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**MAUI PLANNING COMMISSION  
PORTION OF THE REGULAR MINUTES  
ITEM  
NOVEMBER 12, 2019**

**B. PUBLIC HEARING**

Ms. McLean: Thank you Mr. Chair. The next item is a request from Michael and Mi Ra Finnegan for State Use Commission Special Permit in order to operate Hale O Ka Pua B&B, a two-bedroom bed and breakfast home in the State Agricultural District located at 2350 Aina Mahiai Place at TMK: (2) 4-4-020:036 in Lahaina. Jared Burkett is the Project Planner.

**2. MICHAEL and MI RA FINNEGAN requesting a State Land Use Commission Special Permit in order to operate Hale O Ka Pua B&B, a two-bedroom bed and breakfast home in the State Agricultural District, located at 2350 Aina Mahiai Place, TMK: (2) 4-4-020:036, Lahaina, Island of Maui. (SUP2 2019/0008) (J. Burkett)**

Mr. Jared Burkett: Good morning Chair, Commissioners. The Kaanapali Coffee Farms is an agricultural lot with a lease to the association to manage the farming thus the majority of the lot is farmed with 3.15 acres out of the 4.466 acre lot leased for coffee farming. There are two homes located on the property. The owner lives in the main farm dwelling. The second, the second farm dwelling is proposed for the bed and breakfast which is a two-bedroom, two-bath dwelling. But this SUP2 is being brought before you today because you are the deciding body for special uses for properties in the State Agricultural District that are under 15 acres. The B&B Permit application did not have a trigger to be brought before the Commission and may be approved administratively by the Department. So you're just here to discuss the SUP2.

The applicant's consultant, Debbie Mitchell is...has a presentation that she'll give and then we'll be available to answer any questions that you may have after the applicant's presentation and the testimony I can give the Department's analysis and recommendation. So if there are no objections Debbie can give her presentation.

Mr. Carnicelli: Thank you Jared.

Ms. Debbie Mitchell: Good morning Commissioners, Director and Counselor. My name is Debbie Mitchell and I am here on behalf of Mike and Mi Ra Finnegan in their application for a Special Land Use Permit to operate a bed and breakfast rental home at 2350 Aina Mahiai.

The home is located in West Maui just north of the resort area at Kaanapali and mauka of the highway. Moving in you'll see the other businesses and developments around the home. Again, north of International Colony Club which has come before you before. The Kaanapali Coffee Farms is a approximately 50-lot development that is on the slopes of the West Maui Mountains. You'll see just to the north the West Maui Airport and just directly west is the Kaanapali Resort area.

Moving on on the layout of this property there again, you'll see the approximately 50 lots and idea of where the Lot 36 is which is the subject to this hearing today. Here is an aerial view, you can see the lots set out and delineated by the roads. The subject property the black arrow is just

1 pointing directly over the main home and the home just to the south of that, the small home is the  
2 rental property. Here's a direct view overhead you see the nice long driveway coming in from the  
3 street. There are the required two parking spaces for the rental as well as the garage for the  
4 owner's residence. There is a nice wide turn around driveway there so that no one will be backing  
5 out into the street. They can turn around and face directly forward as they leave the property.  
6

7 This is a little bit of information on, I gave this to you on the handout about how the coffee farms  
8 works. This is a handout that's given to new owners that talks about the dwelling site which is set  
9 aside for the main home and the cottage or workshop, art studio, anything like that. They have  
10 community guidelines which govern directly how those structures should look. So basically the  
11 majority of the property there and the coffee farms is utilized for the direct planting and farming of  
12 the coffee beans. It is a gated community so it is not open to the public. Should this be granted  
13 in order to operate the B&B each guest will be given a specific gate card which will be activated  
14 upon their approval and deactivated upon their departure so there won't be anybody running  
15 around with gate codes. They'll have strict control over who has those and when they have them.  
16

17 Some views around the property shows the long driveway there from the street and as you see  
18 it's surrounded by the growing coffee plants. The bed and breakfast location has two bedrooms  
19 and therefore, it has the requisite two parking places for it. The total lot size as Jared mentioned  
20 is 4.466 acres and although the bed and breakfast ordinance allows separate booking in the case  
21 of the B&B, the owners agree and it can be made part of the conditions that they will only rent to  
22 a single party and not multiple parties. There again, as we mentioned there's plenty of parking,  
23 there's plenty of maneuvering area for cars so that meets, definitely meets the requirements of  
24 the ordinance. The exterior of the home and the views from all four sides.  
25

26 Here's the layout of the property...actually the floor plan of the house itself shows the living room,  
27 kitchen, two baths and two bedrooms. Some photos of the interior, the kitchen and dining room,  
28 living room, two bedrooms both of which has the proper egress in case of fire.  
29

30 Little bit of information, more on the coffee farms, again a lot of this is repetitive, we have...there  
31 are approximately 50 lots between four and eight acres. Again, as we mentioned there's one acre  
32 is set aside for the buildings. The way the coffee farms works is each lot owner has to be a  
33 member of the Kaanapali Owners Association and so all the lots are encumbered by this lease  
34 where the homeowner's association is the farming tenant. The owners pay monthly assessments  
35 to the association and those support the farm operations. The owners don't have any right or  
36 responsibility of plant or harvest the crops. They are entitled rent proceeds but those are allocated  
37 directly to the association to defer costs and all the revenues generated by the farming operations  
38 offset the expenses incurred. A little...few pictures of the actual harvesting process. It's very  
39 interesting how it's done and the large harvesters there as you'll see.  
40

41 So onto the administration part of this. All the neighbors within 500 feet were notified twice about  
42 the permit application and the public hearing and additionally an ad was placed in the Maui News  
43 about today's hearing. One protest letter was received from a neighbor within the 500-foot radius.  
44 Five other letters of protest were received from neighbors outside that 500-foot radius. In terms  
45 of support, three letters of support were received from owners within the 500-foot radius one of  
46 which owns two parcels so that effectively comes out as four lots supporting. Five more letters of

1 support were received from neighbors outside that radius one of which owns two parcels again  
2 so the total number of support letters we received were eight representing ten lots. Four of the  
3 six adjacent neighbors are in support of this application and no adjacent neighbors protested.  
4 The coffee farms homeowner's association does not prohibit these types of operations and they  
5 rely on established County ordinances, so yourselves to qualify these operations. Again, here's  
6 a support map showing the subject property and the four support...supporting lots directly  
7 adjacent. No protests were received from any adjacent lots. There was one protest received just  
8 to the west and you'll see that is on the edge of the circle there.

9  
10 So even though most of the protestors were...that we...the letters we received were outside of  
11 the 500-foot circle the owners took great care to answer those, those concerns that those...any  
12 neighbor might have. Of course, there's always the concern about increased traffic and damage  
13 to roadways, noise partying, strangers in the neighborhood. So those are fairly typical to these  
14 types of applications. The one that's specific to Kaanapali Coffee Farms is the Coffee Borer  
15 Beetle and this is a parasite that is very damaging to the coffee beans so great diligence must be  
16 taken to avoid bringing any...you know someone else would, a guest were to drive to another  
17 place that has that, another farm that has that particular pest and then come back there's fear it  
18 would get started at that property.

19  
20 So solutions that we offer for those particular concerns of neighbors this is just a two-bedroom  
21 cottage and it at maximum can only allow four people on site. One car per bedroom so there can  
22 only ever be a maximum of two cars. There is very strict house rules that are in place that enforce  
23 quiet hours, prohibit partying, on-street parking, the fact that the neighbors live on the property  
24 right next door will help ameliorate those particular items because they will be there to provide  
25 oversight. All guests will be screened by them as well so they will again by being on site will deal  
26 with anything...(inaudible)... The owner...again, the owners have volunteered to have a minimum  
27 seven-night stay so that is not gonna be something that turns over every two days, two, three  
28 days, it's gonna be a minimum of seven days and that is also something that could be added as  
29 a condition to approval. And again, the owners will utilize the cottage for themselves so it's not a  
30 constant flow of visitors.

31  
32 Again, as I mentioned before there's not a reusable gate code that will be given out. They will be  
33 provided a key card activated upon arrival and deactivated upon departure. The owners have  
34 done some research on the Coffee Borer Beetle and they'll require that the guests positively  
35 acknowledge in the rental agreement that they have been provided this information and they will  
36 not visit any other coffee farms where this...while they are staying at this property and again, we  
37 will be limiting the occupancy to a single party rather than the two parties.

38  
39 So in summation this is a permit application for a Special Land Use Permit to operate a bed and  
40 breakfast operation. The owners will be next door monitoring the guests and mitigating  
41 noises...noise and traffic. They will be available at all times for any complaints or concerns of  
42 neighbors and they will educate their guests on the Coffee Borer Beetle and the responsibility of  
43 staying on a working coffee farm. So that's our presentation today. Thank you so much for  
44 listening and we hope you'll consider our application and approve it. I do have the owner here,  
45 Mr. Mike Finnegan who would like to say a few words to you as well.

1 Mr. Carnicelli: Okay, Debbie before you go I just have one real quick question.

2  
3 Ms. Mitchell: Sure thing.

4  
5 Mr. Carnicelli: As logistically when you send out your notices did you actually send a notice to  
6 Kimo Falconer, i.e., the...you know the coffee farms, the farmers, you know like—

7  
8 Ms. Mitchell: Right. I only—

9  
10 Mr. Carnicelli: Did they get noticed and if so, did they weigh in?

11  
12 Ms. Mitchell: I just followed the list provided by the County from the County website.

13  
14 Mr. Carnicelli: Okay.

15  
16 Ms. Mitchell: So that's what it went to. I didn't send anything additional.

17  
18 Mr. Carnicelli: That's fine.

19  
20 Ms. Mitchell: All right. Mike.

21  
22 Mr. Carnicelli: Thank you. Mr. Finnegan.

23  
24 Mr. Michael Finnegan: Good morning Chair and Members.

25  
26 Mr. Carnicelli: Good morning.

27  
28 Mr. Finnegan: I'm Mike Finnegan. My wife, Mi Ra Finnegan is here with me today. I'd like to first  
29 start by thanking Chair, Commissioners, the Planning Staff for the time you've taken with our  
30 application. We really appreciate the efforts. We are a retired Army family. We have been  
31 blessed with the opportunity to return to Hawaii after a few tours here and make Maui our home.  
32 I just have a few points I'd like to add for your consideration this morning.

33  
34 One, we realize the importance of preserving the agricultural land. That was part of the attraction  
35 of moving to Kaanapali Coffee Farms is that a large portion as you heard 70 percent of our lot  
36 would remain in active agriculture. So we very much support it. We see this as a great opportunity  
37 to preserve that land. We also see that it's an opportunity to educate people. A lot of people like  
38 to come to Maui and to other places for ecotourism and agricultural tourism. We see this as an  
39 opportunity to reach out to certain people and educate them. I've already talked to the County  
40 Extension Office and the State Extension Office asking for information to help put together  
41 educational materials about Maui agriculture and about the importance of agriculture both  
42 historically and contemporary.

43  
44 As Debbie mentioned we also take serious the Coffee Borer Beetle. We think we're gonna go  
45 beyond what's being done right now to prevent the Coffee Borer Beetle from coming into the farm  
46 by educating people that are gonna come here in advance to let them know that there is this

1 invasive pest that's out there and here's what needs to be done to prevent it from coming into this  
2 farm and ask them to positively affirm that they understand that and take that responsibility as  
3 being one of our guests.

4  
5 The second point I'd like to make is that we've listened to our neighbors. We understand that  
6 they've raised concerns about traffic and about strangers in the neighborhood. While we may not  
7 share those concerns fully we do understand them and so we're trying to take measures that will  
8 help the limit the traffic flow, limit the turnover, make it less intrusive to anyone around us. We  
9 want to be good neighbors, good homeowners. Just like any good homeowner I don't want what  
10 goes on on my home to impact my neighbors, so I'm...by living there I'm gonna make sure that  
11 any of our guests abide by this...the house rules and abide by just good neighborly practices and  
12 that's maybe the third and final point I'd like to make is that we're residents, we're living here. We  
13 plan to be here for a long time. We want to be good neighbors, we want to be a good part of the  
14 community, we want to be good stewards of the land. We also, by having this opportunity for us  
15 we'll also be taxpayers, we'll also be employers of people on the island and be contributing to a  
16 stronger Maui community we hope. So again, I just wanted to thank you for time in considering  
17 this and appreciate the efforts. Thank you.

18  
19 Mr. Carnicelli: Thank you very much, appreciate it. So at this point in time what we'll do is we're  
20 gonna open up the floor for public testimony. And just so everybody knows you will get three  
21 minutes, three minutes only. That's not three minutes and 30 seconds or four minutes and that's  
22 just to be fair to everybody. We do want to hear what you have to say, but please limit your  
23 testimony to three minutes. Also I will ask you, I will basically swear you in and when you're done  
24 the applicant actually has the opportunity to ask you questions if they so choose just so you guys  
25 know that. That being said, our very first person to sign up for this item is Shelly Timmons. That's  
26 okay, don't need to be nervous.

27  
28 Ms. Shelly Timmons: Okay, good morning everyone.

29  
30 Mr. Carnicelli: Please state your name for the record.

31  
32 Ms. Timmons: My name is Shelly Timmons.

33  
34 Mr. Carnicelli: Shelly you have up to three minutes. Oh, wait, wait, I'm sorry, I forgot to ask you  
35 if you were going to be truthful.

36  
37 Ms. Timmons: Oh, I'm gonna be truthful.

38  
39 Mr. Carnicelli: Okay, thank you. Now you have up to three minutes.

40  
41 Ms. Timmons: My name is Shelly Timmons and I'm here on my behalf of husband Trent Timmons  
42 and I. We are the closest neighbors to Mi Ra and Mike. Her address is 2132 Aina Mahiai. So  
43 we live right above them and their cottage is the closest proximity to our home. We are a hundred  
44 percent...sorry...

45  
46 Mr. Carnicelli: That's okay, I've cried here too, so it's...truthfully I have so it's okay.

1  
2 Ms. Timmons: We are a hundred percent supportive of their application for a B&B. We have  
3 lived in our home...we've lived on island for six years, we've visited the island for 20 years and  
4 our children went to school here. However, in July we did move off island, one of our children  
5 wanted to finish school on the mainland and so we rented our home for a year. So, but our  
6 intention is to come back. At one point the house was on the MLS, I wanted to clarify that point  
7 because someone said that we had sold our home. It is not for sale it is off the MLS and we plan  
8 on coming back here when our son graduates from high school next year. Again, we love this  
9 island and we love the people that live near us and that's why we want to move back and be near  
10 them. So I'm sorry if I'm emotional, I don't know why, so that we're in 100 percent support of what  
11 they want to do and we believe that they've always been extremely professional and courteous  
12 neighbors. When we were building our home they were very actively involved in watching the  
13 process of the building of our home and then when we moved in and lived in our home prior to  
14 moving away in July, we lived there for a year they were great neighbors and are great neighbors  
15 and I think that they will conduct their business in a very professional way, so thank you.

16  
17 Mr. Carnicelli: Thank you. Michael do you have any questions for the testifier?

18  
19 Mr. Finnegan: No.

20  
21 Mr. Carnicelli: Okay, thank you. Our next testifier is Kai Nishiki.

22  
23 Ms. Kai Nishiki: Good morning Chair.

24  
25 Mr. Carnicelli: Please identify yourself.

26  
27 Ms. Nishiki: My name is Nishiki.

28  
29 Mr. Carnicelli: Do you promise to be truthful?

30  
31 Ms. Nishiki: I do.

32  
33 Mr. Carnicelli: You have up to three minutes.

34  
35 Ms. Nishiki: Mahalo. I'm here to testify in opposition to this proposal. In many of the meetings  
36 before the Community Plan Advisory Committee we have heard numerous testifiers saying that  
37 they do not want any more visitor accommodations that short-term rentals and B&Bs have taken  
38 over our housing market. So while I do not support this proposal I do support long-term housing,  
39 I support agriculture and I support jobs that...this applicant says that they're gonna provide jobs.  
40 We don't need jobs, we need long-term housing and this B&B steals yet another rental unit from  
41 the long-term housing market. This is a ag subdivision and there have been...you can look in  
42 your binders, there are...there's testimony in there that says that this sort of enterprise could  
43 severely and negatively damage the coffee farm that is in existence there. And while you know  
44 I'm not a great proponent of coffee I do support agriculture and food producing agriculture, but  
45 still like this is agriculture and you're going to put in a short-term rental in an ag subdivision that  
46 coffee farmers are saying that this could cause damage to the farming operation. So that...just

1 on that alone, it should be denied. Not even taking into consideration the massive housing crisis  
2 that we're...that we are experiencing right now in West Maui and all over and why this is even a  
3 proposal I have no idea. Also, just as backup our Community Plan Advisory Committee did  
4 transmit a letter to you folks saying that we do not want any new visitor accommodations or  
5 expansion projects to be approved and I think this is kind of in line with that. This is a short-term  
6 rental, this is for visitor accommodations and this is something that we don't really want in West  
7 Maui. So I believe the community has spoken. This is not something that we desire in our  
8 community and I urge you to deny this application. Mahalo.

9  
10 Mr. Carnicelli: Thank you. Michael do you have any questions for the testifier? Okay, thank you.  
11 Commissioners any questions, no? Anybody else like to speak to this particular item? Junior  
12 come on.

13  
14 Mr. Junior Nakoa: Howzit, Junior Nakoa from Lahaina.

15  
16 Mr. Carnicelli: Junior do you promise to be truthful?

17  
18 Mr. Nakoa: Yeah.

19  
20 Mr. Carnicelli: You have up to three minutes.

21  
22 Mr. Nakoa: Shoots. Sorry braddah but the timing is wrong. Us Lahaina people we tired of all  
23 this kine B&Bs and short-term rentals and all the stuff. We neva get nothing affordable workforce  
24 housing in Lahaina that was promised to us by all these hotels that was built on Kaanapali. K and  
25 all the houses that's built on the Kaanapali Hillside, sucks sorry, I just pau yell at the Mayor. But  
26 um, we just done, we're done tired, brah, 2,700 homes supposed to be built here in Lahaina, I  
27 sorry in Lahaina and for the working people, for us guys. We over it. K, we just when listen to  
28 testimony from the dummy William Aila telling us he, he...they like build us Hawaiian homes by  
29 Lei Alii and Honokowai you know what I mean? Build those buggahs first, take care of us first. I  
30 get three minutes but I don't know neva mind. But yeah, nuff already. No worry...no, no, I going  
31 be hea planny already. I'm giving up everything fo come stop this kine development, anything,  
32 hotel...all these hotels gotta stop, get planny. Planny of them, I deal with the general managers  
33 at Kaanapali 'cause of the injection wells and all that crap, but nuff already brah, I going educate  
34 about the kanakas and how to get...I know nobody like come over hea. I no like come ova hea,  
35 and I still come ova hea. But we going make everybody come already brah we stay piss, stay  
36 crazy, stay mad. Yeah, braddah I sorry I don't know your project I don't know where the heck the  
37 damn thing stay, the thing stay in Lahaina, I'm attacking all Lahaina you know what I mean? Stop  
38 with this kine stuff. Take care of us that live hea all my life. I almost 50 next year. I live hea all  
39 my life and I still no mo shit, you know what I mean? Work for the hotel industries and they neva  
40 build us nothing, they neva build us nothing, zero. And I think you know about it, well we kinda  
41 educated you about it and we're gonna look for it today. I goin get da kine my lawyers from da  
42 kine Oregon, we're gonna work on finding all the stuff, those homes dat supposed to be promised  
43 to us by KOR, by Hyatt, by the Westin, by Honua Kai, all these hotel they wen up all and ruin  
44 our...the dodo wata that we gotta deal with. We going stop um, I sorry I'm done, I going talk all...I  
45 don't talk you guys language but going educate the people, come ova hea make noise cause we  
46 getting pushed out. We tired already getting pushed out and braddah I don't know you personally

1 but I going start...I going stand up for...I going...we going stop everything before they start...until  
2 you guys start building our homes. Help the State which is the DHHL get the infrastructure so we  
3 can build the Hawaiian homes den we good.

4  
5 Mr. Carnicelli: Thank you Junior. Michael do you have any questions? Commissioners? Thank  
6 you. Is there anybody else who would like to come forward and testify on this particular item?  
7 Please come forward.

8  
9 Mr. Justin Brunold: Hello, my name is Justin Brunold.

10  
11 Mr. Carnicelli: Hi Justin, do you promise to be truthful?

12  
13 Mr. Brunold: I do.

14  
15 Mr. Carnicelli: Okay, you have up to three minutes.

16  
17 Mr. Brunold: I'll make it short and sweet. I live in the neighborhood and I'm in support of their  
18 application. So I just want to kind of be out here, let everyone know that there's another person  
19 in the neighborhood that's definitely in support of this application. Thank you.

20  
21 Mr. Carnicelli: Thank you. Any questions for the testifier? Justin come back please.  
22 Ms. La Costa.

23  
24 Ms. La Costa: Thank you Chair. Where do you live in relation to the subject property please?

25  
26 Mr. Brunold: So I have Lot 13. I haven't began building yet, so I do live down the street, but I  
27 plan on building in that neighborhood.

28  
29 Ms. La Costa: Approximately how far away?

30  
31 Mr. Brunold: We're on the same street, 700 feet.

32  
33 Ms. La Costa: Thank you.

34  
35 Mr. Carnicelli: Thank you. Anybody else wish to testify on this particular item? Then seeing  
36 none, without objections we'll go ahead and close public testimony.

37  
38 Mr. Freitas: If I have questions for them do I?

39  
40 Mr. Carnicelli: Yeah, yeah, that's what we're gonna do now is we're gonna go ahead and take  
41 questions from the Commission for the applicant and/or the Department. So do you want to start?

42  
43 Mr. Freitas: Sure.

44  
45 Mr. Carnicelli: That's what you get for speaking up. Commissioner Freitas.

46



1 Mr. Freitas: This is for Debbie and Mike. As I looked at the written support and opposition I  
2 noticed that seven of the ones that received seemed like a template, kind of a Xerox copy and  
3 there were about four or five that were genuine letters written in opposition. There was one person  
4 that wrote and I kinda want to go back to when people purchased the property what was their  
5 understanding and one lady says every single lot owner in our neighborhood as received specific  
6 written notice in regards to neighborhood and it's ...(inaudible)...intent not to allow short-term  
7 rentals or bed and breakfast properties within our gates. Can you comment on that?  
8

9 Mr. Finnegan: Yes. So when we bought our lot to be clear when we sat with the developer and  
10 sat with the real estate agents we said we'd like this opportunity to rent as a short-term vacation  
11 rental or a bed and breakfast is there anything that stops us from doing that? No, there wasn't  
12 anything. The letter...I was confused when I saw what was written there. There was a letter put  
13 out, I'm going back about 18 months, two years ago that talked about illegal rentals not permitted  
14 rentals, it was about illegal rentals. There is nothing that the community has put out at least if it's  
15 been put out it hasn't been put out to all homeowners about opposition to permitted short-term  
16 vacation rentals or bed and breakfast. It was a letter and I could dig back and find it perhaps, but  
17 it was about illegal rentals and that people were concerned about and I share that concern that's  
18 why we're here. We want to make sure that we do this right and follow the rules.  
19

20 Mr. Freitas: Thank you. I guess there's no one here that can confirm that then, but thank you.  
21

22 Mr. Finnegan: Yes.  
23

24 Mr. Carnicelli: Thank you. Commissioner Thompson.  
25

26 Mr. Thompson: No questions.  
27

28 Mr. Carnicelli: Commissioner Pali.  
29

30 Ms. Pali: I have a question for the applicant. Firstly, thank you for attempting to do this the right  
31 way and being transparent about it 'cause we appreciate that. I wanted to just dig further about  
32 you saying that you live here and it being your home. You know, in Maui County we have a lot of  
33 people that say Maui is their home but they're not always here. Sometimes they are part-time  
34 homeowners, sometimes they are here six months out of the year or eight months or ten months,  
35 can you just clarify when you say you live here do you have any other second homes anywhere  
36 else that might take you away from Maui for more than a couple weeks at a time?  
37

38 Mr. Finnegan: So I travel a lot for work rarely anywhere more than ten days personally at a time  
39 just 'cause I'm back and forth. I spend a lot of time in Japan. But since we finished the home first  
40 with the cottage in January of last year and then the main house in June we've spent the vast  
41 majority of our time here. We still have a home in Virginia that we've had for 17 years. My wife  
42 has been back there trying to clean it out so we can get rid of that house but this is intended to  
43 be our permanent home. We've gotten our driver's licenses moved here. We intend to spend  
44 the majority of our time here in Maui.  
45

1 Ms. Pali: So just to clarify, you will be remaining as physical occupants and not more...not away  
2 from the physical home potentially more than two weeks at a time?

3  
4 Mr. Finnegan: Yes, I think that's an accurate way to say it.

5  
6 Ms. Pali: Thank you.

7  
8 Mr. Carnicelli: And just for clarification a B&B, a B&B cannot have guests if the owners are not  
9 on island.

10  
11 Mr. Finnegan: And we understand that.

12  
13 Ms. Pali: Well, and I was just trying to establish is it a real primary residence or not.

14  
15 Mr. Carnicelli: Right, no, fair enough. So is your house in Virginia up for sale?

16  
17 Mr. Finnegan: Not yet.

18  
19 Mr. Carnicelli: Okay.

20  
21 Mr. Finnegan: We're got 17 years' worth of stuff, that's being kind that need –

22  
23 Mr. Carnicelli: Reminds me of the old George Carlin skit about stuff, right?

24  
25 Mr. Finnegan: Yeah, we gotta get rid of it.

26  
27 Mr. Carnicelli: Commissioner La Costa.

28  
29 Ms. La Costa: This is for the petitioner please. First of all, thank you for your service and I hope  
30 you had a restful Veteran's Day.

31  
32 Mr. Finnegan: Thank you, yes.

33  
34 Ms. La Costa: So I have a question. How long have you actually lived on Maui?

35  
36 Mr. Finnegan: So we began occupancy of the cottage in January of 2018, and my wife and I, she  
37 more than I because of my travel for work have been here almost constantly since then with a  
38 couple of breaks off island for medical or to be back and cleaning the house in Virginia. So almost  
39 two years at this point.

40  
41 Ms. La Costa: Thank you. Have you previously rented this cottage?

42  
43 Mr. Finnegan: No.

44  
45 Ms. La Costa: And my last question is, you can tell someone don't cross the street when there's  
46 a flashing hand but people still do it.

1  
2 Mr. Finnegan: Yes.

3  
4 Ms. La Costa: How do you expect to stop people from going up to Keokea to Grandma's Coffee  
5 and being around a lot of the coffee farms up there or going someplace else and having that  
6 possibility of infestation. How are you going to guarantee or can you that they are not going to  
7 bring back any kind of pests to Kaanapali Coffee Farm?

8  
9 Mr. Finnegan: So unfortunately unless we put a quarantine around the farm there is no way to  
10 guarantee. Right now there are some signs and that's it. There are a few signs that say there's  
11 a Coffee Borer Beetle problem and please don't come in. That doesn't stop the construction  
12 equipment coming from Hana to come in there and work. It doesn't stop people from driving in.  
13 It doesn't stop mountain bikes and motorcycles from going around the gate. We're gonna try and  
14 use education and try to persuade people that do the right thing, don't bring that...don't risk this  
15 farm. I think we're going further than as being done right now by either the association or you  
16 know the farm itself. We're trying to educate people to this more than putting up the few signs  
17 that are out there right now.

18  
19 Mr. Carnicelli: Commissioner Castro any questions?

20  
21 Mr. Castro: Yes. Mr. Finnegan—

22  
23 Mr. Finnegan: Yes.

24  
25 Mr. Castro: As one Vet to another, thank you for your service.

26  
27 Mr. Finnegan: Oh, thank you too.

28  
29 Mr. Castro: I have a question on this turnaround.

30  
31 Mr. Finnegan: Yes.

32  
33 Mr. Castro: Is it wide enough to accommodate a fire truck?

34  
35 Mr. Finnegan: I believe so. I think...we've had large construction equipment go through there so  
36 I think maybe not your largest hook and ladder type truck but a regular size fire truck, yes I believe  
37 so.

38  
39 Mr. Castro: 'Cause I believe there is a requirement for the size of the roadways for a fire truck to  
40 turn around.

41  
42 Mr. Finnegan: Yeah, it was built within Code. So whatever the County Code is that's...it's built  
43 within that and signed off by the Fire Department.

44  
45 Mr. Castro: Do you know what's the closest fire hydrant?  
46

1 Mr. Finnegan: Yes, immediately across the street from the driveway. I don't know if you can see  
2 it on the picture but there is one there.

3  
4 Mr. Castro: And the property is gate by key, electronic...(inaudible)...

5  
6 Mr. Finnegan: Yes. There's push button keys, there's key cards, and there's codes. So the way  
7 we would work this is when somebody comes to be a guest they would show up, they would have  
8 a gate code that they put in. What that gate code does, doesn't open the gate it dials me wherever  
9 I happen to be in world and either my wife or I are going to be on the property because we have  
10 to be there when a renter is on property, we then can let them in. When they get to the house  
11 they'll be given as part of their check-in they'd be given a key card that they use while they're on  
12 island while they're staying in the house and they leave that key card behind when they depart.  
13 If they depart with our key card we have the ability to go to the security office and deactivate that  
14 card.

15  
16 Mr. Castro: Does the fire department have access to the gate?

17  
18 Mr. Finnegan: Yes, yes.

19  
20 Mr. Castro: So we can find out if that turnaround is in compliance to accommodate fire trucks?

21  
22 Mr. Finnegan: Yes, we can look into it. The Fire Department has signed off on it.

23  
24 Mr. Carnicelli: The Director will answer that question for you.

25  
26 Ms. McLean: Commissioner Castro, the requirement for the fire truck turnaround has to do with  
27 the roadways not so much on an individual piece of property. So I don't believe there's a  
28 requirement for a fire truck to be able to turn around on an individual piece of property when you  
29 talk turn around ability that's the roadway that accesses properties.

30  
31 Mr. Castro: The only reason I ask that because a few years back there was a issue Upcountry  
32 where the road wasn't wide enough for the fire truck and to turn around so that's why I'm asking  
33 that question. Thank you.

34  
35 Mr. Carnicelli: Commissioner Tackett.

36  
37 Mr. Tackett: I have no questions.

38  
39 Mr. Carnicelli: Thank you. I have a couple questions, one is...actually not for you just yet. It's  
40 either...it's gonna be for Jared possibly is I can't remember...I don't know nine months, a year  
41 ago something like that we had it was either an STRH or a B&B in the coffee farms come before  
42 us and in that we granted intervention to the contested case where are we on that contested case,  
43 do you know. Is that a curve ball out of nowhere for you? Debbie if you have, if you have  
44 knowledge then please come forward.

45

- 1 Ms. Mitchell: Debbie Mitchell. Yes, the owner of that property decided that it was not worth the  
2 money and time so she sold the property and is no longer living there.  
3
- 4 Mr. Carnicelli: Okay.  
5
- 6 Ms. Mitchell: So that's over.  
7
- 8 Mr. Carnicelli: Okay, thank you. Actually Debbie while I have you here could you go back one  
9 slide...one or two slides and I just want to go to some of the concessions with which you had  
10 talked about. So minimum stay seven days. So you're already conceding to that?  
11
- 12 Ms. Mitchell: Yes, correct. That can be made one of the conditions.  
13
- 14 Mr. Carnicelli: Single party only.  
15
- 16 Ms. Mitchell: Last bullet point and that can also be part of the—  
17
- 18 Mr. Carnicelli: Okay. Four guests is just by Code or by the Ordinance.  
19
- 20 Ms. Mitchell: Right. Correct, two bedrooms.  
21
- 22 Mr. Carnicelli: If we're gonna have one party, four guests, one car?  
23
- 24 Ms. Mitchell: Possibly. The Ordinance says we must provide two spaces.  
25
- 26 Mr. Carnicelli: Well I get it, but I'm just saying is if we have one party with four people they don't  
27 need two cars.  
28
- 29 Ms. Mitchell: I would say so.  
30
- 31 Mr. Carnicelli: Okay, let's ask Michael.  
32
- 33 Ms. Mitchell: Mike.  
34
- 35 Mr. Finnegan: Actually in the letter I sent out to the neighbors within 500 feet when we sent out  
36 the original, I had said that we would also limit to one car.  
37
- 38 Mr. Carnicelli: Okay, what other limitations did you tell your neighbors that you would be okay  
39 with?  
40
- 41 Mr. Finnegan: Most of them are in here, seven days, single party, one car. That we would have  
42 people affirm against visiting other coffee farms while they were saying with us. I believe those  
43 were the things I offered in the letter that we would do.  
44
- 45 Mr. Carnicelli: Got it. Have you ever spoken to Kimo Falconer, the gentleman that runs the coffee  
46 farm?

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45

Mr. Finnegan: No, I've never had the opportunity...(inaudible)...

Mr. Carnicelli: Trying to think what other questions I had at this time. Mr. Hopper, can we actually condition I guess that the guests can't go visit coffee farms is that...other coffee farms is that even possible to make that a condition?

Mr. Hopper: I'm not sure how you would enforce that sort of condition.

Mr. Carnicelli: Right, that's—

Mr. Hopper: Yeah, I wouldn't see how that would be possible to enforce. At this point you could, you could have a...have them have a letter, but you know are gonna kick the person out of the short-term rental home or the bed and breakfast home at that point that would be the concern.

Mr. Carnicelli: Right. As far as house rules if he said if we were going to make those as far, as far as house rules.

Mr. Hopper: If you want to condition that that's fine, but I'm not—

Mr. Carnicelli: Again, enforcement is gonna be our issue, okay.

Mr. Hopper: That's what I would say.

Mr. Carnicelli: Okay.

Mr. Hopper: That's probably true of all of the house rules as well. But if they're there that would perhaps be a potential deterrent but actually enforcing that would be the difficult thing.

Mr. Carnicelli: Okay.

Mr. Hopper: Are they going to monitor where they go, I guess if they get a complaint from someone else saying hey I saw your visitor up here.

Mr. Carnicelli: Got it.

Mr. Freitas: Chairperson, can I share something?

Mr. Carnicelli: Yeah.

Mr. Freitas: Regarding what you said there are a lot of wild coffee growing in places like lao and if people want to go hiking—

Mr. Carnicelli: Sure.

1 Mr. Freitas: They could pick that up anyway, so by saying going to another farm I don't think  
2 that's gonna do it.

3  
4 Mr. Carnicelli: Agreed. It's just...and the other part 'cause part of this conversation last we had  
5 it was someone that does not have a B&B or even let's say they have friends come visit from  
6 Virginia, right they don't get this permit right and they have friends come visit from Virginia or their  
7 next door neighbor has somebody come visit from Oregon, there's no conditions on any of those  
8 people either so that's...it's just trying to be prudent 'cause I just remembered from the last time  
9 we had this conversation that you know the Coffee Borer Beetle was the big concern. I mean that  
10 is a big concern and in a way is doing it this way more aware than say just somebody having  
11 guests come from the mainland to visit them. I don't know the answer to that question right now,  
12 but just trying go...so you guys want another round of questions? You guys have other questions?  
13 You guys do you have other questions? Commissioner La Costa.

14  
15 Ms. La Costa: Thank you Chair. Mr. Finnegan are the guests going to be using your pool?

16  
17 Mr. Finnegan: No.

18  
19 Ms. La Costa: Okay, thank you.

20  
21 Mr. Finnegan: Chair if I could offer on the Coffee Borer Beetle. I went through the same thought  
22 process that you're going through. What can we do that is more than is being done right now to  
23 protect? So right now, a guest comes there or a worker that comes there or a delivery person  
24 that comes there there's nothing that tells them or restricts them in a, if you will, a positive way.  
25 There's just signs that you know say that there is a risk. We're trying to go beyond that. We're  
26 trying to educate people and depend to bid on people's goodwill to do the right thing.

27  
28 Mr. Carnicelli: Thank you. Jared, I did think of my other question. Just to clarify no guests of the  
29 guests, correct? Guests are not allowed to have guests.

30  
31 Mr. Burkett: They're not allowed to have guests that stay overnight.

32  
33 Mr. Carnicelli: Okay. But they can come visit. Guests can visit the other guests?

34  
35 Mr. Burkett: I don't recall anything in the ordinance restricting that just that they can't spend the  
36 night. I mean that could be something discussed as a condition.

37  
38 Mr. Carnicelli: So then Mr. Finnegan...

39  
40 Mr. Finnegan: Sir.

41  
42 Mr. Carnicelli: No, I'm not a sir, trust me I'm not a sir. Are you okay with no guests visiting the  
43 guests 'cause I mean that basically...is it just ends up with more traffic right.

44  
45 Mr. Finnegan: Yes, no it's...just talking to Debbie about it, that was one of the things that was on  
46 my mind, I hadn't thought about putting that in the letter when I sent it out originally but restricting

1 outside guests of guests, yes, we don't want a lot of people coming in. This goes to the question  
2 of parties. I don't want somebody to rent, you know to be in...take our bed and breakfast for a  
3 week and then have a blowout on the weekend and invite a bunch of people from outside. We  
4 don't want to allow that.

5  
6 Mr. Carnicelli: How many times a year will you have friends and/or family come stay in that unit?

7  
8 Mr. Finnegan: Hard to say at this point.

9  
10 Mr. Carnicelli: Roughly, one, six?

11  
12 Mr. Finnegan: No, I think it will be six, seven, eight times a year.

13  
14 Mr. Carnicelli: So if you do not get—

15  
16 Mr. Finnegan: And relatives like to come to Hawaii.

17  
18 Mr. Carnicelli: Okay, so if you do not get this permit you're still gonna leave it vacant for your  
19 friends and family to come visit?

20  
21 Mr. Finnegan: Yes.

22  
23 Mr. Carnicelli: Okay, thank you. Ms. La Costa.

24  
25 Ms. La Costa: Back again.

26  
27 Mr. Finnegan: Yes.

28  
29 Ms. La Costa: Thank you. So mentioned that you rented your home when you back to Virginia  
30 and in keeping with Junior's and Ms. Nishiki's comments about long-term rental is that a  
31 consideration that you thought of for the cottage?

32  
33 Mr. Finnegan: We've not rented the home when we back.

34  
35 Ms. La Costa: Okay.

36  
37 Mr. Finnegan: No, I'm sorry, if there was that impression, no we've not rented this out at all, and  
38 we're trying to figure out what to do with our house in Virginia at this point.

39  
40 Ms. La Costa: Okay. So have you thought about using the cottage as a short...or a long-term  
41 rental?

42  
43 Mr. Finnegan: We thought about it but to the point of family and friends wanting to come to visit  
44 we want the flexibility to be able to share not just with new friends, but with our existing friends  
45 and relatives as well, so...

46



1 Ms. La Costa: Thank you.

2

3 Mr. Carnicelli: Any other questions, comments? Seeing none, Jared would you please give us  
4 the recommendation?

5

6 Mr. Burkett: The Department has determined that the State Land Use Commission Special Permit  
7 complies with the applicable standards for an unusual and reasonable use within the State  
8 Agricultural District and therefore the Department is recommending approval of the SUP2 subject  
9 to the seven standard conditions at least and you can include others if you wish. And then in  
10 consideration of the foregoing the Planning Department recommends that the Maui Planning  
11 Commission adopt the Planning Department's report and recommendation as its findings of fact,  
12 conclusion of law and decision and order and to authorize the Planning Director to transmit the  
13 written decision and order on behalf of the Planning Commission.

14

15 Mr. Carnicelli: Thank you. And then Director if you...I believe you as you always do so well  
16 scribbled a couple of notes adding in some of the things that the applicant has also agreed to?

17

18 Ms. McLean: Yes, thank you Chair. One option to address these would be simply to amend  
19 Condition No. 6 which currently reads, that the applicant shall develop the property in substantial  
20 compliance with the representations made to the Commission in obtaining the SUP2. Failure to  
21 so develop the property may result in the revocation of the permit and so that could amended by  
22 adding a second new sentence so that the condition would read, that the applicant shall develop  
23 the property in substantial compliance with the representations made to the Commission in  
24 obtaining the SUP2. These include but are not limited to requiring guests to stay a minimum of  
25 seven nights, renting to one party only, restricting guests to one car per party, restricting guests  
26 from having outside guests and providing rigorous personal education to guests about the Coffee  
27 Borer Beetle. I should modify that, renting to one party at a time only.

28

29 Mr. Carnicelli: Right, okay. So that...is we'll have that as the recommendation by Staff. Do I  
30 have a motion? Commissioner Freitas.

31

32 Mr. Freitas: Motion to vote.

33

34 Mr. Carnicelli: Motion to approve? Motion to approve as recommended by Staff by Commissioner  
35 Freitas. Do I have a second? Seconded by Commissioner Thompson. Discussion on the motion.  
36 Commissioner Freitas.

37

38 Mr. Freitas: I really think when I look at the map of those that are for and for those that are against  
39 I kinda think that the immediate community, I feel the majority are against this, this request.

40

41 Mr. Carnicelli: Okay, thank you. Anybody else would like to speak to the—

42

43 Mr. Tackett: Clarification. Is your motion in favor of or against?

44

45 Mr. Carnicelli: Is your motion to approve or deny?

46

1 Mr. Freitas: I was doing a motion to vote.

2  
3 Mr. Carnicelli: Oh no, we have to have a, we have to a motion one way or the other first and then  
4 we vote. So are you...I guess we'll go ahead and remove that motion. Are you okay with  
5 removing your second? Okay, so the motion would be either to approve as recommended by  
6 Staff or whatever you want it to be or to a motion to deny that's basically where we are right now  
7 or a motion to defer. Those are kinda our three options right now. So does anybody have a  
8 motion to approve, deny or defer?

9  
10 Mr. Freitas: A motion to deny.

11  
12 Mr. Carnicelli: Motion to deny by Commissioner Freitas. Do I have second to the motion?  
13 Seconded by Commissioner La Costa. Now we'll go ahead and speak to the motion again. So  
14 I'm gonna let you go ahead and clarify your motion to deny.

15  
16 Mr. Freitas: When I looked at again the adjacent neighbors I kinda think that he was required to  
17 give a 500-foot radius and those people of course all voted or were for him. Yet that those that  
18 weren't required to receive the letter and that didn't receive any letter there's a good number  
19 outside that gave really meaningful reasons in opposition and I took that because I think those  
20 neighbors and those people that live there for the reasons that they purchased was enough for  
21 me to say, you know what no short-term.

22  
23 Mr. Carnicelli: Thank you. Mr. Hopper.

24  
25 Mr. Hopper: Just for some clarification on Page 9 of your staff report it goes from 9 to 10, there  
26 are the criteria for a State Land Use Commission Special Use Permit and there's criteria A thru  
27 E, those go over the criteria for consideration for a State Special Permit. Again, this is not a  
28 approval of a bed and breakfast home permit, it's a State Special Permit under HRS 205-6 and if  
29 there's gonna be a denial I would recommend that you review the criteria and you've gone into it  
30 a bit with the protest letters which is I think probably goes to Item B, the desired use would not  
31 adversely affect surrounding property. But if there's any other basis that the Commission would  
32 like to add in there it may assist staff if there is a denial in drafting the findings of fact, conclusions  
33 of law and decision and order. Again, that goes...that's Page 9 and 10 of your staff report and  
34 that goes over the criteria for granting or if they do not meet the criteria, denying the permit.

35  
36 Mr. Freitas: Okay, sorry.

37  
38 Mr. Carnicelli: Thank you. That's okay.

39  
40 Mr. Hopper: No, no you're there.

41  
42 Mr. Freitas: So I would like to deny based on B, the desired use will not adversely affect  
43 surrounding property.

44  
45 Mr. Carnicelli: Great. Thank you. Yeah, 'cause as he said he's gonna have to write up a decision  
46 and order to be submitted, so that's...so great. Commissioner La Costa.

1  
2 Ms. La Costa: Thank you Chair. I concur. It has to do with Condition B. My concern in a past  
3 life I worked for Kaanapali Coffee Farm and I know how hard it was for them to get the farm up  
4 and running this was in 1997-98. It was incredibly difficult for them to get the farm up and running  
5 and they are doing an incredible job and their biggest concern is the Coffee Borer Beetle. The  
6 fact that the Finnegans did not contact Mr. Falconer and chat with him about what's going on with  
7 the coffee farm and their concerns is the reason I seconded the motion.

8  
9 Mr. Carnicelli: Great. Thank you. Would anybody else like to speak to the motion?  
10 Commissioner Tackett.

11  
12 Mr. Tackett: So I'm also not in favor and the reason I'm not in favor is the first reason is because  
13 the driveway that people are gonna be using seems to be in very close proximity to the coffee  
14 and then the second reason I'm not in favor is because you guys all bought in that neighborhood  
15 and you guys all share that risk and you guys all have guests, but for one person to profit for it  
16 and then to be able to bring a different type of guest in I believe that wouldn't be fair to the other  
17 people that have bought in there. So you guys are all...every time you let somebody in that gate  
18 you guys are all assuming a risk. It's a risk that all of you guys are taking together, but when,  
19 when somebody gets something special, something special that they get to profit from now, now  
20 you're adversely affecting the neighborhood, you could, you could have a debacle that could  
21 destroy that coffee farm. Now if a guest comes in, a guest of the guest comes in and nobody's  
22 doing anything special that's just something that you guys all kind of bought into together, but if  
23 one person is doing something, something for profit and these aren't people that are living there  
24 all the time and these are people that are gonna go to lao Valley. There's lots of coffee farms in  
25 lao Valley. There's random coffee farms all over the place, so...and not even coffee farms, just  
26 random coffee plants, you know, just, just I mean I know people that have a house with the coffee  
27 plant, so you know that's why I'm not in favor of it, but I definitely appreciate your service to the  
28 country and I do thank you for that, but that's my take on the whole thing.

29  
30 Mr. Carnicelli: Thank you. Would anybody else like to speak to the motion? Commissioner Pali.

31  
32 Ms. Pali: I'll just say that you know it's helpful when we have no opposition letters, but we are  
33 here to support the community and follow the existing rules and it's difficult when there's  
34 opposition letters and a commonality in some of the issues is the public they don't feel like they're  
35 heard and so we have to take the opposition letters seriously. So that's the only comment.

36  
37 Mr. Carnicelli: Thank you. Would anybody else like to speak to the motion? I guess I will as well  
38 just to reiterate what Commissioner Freitas had mentioned which is the adverse effect to the  
39 neighborhood. I really remember the last one that came before us and not that that is the same  
40 as this one, but the neighborhood was vehemently against having any sort of visitor  
41 accommodation in the neighborhood. I'm sure you're wonderful neighbors. The one thing that  
42 I'm gonna I guess ask or request is that if this motion does pass and you are in fact denied that  
43 you would consider putting a family in there, in your ohana, that you would consider if you really  
44 want to be a part of the community and be a part of you know West Maui, I would just ask or  
45 request that you put a family in that unit. Rents on West Maui are exorbitant so I'm sure you'll get  
46 a healthy amount for that being the setting that it is and the beautiful property that it is. But just

1 to consider that and when you family comes to visit that they can stay with you in your main house  
2 and that you can put a long-term tenant in there. So that's if this motion does in fact pass. So  
3 would anybody else like to speak to the motion? Seeing none, Director.

4  
5 Ms. McLean: Thank you Chair. The motion is to deny the State Special Permit primarily because  
6 it does not meet the second criteria about adversely affecting surround property.

7  
8 Mr. Carnicelli: All those in favor please raise your hand. That is six. Sorry, Mr. Finnegan, I  
9 appreciate your efforts, I appreciate you really trying to do it the right way that goes a long way  
10 with us. We do appreciate that.

11  
12 **It was moved by Mr. Freitas, seconded by Ms. La Costa, then unanimously**

13  
14  
15 **VOTED: To Deny the State Land use Commission Special Permit.**

16  
17 **(Assenting – K. Freitas, P. D. La Costa, D. Thompson, K. Pali,**  
18 **C. Tackett, S. Castro)**

19 **(Excused – K. Robinson, T. Gomes)**

20  
21  
22 Respectfully Submitted by,

23  
24  
25 CAROLYN TAKAYAMA-CORDEN  
26 Secretary to Boards and Commissions II  
27