, as well as the discussion that we've had today. We have a revised Condition M, which was distributed to us; and we have an amended Condition E, that is a result of today's discussion. May I have a motion?

DARROW: Madam Chair, if I could add some changes that have been brought to my attention.

SPRINGER: Thank you, Jeff. Please do. Mr. Darrow?

DARROW: On Condition E, there's a typo. It says, "proposed turn land," that should be "proposed turn lane." And, again, as you had mentioned, the wording that we're looking at adding for Condition E would be, "As represented by the Applicant, a non-gated," and then it would continue on "access to Hualalai."

On Condition G, it has been brought to our attention by the representative from Department of Public Works that on the second sentence, it states "A drainage study shall be prepared and submitted to the Department of Public Works prior to," and it says, "the issuance of Final Plan Approval." They're requesting that it be changed to say, "prior to the issuance of any construction permit." And then, starting the next sentence, we would replace the word "any" with the word "recommended." So it would state, "Recommended drainage improvements shall be constructed meeting with the approval of Department of Public Works."

And, lastly, addressing the concern regarding the Applicant connecting to the County sewer system, we would be adding a new Condition I, and all subsequent conditions shall be relettered. The new condition shall state, "The Applicant shall connect to the County sewer system according to the requirements of the Department of Environmental Management." Thank you.

SPRINGER: Thank you, Mr. Darrow. Mr. Fuke, on having heard Mr. Darrow's comments, does that meet with your -? Do you have any comments on that?

FUKE: Yeah, it pretty much codifies whatever was represented today so the Applicant has no objections.

SPRINGER: Thank you. Commissioners? Mr. Graham?

GRAHAM: Jeff, I wondered also on your specifics when you spoke of changing E where you put in "As represented by the Applicant, a non-gated access to Hualalai Road," but the very next condition is Condition F, which is "Any vehicular

security gate.” So I would presume we want to remove Condition F if we put Condition E changed this way. Maybe -.

FUKE: Unless, we might include “any emergency vehicular security gate.” You know, that was more the emergency access gate.

GRAHAM: Good.

DARROW: So we would add “any emergency vehicular security gate,” is that correct?

GRAHAM: Yes.

DARROW: Okay, thank you.

GRAHAM: Yes. I will move in favor of this application. And I just wanted to express to the public who testified about the traffic issues that if, in fact, this was a Change of Zone for a project which had not come before in the past, I would certainly be viewing things with much more scrutiny on traffic issues and things like that. But since the prior project was 80 units already and had moved not just through rezoning but had moved to actual final plan approval, I don’t feel like this is a proper vehicle for me to express my concern about traffic; and I just want to make that point to the public. I think it’s important that we, as a Commission, follow what is appropriate and authorized, you know, by our rules and by what we’re trying to do, and not just express sentiments. And, so, I feel in this case that the traffic sentiment is something we all feel, but that I don’t feel that opposing this project is a proper expression of that sentiment in this particular case.

Therefore, I move that the County of Hawaii Planning Commission make a favorable recommendation to the County Council in the matter of rezoning application (REZ 04-022), along with the specific recommendations of the Planning Department as modified by Mr. Darrow and subsequent discussion.

DARROW: If I could interject again. I’m sorry to interrupt. It has been brought to our attention by Ki Emler from Department of Public Works that Condition F, regarding the security gate, that was not in reference to an emergency security gate. That was in reference to a public security gate. So they would like to see those gates set back at a minimum of 40 feet. But as far as an emergency gate, they want that closer to the roadway. So he was suggesting that Condition F, we would take out most of the wording and just say, “Any emergency vehicular security gate shall be located in a location approved by the Department of Public Works.”

GRAHAM: I am in accord with that change.

SPRINGER: Is there a second?

SMITH: Second.

SPRINGER: Thank you. Moved by Commissioner Graham and seconded by Commissioner Smith for approval of this, a favorable recommendation for this Change of Zone to be forwarded to the County Council by the Planning Commission. Mr. Darrow?

DARROW: Thank you. Commissioner Graham?

GRAHAM: Aye.

DARROW: Commissioner Smith?

SMITH: Aye.

DARROW: Commissioner Alameda?

ALAMEDA: Aye.

DARROW: Commissioner Siracusa?

SIRACUSA: Aye.

DARROW: And Madam Chair?

SPRINGER: Yes.

DARROW: The motion passes five to zero.

SPRINGER: Thank you. Mr. Fuke and Mr. Saunders, you'll be informed in writing of this decision.

The discussion ended at 12:05 p.m.

Respectfully submitted,

Sharon M. Nomura, Secretary