

LEEWARD PLANNING COMMISSION
COUNTY OF HAWAI'I

HEARING TRANSCRIPT
MAY 15, 2009

A regularly advertised hearing on the applications of **GRACE COMMUNITY CHURCH (REZ 875 and SPP 1010)** was called to order at 9:45 a.m. in the King Kamehameha's Kona Beach Hotel, Ballroom I, 75-5660 Palani Road, Kailua-Kona, Hawai'i with Chairman Rodney Watanabe presiding.

PRESENT: Rodney Watanabe
Lani Bowman
Geraldine Giffin
Frederic Housel

Bill Brilhante, Deputy Corporation Counsel
Margaret Masunaga, Deputy Planning Director
Norman Hayashi, Planning Program Manager
Jeff Darrow, Staff Planner
Maija Cottle, Staff Planner
Deanne Bugado, Planner, Kona Office
Kiran Emler, Engineering Division, Department of Public Works

And approximately 13 people from the public in attendance

APPLICANT: GRACE COMMUNITY CHURCH (REZ 875)

Amendment to conditions relating to extension of time limits and related conditions of Ordinance No. 98-08, which rezoned approximately 5.055 acres of land from Agricultural - 5 acres (A-5a) to the Residential and Agricultural - .5 acre (RA-.5a) district. The property is located on the east side of Palani Road adjacent to and north of the Kona Christian Academy, Honokōhau 2nd, North Kona, Hawai'i, TMK: 7-4-006:038.

APPLICANT: GRACE COMMUNITY CHURCH (SPP 1010)

Amendment to conditions relating to extension of time limits and related conditions of Special Permit 1010, which allowed the establishment of a church and related facilities on approximately 3 acres of land. The property is located on the east side of Palani Road adjacent to and north of the Kona Christian Academy, Honokōhau 2nd, North Kona, Hawai'i, TMK: 7-4-006: portion of 038.

WATANABE: The first agenda item as you all know is, the applicant is Grace Community Church. This is an amendment to conditions related to an extension of time limits and related conditions for Ordinance No. 98-08; it's a rezoning of roughly 5 acres of land. With that, I'll turn it over to Maija.

COTTLE: Thank you, Mr. Chairman. Good morning, everyone.

COMMISSIONERS: Good morning.

COTTLE: And welcome, Ms. Giffin.

GIFFIN: Thank you.

COTTLE: The first and second agenda items are related to Grace Community Church, so I'll be doing a combined presentation. But the Planning Commission will need to vote separately on each item. So the first request is an amendment to Rezone 875, which rezoned approximately 5 acres from Agricultural-5 acres to Residential and Agricultural-.5 acre. And the Special Permit amendment is to Special Permit 1010, which allowed the establishment of a church and related facilities on approximately 3 acres of that rezoned 5-acre parcel.

The property is located in the North Kona District off of Palani Road, just below Māmalahoa Highway. This is Palani Road running in a kind of north-south direction. And the subject property is outlined in red.

This is an aerial photograph showing Palani Road off to the left hand side, and the existing church facilities are up in the top right corner, and a pastor residence is located right about where the dot is. The neighboring parcel is occupied by the Kona Christian Academy, and they are located right about here.

So more specifically, the amendment request is for a five-year time extension to comply with Conditions C and D of the Change of Zone; Condition C is for a water commitment and Condition D is for final subdivision approval. The Special Permit request is also a five-year time extension to comply with Condition 2 for a water commitment and construction of the facilities, the church facilities, is Condition 3.

So just to provide a little background on the project, one of the requirements of the Special Permit was to construct a left-turn lane on Palani Road at the project driveway. And also the Change of Zone required that any traffic mitigation that's required be constructed prior to occupancy of any structure built on the rezoned property, which would include the church. So for a variety of reasons, which are explained in more detail in the background report, the left-turn lane has not been constructed yet. In late 2008 the Planning Department discovered that the church was being occupied prior to the turn lane being completed. So the church and the County met in late 2008 and came up with a solution; our Planning Director met with the church along with Department of Public Works. And we issued a notice of violation letting the church know that they cannot occupy prior to some items being completed, which are laid out in the October letter from our Planning Director.

And I just want to kind of go over a few of the main items that the church has been working on since 2008. One of the requirements was that they come in for a time extension to the Change of Zone and the Special Permit, which they have done obviously, that's why we are here. And another item that they needed to complete was to execute a turn lane agreement with the County, stating that they will construct the turn lane. There is a one-year time frame on that turn lane agreement, which was executed on April 3, 2009, which means that the turn lane must be constructed completely by April 3, 2010. There is a provision in the turn lane agreement that

allows the church to extend that deadline, if the County approves. But from my understanding the church – the applicant can explain this more – they believe they can comply with the one-year deadline.

Another item that they were required to complete is to secure their water commitments from the Department of Water Supply, and also to complete a left-turn lane restriction plan. And they have turned in the left-turn restriction plan to Department of Public Works. The plan has not been approved yet, but we have Ki Emler from Department of Public Works; he can let you know the status of that plan. And then we have told the church if you complete the water commitments and the left-turn lane restriction, we will sign off on a certificate of occupancy, which allows you to occupy the church.

So just to go over to kind of show you the concern on Palani Road is the curve here that's shown. The slide is looking north from the driveway and this is where the left-turn lane will be constructed right here, so that vehicles can turn safely into the project driveway and they won't be rear-ended by vehicles coming down Palani Road. This is a view of Palani Road looking south.

And I also want to show you the proposed left-turn lane plan, which you all should have a copy of in your folders. And I'll just explain a little bit about the plan; as I mentioned before, Ki Emler can go over any specific questions you have. One of the concerns that the community had and the County had was that the Kona Christian Academy property and the Grace Church property should have a combined driveway, so that there's not two opportunities to turn left into each of the properties. So what they have done is, created a right turn in only at the Kona Christian Academy property, and then vehicles would then either go to the Academy or to get to Grace Church they could take this road here. Then the – excuse me just a second here, my eyes aren't so good – there's, vehicles will also be allowed to turn right into the church property. Vehicles can turn right out at the church property, but there is not a right-out opportunity here; this is only a right-in movement at the Kona Christian Academy driveway. And then vehicles coming southbound on Palani Road will only be able to turn left into the church property driveway and then go curve down here to go on to the Kona Christian Academy property.

So one of the Planning Commissioners sent me an email recently requesting a little bit more information on who is responsible for paying for the turn lane, so I just want to cover the information with all of the Commissioners. Per Condition G of the Change of Zone Ordinance 98-08, the applicant is responsible for constructing the left-turn lane and all of the improvements associated with the left-turn lane. Department of Public Works is not requiring curb, gutter or sidewalk improvements along the property frontage, though.

So the Planning Department is recommending that the Planning Commission send a favorable recommendation to the County Council for the Change of Zone request with a 180-day extension of time to fulfill the water commitments, and this is a standard time period that the Department usually uses for water commitments, rather than the five years that was requested. But we are recommending a five-year extension to Condition D, which is to obtain final subdivision approval. We are also recommending approval of their amendment request for, again, a 180-day extension to Condition 2 for the Special Permit to obtain the water commitment, and a five-year

extension to Condition 3, which is to complete construction of the facilities as well as the turn lane.

WATANABE: Okay, but -. Is that the end of the presentation, Maija?

COTTLE: Yes.

WATANABE: Okay, but just for the clarification purposes, Maija, the April 3, 2010, deadline to construct the turn lane is still in place in the separate agreement, right?

COTTLE: Yes, it is.

WATANABE: Yes, with a condition to extend – I would assume that is probably limited to another year because that was one year. Is that pretty much correct with the Planning Department's approval?

COTTLE: A time isn't specified, but it's written that upon mutual agreement of the County and the church, it can be extended; it doesn't give a time period.

WATANABE: Okay. The only reason I wanted to clarify that is I suspect many people from the audience are concerned mostly about the turn lane.

COTTLE: Yes.

WATANABE: Yeah. Mr. Housel.

HOUSEL: Maija, I had a question. You said that there was an agreement to, if the church would do certain things, to grant them a certificate of occupancy. Now Condition H of the rezoning ordinance states that a Traffic Impact Analysis Report will be required before a certificate of occupancy. Is that still in effect?

COTTLE: A Traffic Impact Analysis Report was completed back in 1998 for the church facilities, which is the main traffic generator on that property. And the way this condition is written, I think that that 1998 traffic study fulfilled that obligation.

HOUSEL: It does.

COTTLE: Yes.

HOUSEL: Okay. Okay, thank you.

WATANABE: Do we have any further questions for staff? Yes, Ms. Bowman.

BOWMAN: The final subdivision, your five-year extension, pardon me, but occupancy is not contingent on that, correct?

COTTLE: No.

BOWMAN: Okay, thank you.

WATANABE: Any -? Ms. Giffin.

GIFFIN: Going back to Condition H that we were speaking of about the Traffic Impact – and maybe this is something I could ask Ki, well, I don't know. Ten years ago? Yeah, I mean, is the traffic condition on that section of Palani Road the same today? Or should there be an update? I mean, this is just a question.

COTTLE: Probably a better question for Ki since he has the traffic engineering background.

GIFFIN: Okay, thank you. I would like that addressed.

WATANABE: Okay. Mr. Emler. He's already coming. Yeah, we got you on the hot seat for two, three items.

EMLER: Good morning.

COMMISSIONERS: Good morning.

EMLER: Aloha, Geri.

GIFFIN: Thank you. Aloha as well.

EMLER: Welcome back to the Planning Commission.

GIFFIN: Thank you.

EMLER: Your question is whether -.

WATANABE: Just, Mr. Emler, I've been informed maybe you should state your name at least formally for the -.

EMLER: My name is Kiran Emler with the Department of Public Works, Engineering Division.

WATANABE: Please proceed.

EMLER: Okay. The question is whether the 1998 traffic study should be updated in order to consider the amendments to the zone change and the Special Permit. I don't believe that would be necessary; the mitigation that has been approved already for the Special Permit approval is adequate to address any concerns. As a matter of fact, the original traffic study didn't really indicate any mitigation other than the flashing light. So this condition that is imposed goes above and beyond the recommendations that were made in that report.

WATANABE: Thank you. Do you have a follow-up, Ms. Giffin?

GIFFIN: Not pertaining to Condition H, but Condition G.

WATANABE: This would be for Mr. Emler also?

GIFFIN: Yeah, I think so. I don't know. Ki, you can tell me if that applies to your kuleana or not. But you know the paving of the shoulder along, the section along Palani Road. Is that pau? Has that been done?

EMLER: Well, there will be paving of a shoulder as part of the turn lane improvements; there will be, I believe it's a six-foot wide shoulder improvement along the turn lane improvements.

GIFFIN: What's the distance that actually fronts Palani Road? The length?

EMLER: Anything I have to say is going to be a guess because I don't have the plans in front of me to be able to see that.

GIFFIN: Yeah, yeah, okay. Thank you.

HOUSEL: Excuse me. I have one question for Ki, if we can.

WATANABE: Yeah, Mr. Housel.

HOUSEL: Ki, that section of Palani was not repaved about four or five years ago when the rest of Palani was, and so it's in pretty bad shape now. With this project how far up Palani will the repaving be done?

EMLER: Well, my understanding is that the part that was not done as part of that resurfacing project is the part that is subject to this improvement, and so it will be repaved from the limits of the previous resurfacing.

HOUSEL: Okay. Okay, thank you.

WATANABE: Okay. Since we do have you up here, and I suspect it's going to come up anyway, it's my understanding that there is a separate agreement already with Grace Church with regard to the occupancy. Would you, maybe not so much going to great detail on that, but summarize that? Is that a fair question?

EMLER: I thought Maija already had gone through that agreement -.

WATANABE: Did I miss -?

EMLER: That was made by the Planning Director with the applicant, and so if there is something else you need me to explain -. Didn't you just go over it, Maija?

COTTLE: Are you referring to the actual turn lane agreement or the steps that were laid out for the church to take in the notice of violation letter, which was more related to occupancy?

WATANABE: I was under the impression that they would not be granted occupancy until the turn lane was completed. And I guess I bring that up because, you know, we do have a violation, yeah?

COTTLE: Yeah.

WATANABE: And I believe there have been some discussions along those lines, yeah?

COTTLE: Well, the October 8th letter from the Planning Director to the church allowed them to occupy once water commitments were secured, and the left-turn restriction into the property was implemented.

WATANABE: Okay. Norman, do you want to add to that?

HAYASHI: I was informed by the Director of Public Works, Warren Lee, yesterday that they met with the applicant I believe either yesterday or the day before, and there is also another agreement with them, and that the Department of Public Works will allow them to occupy the facility until June 26th, I believe it was; after that they would have to terminate the operation and that no certificate of occupancy will be issued until the roadway improvements are certified.

WATANABE: Okay, thank you. Okay, so -.

BOWMAN: Just -.

WATANABE: Yes, Ms. Bowman.

BOWMAN: And also the water commitment, too, right? It's contingent on, occupancy is contingent on the roadway and the water commitment.

WATANABE: I believe so.

COTTLE: From the Planning Department's perspective, yes.

BOWMAN: From the Planning -. Okay, thank you.

WATANABE: Okay, so is that it for questions for the staff? Well, you survived. Good job.

COTTLE: Can I just clarify one thing, too?

WATANABE: Yes, sure.

COTTLE: The certificate of occupancy has to be signed off by the Planning Department and Department of Public Works. So once they've obtained the water commitment and the turn lane restriction, Planning will sign off, but Public Works may have other issues before they sign off on the certificate of occupancy.

WATANABE: Thank you for the clarification, Maija.

GIFFIN: I have one more question of Maija, please.

WATANABE: Yes.

GIFFIN: You know the slide that you showed us of the property, and the proposed right turn into it, and how they cannot go out but then they have to go to the subject property and then go out. Correct?

COTTLE: Correct.

GIFFIN: Okay. Now if I am on the – and maybe this is real simple – but if I'm on the subject property and I want to turn left, how do I do that? Do I go to the school?

COTTLE: You actually go to the church property. There is a left-turn lane out.

GIFFIN: Okay, but if I'm on the church property, then I can go left onto Palani?

COTTLE: If you are on the church property, you can go left out onto Palani.

GIFFIN: Okay. So anyone on the adjoining school property wanting to turn left would also have to come onto the subject property to turn left, correct?

COTTLE: That's correct.

GIFFIN: And hours of operation of the school and the church, do they overlap or are they different? Like the church activities, I trust, are on Sundays, right?

COTTLE: Yes.

GIFFIN: Okay, whereas the school is Monday through Friday, so that the traffic coming in and going out would only be for those two different activities, correct?

COTTLE: That's correct.

GIFFIN: Okay, so that's why we are suggesting that we approve that kind of in and out because of the differences in their hours of operation.

COTTLE: I believe that's why Department of Public Works approved it, yes.

GIFFIN: Okay. What if the church wants to have a school? Then what?

COTTLE: They would need to come in and amend their Special Permit to add a school.

GIFFIN: And then at that time we can address the traffic situation?

COTTLE: Correct.

GIFFIN: Okay.

WATANABE: Okay. Ms. Bowman.

BOWMAN: Just a quick question. So they are in, I assume, partnership with the school in sharing the cost for this because it is going through the school's property. Correct?

COTTLE: I'm not sure what the cost arrangement is with the school. You may be able to ask the applicant that.

BOWMAN: Okay, well, maybe I can ask the applicant. And even if the church, you know, later on decides to do some activity that would increase the traffic, I feel like we do have, you know, mitigation things there to mitigate the traffic, even if there is a little competing; I don't know if they have, like, church on Wednesday morning or something. How big, how many – well, I can ask the applicant – do you know how many students are at that school?

COTTLE: No, I do not.

BOWMAN: Okay, maybe I can ask them. Thank you.

WATANABE: Thank you, Maija.

COTTLE: You're welcome.

WATANABE: Okay, you know, we do have one person signed up to testify from the public, that's Joshua Detweiler. Is that correct? Am I pronouncing this properly? Would you like to step up to the table, sir? May I swear you in then? Would you raise your right hand, please? Do you swear or affirm to tell the truth now before the Planning Commission?

DETWEILER: I do.

WATANABE: Thank you. And then would you state your full name and address for the record, please, and then you may begin with your testimony.

DETWEILER: My name is Joshua Detweiler. Address is 75-1083 Kamalani Street in Hōlualoa, 96725.

Thank you, Mr. Chairman. What I want to address today is – and I understand we are on a short time frame, so I won't be long – but what I want to address is the importance of this project. I

certainly don't have to address to you what it means to not get the approval; it will undoubtedly close the doors of the organization. Although I will admit and concede that we are not in an ideal situation right now, and things over the past number of years have not gone the way we wanted them to in terms of getting this completed.

I've been a part personally of this process for about two years. And I can speak to the work that is being done on a daily basis to get this completed, and we are working very hard and very diligently to get it done. And we appreciate the help of guys like Ki and some others that have been very helpful in getting this finished.

But this organization, it's easy to think of it just a church that meets on Sunday mornings; it's far different from that. We serve. It is true we meet as a religious organization on Sunday mornings serving about 300 individuals in our community. But in addition to that we have a youth program that serves the community, not just our church, serves the community, about 100 kids per week – those are just littler kids. We have a Junior High and High school program reaching 60-plus kids on a weekly basis – some of them at-risk youth that could be who knows where else without the program. We have addiction recovery services that meet weekly at the church serving 20-plus people, not members of our church for sure, but community members that are in need of those services. We have counseling services, we have leadership classes – all reaching out to the community. Without this building, we believe it will be virtually impossible to continue on our current iteration. We searched other options, but as you know, in this community it is very difficult to find a place where a group can get together of that size that's even close to be economically feasible.

We have moved forward. And in fact, as an update on that, the water commitments, although we are waiting for the paperwork, we have an agreement on the water units; that's taken care of. The money that was required to be escrowed, we have put aside and it's approved by the County. This has been a ten-year long process. We are willing, and with some help from the County we believe that we can be paving in just a few weeks. We are very close to being done. That's all.

WATANABE: Thank you. Do we have any questions of Mr. Detweiler? Doesn't seem like it. Yes, Maija, do you have something to add?

COTTLE: Can I just ask for a clarification from the applicant? Did you say that you are operating a school on the property?

DETWEILER: No, I did not. And it's very important that you know we do not.

COTTLE: Okay.

DETWEILER: What we do is we serve a lot of local kids, some at-risk kids; that meets on Monday nights and then meets again on Wednesday nights and I believe Tuesday nights. So they don't conflict at all in any way with the school next door.

COTTLE: Okay, thank you.

WATANABE: Seeing that we -. Ms. Bowman.

BOWMAN: I just have a question. And I assume you are the applicant, too?

DETWEILER: I'm with the church, yes.

BOWMAN: So the schools and the traffic, you are going to be responsible for the school's part of the roadway, or is the school going to be doing that?

DETWEILER: The school, you know, on that circle will be using the portion of the church's property as they exit. I can't speak exactly to the finances of -. And perhaps Dan Bolton who is also here can speak to it better, or Gary, to who is taking care of that portion.

BOWMAN: Because – and Maija, maybe you can clarify this – if the occupancy won't be given until this traffic pattern is complete, right, not just the left-turn lane but also the right-in only at the school?

COTTLE: The occupancy won't be given until there is a left-turn lane restriction. The left-turn lane construction is different, and that's up to Department of Public Works; it's not related to the occupancy. They have one year to construct the left-turn lane improvements.

BOWMAN: Okay, so the left-turn lane restriction is just a restriction that you can't turn left; they're going to have a sign there that says -.

DETWEILER: If I could, Madam. What she is speaking of there is on the exit from the church right now, there is sort of a wide apron, concrete apron to leave the church; there will be lines down and I believe some flags that would force traffic to the right. That is not the left-turn lane that's being constructed, which also again is very close to being completed.

BOWMAN: So if you wanted to turn into your church coming down Palani -.

DETWEILER: You cannot. If you are headed makai on Palani, you cannot turn left into the church.

BOWMAN: Okay, thank you.

DETWEILER: Now, of course, with the turn lane that won't be a problem. But until then you cannot.

WATANABE: You have something to add, Maija?

COTTLE: Mr. Chairman, we actually have a preliminary plan that Department of Public Works provided from the applicant that shows the left-turn lane restriction. And if you would like more explanation, Ki can talk with you about it.

WATANABE: Okay. Mr. Housel, do you have another question for -?

HOUSEL: I want to clarify. Do you represent the applicant then?

DETWEILER: Thank you for asking for the clarification. I am with the church. I am not the person here representing, though, specifically representing the church. I believe they are coming up at some point.

HOUSEL: Okay. And Mr. Chair?

WATANABE: Yes.

HOUSEL: Do you intend to call the applicant up?

WATANABE: Most definitely.

HOUSEL: Okay, good. Good, good. Thank you.

WATANABE: Okay? So if we have no questions for Mr. Detweiler, thank you for your testimony. The reason I did this was because we only had one from the public to testify. So with that, maybe we can call up the applicants and their representative.

SUMMERS: Good morning.

COMMISSIONERS: Good morning.

WATANABE: May I swear you both in then? Would you raise your right hand, please? Sir, would you raise your right hand, please? Yeah. Do you swear or affirm to tell the truth now before the Planning Commission?

APPLICANTS: Yes, I do.

WATANABE: Thank you. I believe you are about to begin, so would you give us your full name and address for the record, please.

SUMMERS: Yes, my name is Gary Summers. I'm the Assistant Pastor for the church. My home address is 75-296 East Kawena Place, Kailua-Kona, 96740.

WATANABE: Thank you. Maybe, would you be the person that would address this issue that seems to be pressing with regard to restricted left turn, or should we have the other gentleman address that?

SUMMERS: I didn't hear the full question. I would be happy to address it in any way that I can. I wanted to before we do that, however, I wanted to make a few comments because the original hearing that was scheduled was in March and that didn't proceed because of an error in the posting sign that we had, which was unfortunate but accidental.

But in response to the public concern that had been expressed prior to that meeting, we provided some information to those individuals, which you would have received a copy of it as well. And since that time, and therefore not included in those letters, a number of things have happened.

Staff has already referred to the fact that the Planning Department executed, or Hawai'i County actually – more than the Planning Department – executed the turn lane agreement with us. I would like to clarify, however, that that turn lane agreement was drafted and funds were in place last November 13th. And I only make that comment, so that you understand that we were waiting till some later date; we had a deadline specified by the Planning Director at that time, Chris Yuen, and we met that deadline to put that in place. Because of the change in the administration there was a slowdown in the process of the County end, and yes, we did finally receive that back in April.

One of the key things that have happened since then is that the waterline improvement that's required that fronts our property – I believe that's between the water tank that's just mauka of our property and the edge of our property line heading town-bound – those construction plans have been finalized and approved by Department of Water Supply. At the same time Department of Water Supply received from our engineer water demand calculations sufficient to their need to have information relative to water commitments. The unfortunate thing is as of today they haven't communicated with us what the outcome was. We have verbal assurance that they have everything they need. But they were operating under misunderstanding that they didn't need to respond until the project was near completion; they didn't understand the coalition with SP1010 in particular. So I expect an update on Monday from them. But I have been assured by Jason Killam of the Department of Water Supply that they need no further data from us.

Thirdly, there is an NPDES permit that is required because over an acre of dirt is being disturbed by the roadway work, and that is being processed by the Department of Health in Honolulu. We are hoping for a fast response time. As soon as that is back, which we believe will be in early June, we'll be in a position to talk further with Ki about the permit to work in the roadway, because we can't do that until the NPDES permit is in hand.

There have been some detailed discussions between our civil engineer and our contractor, Dan Bolton, with Ki Emler concerning timeline and traffic control and other things related to the actual construction. I will defer to Dan to speak to the timeline issues. But as I understand it, after school is out is the time frame that the Department of Public Works would prefer that we do the work; that will probably coincide when the NPDES permit is approved. And it's a very short, less than two months time frame to do all the work required. It's a multi-stage process on Palani Road; it's not as simple as just bringing in a paving machine and doing extra paving. But the multi-stage process has been discussed, and because it affects traffic control, Department of Public Works has been involved in those discussions. I expect to finalize those as soon as the NPDES is back in hand.

Within the next two weeks – and the only reason I say two weeks instead of two days is I know that things happen and things slow down for reasons you don't expect – but you have seen, and it's on the screen, that the agreed-upon method to temporarily prohibit left-hand turns into the property off of Palani, we agreed to the basic concept with the Department of Public Works last fall. That was one of the stipulated deadlines from the Department of Planning, had a date certain to it. We agreed upon a concept, the plans were drawn in a draft form, they were sent to Traffic Division in Hilo. And due to some miscommunication and a mistake by our civil engineer they sat unattended for a few months. That was not our choice; we regret that. And we

simply want to acknowledge that it should have happened sooner and could have happened sooner. Once we discovered the delay, we moved to quickly rectify that situation. And what you see on the screen is essentially what it is. The unfortunate thing is it's kind of cost us money to put that in place for a very short period of time. But we're committed to do it. So we are not only willing but ready to proceed. Literally, as I understand it, and I don't want to overset anything Ki might say, but based on my discussions with our civil engineer yesterday, all the corrections that Ki had asked have been made and the plans are in the state to be approved as we speak today.

And then the last thing that has happened, there was a key element in order to be ready to move forward, is to expand the traffic control plans that were submitted with our turn lane design several years ago, and those discussions have taken place. And so far as I know an appropriate methodology has been identified and is put in place, and that is also subject to approval by the Department of Public Works.

As to the discussion that was held a little bit earlier about the agreement with the Planning Department, the Planning Department agreement that was put in place last September between Chris Yuen – the participants were Chris Yuen, Daryn Arai, Bruce McClure and myself and Mr. Detweiler from the church – in a meeting that we ironed out some things that had been the discussion of a meeting as far back as November of 2005. And the importance of that was to realize that was going to take a little bit of time to actually build the turn lane. So the Planning Director asked to secure the funds, in other words put them in an account that required the County's approval to release the funds, and that's the escrow account that has over \$360,000 sitting in it today that will pay for the cost of actually, physically building the turn lane.

So this is what's required in order for us to move ahead with a formal certificate of occupancy – this part of it. The rest of the turn lane and traffic control that relates to the turn lane or traffic mitigation that relates to the turn lane is subject to our finishing it within the terms of the turn lane agreement, which does have a one-year time frame. But we are ready to roll the trucks as soon as we can have the NPDES permit in hand and the permit for working in the roadway in hand. The money is there. The intent is there. There has never been a motivation on our part to delay getting that turn lane done. There's a long involved history that I won't bore you with in terms of what's happened relative to the turn lane. But one comment I did make in the preparation for the last hearing was that the key thing was getting utility realignments done, and then we would be ready to proceed. And I think what's happened in the meantime has born that out. So those are things I just wanted to add to the record for your sake because there weren't anything that would have been communicated to you in writing by us prior to this time.

Now, having said those things, what was the question? I believe, Frederic, did you have the question, or was that Lani? I'm not sure.

WATANABE: I believe it was Lani. But, Lani, it would seem like they are putting in a median on their property to prevent or make it extremely difficult for left turns to occur from Palani Road onto the subject property. That's what it truly looks like there. Does that satisfy you, or would you like to have maybe that further explained by Ki Emler?

BOWMAN: Well, my question was, in relation to the right-in only from the church and that agreement, because ultimately you'll have to work with your neighbor, your neighboring church -.

SUMMERS: Yes, yes.

BOWMAN: And that has been done?

SUMMERS: Now, which right-in are you speaking of? The right-in only to our property here or the one that will eventually be on the Church of Christ property?

BOWMAN: Yeah, the eventual.

SUMMERS: The eventual. That was discussed with representatives from Church of Christ in a meeting held on May 1, 2003, with a whole bunch of County people in the Mayor's office, and the Church of Christ agreed to and understood that that was going to be a requirement when our turn lane was built. For that reason, we are anticipating a connector. There is an existing road that loops the Church of Christ property that is presently used by Kona Christian Academy for pick-up and drop-off, and there is a connector in the lower part of that picture there that goes from our property back into that road that loops around, so that the people that are using that facility have the – including for their Sunday services by the way – but they have the opportunity to come back out and access our driveway.

BOWMAN: So – this is interesting – so if people were coming down Palani and coming to your church, they could turn into the Church of Christ and then come back. They could turn in -.

SUMMERS: I'm not -. They'll have a right in only once we get the turn lane built. Why would they do that?

BOWMAN: I mean until the turn lane is built.

SUMMERS: Well, we have advised people to go beyond the property and find a place where they can safely turn around. I personally, when I'm coming from that direction, go down to Hao Kuni, do right turn into Hao Kuni and loop back around and come up. I don't know what everybody does. The school has asked that we not add congestion into their property. And in fact, that is the property that belongs to the Church of Christ, which is a small church, but the school occupies the substantial use of those grounds Monday through Friday during normal school hours. So our intent, we have -. In fact, part of what Chris required is, Chris Yuen required us to do was to notify all of the people who attended our church for any of our programs that there was a restriction on turning left into the property; we designed a method of doing that, which we've also posted on our website as well as we put flyers on our bulletin every month, and we have made personal comments to our congregation at various times about the need to honor that. So in speaking both with Chris Yuen and with Ki Emler, they felt confident that that was a good faith effort along with this for trying to reduce any left turn impacts until the turn lane is in fact completed. The turn lane is assured at this point. If we somehow failed to do our job in building it, the County will take over those funds within a year and have the money to complete

it. I can, sitting here, I personally can assure you that will never happen. It will be done before school starts again this fall unless something happens to interfere with the timing.

HOUSEL: Mr. Chair, I had a question.

WATANABE: Mr. Housel.

HOUSEL: Could we please go back to the previous slide? This is the temporary no-left-turn, right?

SUMMERS: Yes, yes.

HOUSEL: Now how does that work? Could you explain how that's going to work?

SUMMERS: How it works?

HOUSEL: Yes. How will that prevent left-hand turns?

SUMMERS: Well, what you don't see represented there are some delimiters, those plastic delimiter things that are put on the roadway and then come up and they will be on that inside arc – yeah, right there – that inside arc. On the crosshatch there will be one of those delimiter strips placed. There will be a no left-hand turn sign on either side of the entryway. In discussing the ways to do this without negatively affecting Palani Road itself, the suggestion that was agreed upon between Ki and our civil engineer was this kind of an approach, which we know is not perfect but we are not saying it's perfect. But this is what we are committed to do and it's really the most appropriate way to do it for the short term, realizing that this is not going to be in effect very long. There is a little bit of change to our driveway structure, which is that crosshatched area in the upper right corner of that – yeah, right there – a small area that the Department of Public Works has asked us to fill in appropriately with asphalt and base and all that stuff to make it so that there is a smoother turn out onto Palani for the people going uphill. But without creating something that would constitute a traffic hazard, this is what all the minds involved came up with. And it was more from an engineering perspective than from a this-is-what-we-want-to-do perspective. We just were trying to find a solution that could be implemented well.

HOUSEL: Okay. So if I understand this correctly, this represents only right-in and right-out. Is that correct?

SUMMERS: No, it's right and left-out.

HOUSEL: Left-out.

SUMMERS: Right and left-out. The rationale behind that was the actual turn lane will allow left-hand turn out as well; that isn't changing anything. But it's to prevent left-hand turns coming in from town-bound traffic.

HOUSEL: Okay, coming from mauka.

SUMMERS: Yes, yes.

HOUSEL: Okay, but you'll be able to turn left and go makai then?

SUMMERS: Yes, yes.

HOUSEL: Okay. Now when will this be in place?

SUMMERS: My estimation is within the next two weeks. I have the plan with me that I understand is ready for Ki's signature. It had some minor corrections to it yesterday. I have the traffic control plan that goes along with it. And so my understanding is as soon as we can pull the permit and get the work started, that we can do it.

HOUSEL: So this is temporary until you start to -.

SUMMERS: Yes.

HOUSEL: Construct the actual left-hand lane. Is that correct?

SUMMERS: Yes, that's true.

HOUSEL: So how long do you anticipate you'll use it?

SUMMERS: Until roughly mid-June, maybe the third week in June when the actual construction process starts. I mean, that will still be there until we – the concrete apron that underlies this will be coming out, it's not remaining – and so until we have to remove that, that will be there.

HOUSEL: I see. Okay, thank you very much.

SUMMERS: You're welcome. Any other questions?

WATANABE: It doesn't seem like it.

BOWMAN: I do.

WATANABE: Ms. Bowman.

BOWMAN: Yes, I do. Do you know how large the school is, how many students they have?

SUMMERS: One-twenty.

BOWMAN: And the left, what you are doing now is going to cost you \$360,000, or is that money in escrow?

SUMMERS: No, no, not this.

BOWMAN: Okay.

SUMMERS: This is out of pocket. This is not that money.

BOWMAN: I just have a comment because I'm sure it's backed up during the school days – people coming down to drop their kids into the school property.

SUMMERS: The impact on Palani Road is the school traffic during commute hours; that's where you see the backup, yes.

BOWMAN: Right. I mean, I guess as a citizen I feel like, you know, the church has a lot of responsibility with this and, you know, I thank you for doing it because I think the school again creates as much a problem with the traffic flow. And I really thank you for doing this, and I hope that, you know, when you are working with the school that it will help you and the school.

SUMMERS: We do have a collaborative relationship with the school. They are totally separate from us, but we have, because we are right next door to each other and some of the people who attend our church are involved in that school quite significantly, we've had a longstanding relationship of working with them on things. So we don't know what the future holds in terms of whether we get reimbursed for any of the turn lane work or anything else; that's not a condition of our doing it. As the school proceeds and grows, then you know, maybe there will be an opportunity for that. But our mission in doing it was to live up to what we agreed to in Special Permit 1010, which was the requirement for us, not for the school, even though the school will benefit significantly. We are wanting to see the traffic improvement on Palani as much as you all are. We drive that everyday as well. And so you can't see it from the plans that were on here, but actually the improvement to Palani is beyond just adding a turn lane; the improvement to Palani in that section will include super elevation on the mauka side of the turn, which is not now there. In other words it's a slightly banked turn, and the turn radius will be softened to a 400-degree radius from its present – I don't know, I don't remember what it is – but it's much sharper curve; you can see it in one of these pictures. So it will be a much smoother turn that will have much safer transition from the turn to the town-bound lanes heading down hill. So we are very excited about being able to provide that in the way that not only it makes it safe for our folks and for the church's folks but also adds immeasurable safety for the public.

BOWMAN: Thank you.

WATANABE: Thank you. Mr. Housel.

HOUSEL: I frequently travel Palani in this area often. And as you are aware, there are some safety issues in the area; there have been some serious accidents there in the last few years, and so definitely improvement is necessary to maintain the safety, improve the safety. And I'm very pleased to see that the utility poles have been relocated. That's good progress. I'm happy to see that happened. Now, you have an existing agreement to put in the left-hand lane within the next year. Is that correct?

SUMMERS: Yes.

HOUSEL: Is there anything that you are aware of now that would require longer than one year?

SUMMERS: I'm not aware of anything that would require longer than August of this year. So allow me to be a bit of an optimist. You know, I say that in good faith because we know that things have happened that have tripped us up, delayed us in the past. The biggest thing we dealt with was those utility relocations. Those are done; we no longer have to deal with that. So based on what I know today from my civil engineer, from my contractor, indirectly from Ki's office, we are ready to move equipment as soon as we have those two permits in hand.

HOUSEL: Is there anything that you are aware of now that would take longer than one year to get final approval?

SUMMERS: No.

HOUSEL: Okay, good.

SUMMERS: Not that I know of today.

HOUSEL: Good. Thank you.

WATANABE: Do you have anything to add, Mr. Bolton?

BOLTON: Yes, I do.

WATANABE: Yes, then would you state your name, sir – no, no, I already swore you in – just speak into the mike, please. State your name and address, and then you may proceed with your testimony.

BOLTON: Dan Bolton, and I live in Hōlualoa -.

SAUER: Please use the microphone.

BOLTON: Dan Bolton, and I live in Hōlualoa. And I was a landowner and will be the contractor as well.

As part of this design is being implemented for the turn lane, in the not-so-distant zoning change there is a Condition E that required dedicable standard that we wanted to have revised with the Council to allow this turn lane to serve as the entry point to the property and not required dedicable standard.

WATANABE: Okay, let me see. I think this is fairly typical, though. I don't suppose – give me a second here – Margaret, are you going to -? Maija?

COTTLE: My understanding is that DPW is aware of this request, and that they are okay with that change.

WATANABE: Oh, they are?

COTTLE: Yes.

WATANABE: So removal of Condition E is fine with DPW?

COTTLE: I believe it was just removal of the word, "dedicable."

WATANABE: Okay. Okay, great. So that would satisfy you, Mr. Bolton?

BOLTON: Yes, it would.

WATANABE: Okay, very good. Any other comments with regard -.

BOLTON: Could I clarify something with that access point?

WATANABE: Yes, certainly.

BOLTON: That's a shared access with the Church of Christ and the Kona Christian Academy's access. So the actual property line is the center of this apron. So it's not that we are using, they are using our property for an access point; it is a shared access. So it isn't -.

WATANABE: Yeah, what we were trying to get at was a common access, so that would minimize left turns from Palani onto both subject properties. Thank you for clarifying that. Okay, with regard to the other conditions that are on both the Change of Zone extension of time as well as the Special Permit, do you have any further comments, or do you feel -?

BOLTON: I might clarify the water a little bit better, as I was one that met with the Water Department last week and got the signed drawings from them for the approvals for water supply.

WATANABE: Yeah, but all this condition says is you get it done within 180 days. So if you get it done sooner, then it's fine, right?

BOLTON: Yeah, okay.

WATANABE: So other than that, all of the other conditions are acceptable to -.

BOLTON: Yes, they are.

WATANABE: The applicant and yourself. They are all doable then.

BOLTON: Yes, they are.

WATANABE: Okay, okay, very good. So as I understand it, we have -.

COTTLE: Mr. Chairman?

WATANABE: Yes, Maija, you have another revision?

COTTLE: Yes, actually just to clarify that Condition E revision.

WATANABE: Right.

COTTLE: It would actually be removal of the words, "County dedicable" – both words.

WATANABE: Okay, right, right. Okay, thank you. Okay, so we have just one revision to the conditions, and that would be Condition E, yeah, removing "County dedicable." Do any of the Commissioners have any further questions of the applicant? If not, then thank you for your testimony. You may be seated. Because these are two applications, we will take them separately. So let's deal with the first one, which is amendment to Conditions C, D and E now for the Change of Zone Ordinance No. 98-08, REZ 875. Do we have, someone care to make a motion? Ms. Bowman.

BOWMAN: I move that we amend Conditions C and D, Change of Zone Ordinance No. 98-08.

WATANABE: Forward a favorable recommendation to the County Council?

BOWMAN: I'm sorry. Forward a favorable recommendation to the County Council.

WATANABE: And this would be inclusive of the previously discussed change in Condition E also, yeah?

BOWMAN: With changes and Condition E, taking out "County dedicable."

WATANABE: Okay, thank you. Do we have a second on that motion? Mr. Housel?

GIFFIN: I second.

WATANABE: Thank you. Any further discussion on the matter?

HOUSEL: The motion is only on Condition E. Is that correct?

WATANABE: No. Conditions C, D and E because -. Oh, it's to forward a favorable recommendation to the County Council for the extension of time, which I believe is C, and also to remove "County dedicable" from Condition E, and we also have Condition D which is, oh, Condition D was the time, excuse me, and Condition C was for the water commitment.

HOUSEL: Okay. Well, I have a problem with the five-year time extension. If they believe everything can be completed within one year, I'm not sure why they will need the five-year extension. That's my question.

WATANABE: Okay, there is further build-out I believe that occurs, and one year is in reference I believe to the roadway improvements, which is on a separate agreement between the County, both Planning Department and Public Works, as well as the applicant, Grace Church. Is that correct?

COTTLE: Yes. The Change of Zone, which is the application before you now, is for a five-acre parcel, and the church occupies approximately three acres of that, or about two and a half. So the owners may, in the future they actually plan to further subdivide that property.

HOUSEL: I see. Okay.

COTTLE: And so the five-year extension on this application relates to that final subdivision approval.

HOUSEL: Okay. But that's separate from the one year to complete the left-hand turn?

COTTLE: That's correct.

HOUSEL: Okay, thank you.

WATANABE: Yeah, that would be on a separate agreement, so that timetable does not change as far as Palani roadway improvements.

HOUSEL: Okay.

WATANABE: Does that clarify that for you?

HOUSEL: That clarifies. Thank you, thank you.

WATANABE: Okay. Do we have any further discussion on this matter? Then, Maija, please.

COTTLE: Thank you, Mr. Chairman. Can I just clarify that motion?

WATANABE: Right.

COTTLE: Commissioner Bowman, are you proposing the motion to amend the conditions as recommended by the Planning Department? Because there were further amendments that were to the conditions, bringing them up to date with our current standard condition.

WATANABE: Okay. Let me clarify it for you, Ms. Bowman, and you can correct me, if I'm wrong. I believe what she was referring to is just forwarding a favorable recommendation to the County Council on the rezoning and the extension of time based on the Director's recommendations and conditions as submitted. The only revision to those conditions would be to Condition E where we all agree we would delete "County dedicable." Yeah? So all other conditions remain as proposed by the Planning Department.

COTTLE: Okay, thank you. Commissioner Bowman?

BOWMAN: Aye.

COTTLE: Commissioner Giffin?

GIFFIN: Aye.

COTTLE: Commissioner Housel?

HOUSEL: Aye.

COTTLE: And Mr. Chairman?

WATANABE: Aye.

COTTLE: Motion passes, five-zero.

WATANABE: Four. Four-zero.

COTTLE: I'm sorry. Four.

WATANABE: A little special math here. Okay, now that we've gotten passed the rezone portion, this is the part that actually is on our purview. So we should entertain a motion on Special Permit 1010 and -. Let me double-check, so that we can make sure that the conditions are consistent. Yeah, it doesn't look like we have "County dedicable" in here, yeah, in the conditions. Okay, okay, so then it should be fairly simple. We would entertain a motion on the amendment to Special Permit No. 1010. Mr. Housel.

HOUSEL: Yes. I'd like to make a motion to approve the amendment to the condition on Special Permit 1010, extension of the time limits and related conditions of that Special Permit.

WATANABE: Thank you. Do we have a second?

GIFFIN: I second.

WATANABE: Ms. Giffin? Thank you. In a quick preview it doesn't seem like we have any inconsistencies between the conditions in the Change of Zone and the Special Permit. So is there any further discussion on this? Seeing none, Maija.

COTTLE: Thank you. Commissioner House?

HOUSEL: Aye.

COTTLE: Commissioner Giffin?

GIFFIN: Aye.

COTTLE: Commissioner Bowman?

BOWMAN: Aye.

COTTLE: And Mr. Chairman?

WATANABE: Aye.

COTTLE: Motion passes, four-zero.

WATANABE: Okay, thank you.

The discussion ended at 10:52 a.m.

Respectfully submitted,

Noriko Sauer, West Hawai'i Secretary