

**MAUI PLANNING COMMISSION
SPECIAL MEETING
JULY 10, 2006**

A. CALL TO ORDER

The special meeting of the Maui Planning Commission was called to order by Chairperson Wayne Hedani at 6:07 p.m., Monday, July 10, 2006, Lahaina Intermediate School Cafeteria, 871 Lahainaluna Road, Lahaina, Maui 96761.

A quorum of the Commission was present. (See Record of Attendance.)

B. UNFINISHED BUSINESS

- 1. MR. MICHAEL W. FOLEY, Planning Director, transmitting Council Resolution No. 06-32 containing a Draft Bill relating to the Permitting of Transient Vacation Rentals. (J. Alueta) (Public hearing conducted on June 28, 2006)**
 - a) Resolution 06-32 containing the proposed bill transmitted on April 10, 2006 (previously circulated to the Maui Planning Commission)**
 - b) April 17, 2006 transmittal from Council Planning Committee Chair Charmaine Tavares regarding Transient Vacation Rentals (PC-12) previously circulated to the Maui Planning Commission)**
 - c) May 4, 2006 letter from Dr. David Dantes, President of Maui Vacation Rental Association (MVRA) asking that presentations be allowed by a TVR Panel and the Planning Commission designate the MVRA as a resource during meetings where vacation rental legislation is discussed. (Discussed at the Maui Planning Commission's May 23, 2006 meeting.)**
 - d) June 2, 2006 letter from Council Chair G. Riki Hokama regarding Transient Vacation Rentals (PC-12)**
 - e) Draft minutes of the Hana Advisory Committee's May 8, 2006 and May 18, 2006 meetings to discuss the proposed bill.**

Mr. Hedani: At this we'd like to open the meeting with public testimony by anyone that would like to testify on this agenda item at this time. Okay, I don't have the subject but I have two people that have signed up. I'm going to call you in the order of your sign up for public testimony. The first testifier is Jim Wicker. If you could step to the microphone and speak clearly into the mike because it's being recorded and you'll have three minutes.

Mr. Jim Wicker: My wife and I purchased a transient vacation rental that was permitted with a conditional use permit in June 2004. We did due diligence prior to the purchase and

researched Maui County regulations regarding TVRs. The previous owner's attorney John Rapacz met with the Department of Planning. During that meeting the Department of Planning instructed us to submit a joint renewal and modification application with the current owner.

We submitted the application including the \$500 fee and informing all neighbors within 500 feet June 25, 2004. In February 2006, we received a letter from the Department of Planning informing us that a transfer was not possible and we would have to begin the process of a new application. Directly contradicting their previous instructions. I think this is an excellent example of the need for legislation that provides a clear and formatted procedure for TVRs. Not only is the current length of time intolerable, in this instance it was long enough for the Department of Planning to do 180 and completely reverse their own decision and instructions.

The Department of Planning's primary point that TVRs reduce affordable housing. How many times and ways does this have to be shown as false. In the first of these meetings Mayor Arakawa refuted this in no uncertain terms. There are 9,000 affordable housing units scheduled for construction in the next two years for the current demand of 3,500. However, this fact is either unknown or ignored by the Department of Planning. The Mayor specifically said that affordable housing should not be considered an issue.

An independent report commissioned by the county, stated specifically that TVRs have little or not impact on affordable housing, a 1 to 2% difference at the most. Again, this information either unknown or ignored by the Department of Planning.

The Department of Planning's recommendation is to not change the current system. From our experience there really is no current system of permitting and regulating TVRs. Please take advantage of this opportunity to draft legislation that's both clear and fair concentrating on the facts of the issue rather than misplaced feelings. Thank you.

Ms. Marlane Jackson: Hi, I'm Marlane Jackson. I really don't want to do this. I live in Puamana and there's 230 units in Puamana. When I bought there in 1986, there were 40 rentals, short-term and now there are around 120. I wrote a letter to Robert Carroll, August 14th after seeing this on the front page of the paper, 816 rentals. David Dantes' picture's here, Vacation Rentals. And I'm going wait, I have a 120 where I live. And in his little article he says that, "short-term rentals don't really adversely impact people that live around short-term rentals." Well, I just had – I live on a four-plex on the beach and in my little four-plex we're 20 feet side. I just had 30 people, they rented five units that had seven cars. There's only one of me and we're 20 feet wide and every night they pulled all the tables out in front and had barbarque and they partied and did barbarque during the day. They honked their horns getting in and out of the car, slam the garage doors, slamming their screen door and it really don't ...(inaudible)... you cannot live next to these short-term

rentals.

Anyway so wrote this letter. I'm a long-term resident owner of Puamana. As you are aware, Puamana is a residential zone and which short-term rentals under County Code permitted. As is the case and in defiance of County Code many owners have permitted real property brokers to offer their property for short-term rental. As a matter of fact, Whaler's Realty has an in-house broker in Puamana to handle said rentals. Mark Marcello, who is, works for Whaler's Rental, lives in Puamana and for 20 years if you call him up and try to get him to deal with the short-term rentals, he's five doors down from me, and I had people throwing rocks at my window because I complaining about them being out there at 2:00 in the morning. I filed a formal complaint with the county. He would do nothing. So when you say if you're going to permit somebody to do short term rentals in Puamana and the resident manager lives on property, he's already living there. He has 60 rentals. Short-term rentals are 99% nonresident, non-tax paying and nonvoters and are soon back to the mainland. This has caused many full-time residents to forego living in Puamana.

The real estate brokers have now joined the group in promotion of changing the code so as to allow short-term rentals ...(inaudible)... property owners have previously defied the law and mostly with held taxes due to the county, grandfather cloused. It would appear that this code change proposal would severely penalize those owners who have not broken the law or with held taxes to not being able to rent property as income producing commercial property that is now being done by the in-house brokers.

I consider this proposal to change the County Code and to continue to ...(inaudible)... at the law completely. It's completely illegal and not in interest of residents of Puamana. The only ones to benefit are mainland residents who pay no taxes but reap considerable profits along with the in-house brokers who have little or no interest in the quality of life in Puamana other than reaping higher commissions.

Anyway, do I have time left?

Mr. Hedani: Marlane, thank you your three minutes have expired. If you would like to just sum up?

Ms. Jackson: Nobody really wants to live next to a short-term rental and Puamana used to have a lot of long-term rentals in it and it really does lend itself to allowing long-term rentals and we could open up that property to a lot of people that really need to have long-term rentals. I think that the Maui Planning Department should enforce the current laws which says that short-term rentals are illegal unless you're zoned hotel/condo and we are zoned res. So it should not be allowed in Puamana. Thank you very much for listening. I'm sorry, I'm so nervous.

Mr. Hedani: Thank you very much. That's all the people that I have that that have signed

up for public testimony. Is there anyone in the audience that would like to testify at this time? Please step to the microphone, speak directly into the microphone because it's being recorded.

Mr. James Walkaus: Thank you Members, I am James Walkaus from Canada. I own a home here in Front Street. I spend three, four months of the year then I go back home to make enough to come and enjoy your beautiful island. So far, the home has generated \$30,000 in G.E. taxes and \$50,000 in transient tax. I provide a job for a couple there that take care of the home. They keep it painted, cleaned and many of the ones that come and rent or lease the place are friends back home. They want to come here as a family. They enjoy it and they spend good dollars here. Every Christmas I bring my whole family here, we all stay there. So it's just whenever it's vacant we use it for vacation rental to help keep the cost up and keep it tidy and our caretaker make sure that there's no violence or noise to distract our neighbors. Our neighbors thank us for that and I thank you folks for listening.

Mr. Hedani: Thank you very much. Is there anyone else who would like to offer testimony at this time, please step to the microphone and state your name for the record.

Mr. Dave Flavin: My name is Dave Flavin. I used to live in Puamana and then my unit was converted from long-term rental to short-term rental. So at a moment's notice, one-month's notice after I was month to month that I was asked to leave so they could turn it into short-term rental. And I was wondering about the legality of it since it was a residential neighborhood. I think zoning is a process and according to the plan, if you are zoned residential you should have houses where you raise your family. When you live in a short-term rental situation, we don't know if they're sex offenders, we do not know who's coming and going everyday. If you have four, five rentals right around you there could be as many as 30 people coming in every week, every three days. So there's no control over who is your neighbor, what is your neighborhood going to be like? What if you have a biker gang that is coming over and having a party on your front lawn, you want to go, please quiet down at 10:00 p.m. Security isn't adequate.

When you're in a hotel residential neighborhood, hotels have maybe 2,000 employees. They have a full-time security staff if there is a problem. They have people trained in this. If there is a medical problem, they have people trained to take care of it. The reason why there's agricultural zoning is because farmers want to go up and farm. When you start making the farm land so unaffordable because people are making so much money renting short-term rentals.

I have a gutter company and I've been doing a lot of work in Launiupoko and I just did a house that has 10,000 square feet under roof, probably 30 rooms and one owner that lives there and all the rest, it's a little mini hotel in Launipoko and this is only one building. And he has three more eligible spots on his lot to create a thousand square foot dwelling and a farm building that could be huge and once the County writes it off or the inspectors

approve it, it could be turned into another 10 or 15 rentals. There is no enforcement. And that's the problem is if we're going to move forward and allow certain things and decide to display farmers because now the price of a Launipoko lot they start out at \$300,000 is a million-five, who can farm land and make money at that? You know, the alternative is short-term rentals.

So these – when you have this influx of people traveling, our highway is already crowded as you guys said when you came here. I bring a crew over everyday and when we hit that light I'm paying five guys to sit in a truck for an hour and a half to get over here and go back and that's very expensive to me.

And on the reserve, lets say okay, we're going to ignore our zoning laws. We don't care where you bought. Lets go ahead okay, in a residential or condo neighborhood, lets allow them to raise chickens. You bought the condo, lets raise chickens. I got this square footage, why can't we raise chickens there? You know, it's almost the same thing when you put it in reverse. We need to keep our zoning lands according to the plan and allow it. And if we are going to allow certain instances to transfer the zoning or to allow unconditional use permits lets make sure that it's not impacting and they are following the rules according to parking, according to security and lets know who is staying there. You don't know the people's name next door, you don't know what their criminal record is and you don't even know if they've signed up at the office. They just showed up next door. Thank you for your time.

Mr. Hedani: Thank you very much Dave. Any other individuals who would like to offer testimony, please step to the microphone, state your name for the record.

Ms. Sherry Barbier: Aloha, thank you very much for allowing us to speak. My name is Sherry Boonstra-Barbier and I own the Old Lahaina House. I've had it for 14 years. I just want to make a few comments because a lot of the negatives and I know Marlane and they're great people but, just to see the other side I have – there used to be another B&B next door to me called the Aloha Lani Inn. Once she closed up I knew that I was going to have problems because it was going to be a long-term rental. Now that it's a long term rental, it's an expensive one. Although it's just a small little dumpy house, it doesn't look like it looked like when Melinda had it. They have parties, they have way more people in each bedroom. They stay up till 2:00, 3:00 in the morning, partying because they get home from work 11:00, 12:00 from working bartender jobs. So there's so many different way, that I can understand what they're saying because some times people are not considerate if they're on vacation. But young people doing these low income places to rent are not considerate either.

And then when it comes to the safety issue, I have a neighbor just across the street that was attacked right at 500 Front Street walking home to our neighborhood. Not attacked by a tourist, attacked by someone that lives around that rents a lower income place, just a bedroom. You know, bedrooms in homes aren't a good thing to rent long term either

because it's putting people that don't have the income that are not always really good reputable people.

My brother right – parked in front of my house, in the middle of the afternoon a long-term renter from just around the corner, another block rents a bedroom from someone, middle of the day, took his wallet right out of his truck and his briefcase. Another lady in our neighborhood was walking as some of these older little Japanese ladies walk early in the morning, 5:30 in the morning. A man in this dark colored clothes followed her home. Right in front of my house she was attacked and I saved her at 5:30. You know why, because my neighborhood is quiet. I have quests and I want everybody to be really quiet, and I heard someone screaming outside and thought, what's happening? You know, and I was concerned that it's like waking up even my whole house. And because I went out there, nobody else that lives there helped her, they heard, but nobody came to save her. I chased that guy down and ran by shortcut entrance. I'm not fast enough, but I didn't get him.

But you know, you can look at all different sides of the coins. My house is safer because we have people that are here on vacation. They're not here, they get robbed, they get attacked by that thieves that come into their cars when they're out at the beach. People that come here on vacation that stay at our kind of places are not bad people. And those kinds of people don't want to stay at small little house. If you're bad you're going to stay at a big hotel so you're not noticed. But anyway that's just seeing different sides of the coin. It works both ways. But there's a major difference in the house next door from when it used to be a vacation rental. Way noisier. But thank you very much.

Mr. Hedani: Thank you very much Sherry. Any other people would like to testify? Step to the mike and state your name for the record.

Ms. Toni Johnson: Thank you for allowing us to testify. My name is Toni Johnson. My sister and I own a small hotel right here in Lahaina and we also have vacation rental properties. The one thing that I would ask of the planning commission is that you look at the current laws that they have for the bed and breakfast and for the vacation rentals. It should be two separate entities. One of the concerns that I have is there's a lot of vacation rental properties and some bed and breakfasts that are not legal and by not having them legal, there's a lot of money that the county is losing in transient and accommodation taxes.

I received a notice in the mail when I paid my general excise tax that I actually had some money due. And when I went over the tax office and presented the papers to them and showed them my canceled check, one of the questions that I asked them is, "how would you know that I owe this money if I didn't tell you that I owed you this money?" And they looked at me and they said, "yeah you're right." I said, "I pay my taxes and I'm not going to tell you that I owe you this money if I don't owe you the money." And when I showed them my canceled check they took care of it.

The concern that I have is that by not having a legislation that makes everybody legal, the county is losing a lot of money and that transient tax and the general excise tax could be going for our roads and helping our traffic. Thank you.

Mr. Hedani: Thank you Toni. Anyone else who would like to testify? Please step to the microphone and state your name.

Ms. Penny Weigel: Aloha, my name is Penny Weigel and I own Penny's Place Bed and Breakfast in Lahaina side. I thank you for this opportunity and especially for coming to Lahaina today so we can talk before you.

I sympathize with Marlene and I sympathize with Sherry. I have long term rentals next to me both houses are jammed with about 20-30 people and it's constant parties and fights and traffic and noise. On the other hand, I sympathize with Marlene because I understand some short term vacation rentals can cause the same kinds of problems. So either way, you can look at both sides of the coin.

At my house last week, we had a meeting of the Bed and Breakfast Association called by our president, Tanna. And one of our concerns was the proposal to group transient vacation rentals under the same laws with bed and breakfast. One of our concerns is, at least the consensus of our membership is that the existing laws don't even work for bed and breakfasts as they are presently written and inconsistently enforced. We've been unable to effect any change regarding problems with the existing bed and breakfast permitting process, renewal process or the laws in general regarding bed and breakfasts in Maui County. Why then include huge numbers of vacation rentals into the mix as well especially given that we are two such different entities.

Another concern was long-term versus short-term rentals. Our membership has mixed feelings and opinions about the need for vacation rentals and owner's rights versus the need for long-term housing in Maui County. It was said that there have always been and will always be vacation rentals available. Both B&Bs and vacation rentals provide accommodations for visitors at rates far below those of resorts and enables some visitors to come to Hawaii and spend their money that otherwise may not be able to.

On the other hand, the question of the impact on long-term housing was also raised. In spite of recent studies some of our members feel that there may be more vacation rentals than those studies would indicate. One need only look at verbal.com or any other directory to see the numbers of vacation rentals are increasing. Since bed and breakfast accommodations are specific to short-term rentals how can the issue of long-term rentals versus vacation rentals be addressed under the bed and breakfast laws.

These are just some of the concerns we have regarding what kind of impact bed and breakfast will have if vacation rentals are taken under the same umbrella as bed and

breakfast and under the same laws. They don't really – are not applicable to both sets of accommodations.

In closing I would like to just mention one thing, this was a member comment I received today by email. He's a member of our Bed and Breakfast Association and he bought a bed and breakfast in Mahinahina. This member was recently able to buy the B&B only because the previous owner had taken the time and expense to incorporate. As some of you may know, our bed and breakfast license isn't transferrable and therefore, we're not able to sell our business as any other business in Maui County. He went on to say, "by law a member of the corporation or representative, in this case a manager, must reside full-time on the premise. The manager does reside on the premises and therefore, we are in 100% compliance." He's in California having treatment for a serious medical issue. He has a onsite, full-time manager, but his license was not renewed because he is not living onsite at the moment and probably can't return till late August or early September providing his treatment goes well and I just wanted to mention that on his behalf because we don't think it's fair. Lots of vacation rentals are out there and they don't have anybody living onsite.

The other thing with the transferability of the permit, some of us have concerns that it would be nice to have the permit made transferable so an innkeeper is able to sell their businesses and buyers are able to obtain financing just as any other business in Maui County. Our business is a legitimate business and a professional full-time career and deserves to be recognized as such. I gave up a nursing career to become an innkeeper and run my bed and breakfast and that is my full-time and career. I devote 16 hours a day to it everyday. I would someday like to be able to sell my business that I have worked eight years very hard to build up and I cannot to that until the permit is transferable because buyers cannot get lenders to lend them the funds to buy a bed and breakfast unless they know for sure that the bed and breakfast permit will be carried on. If we were to get the law changed to make the permit transferable, how would vacation rentals fit in? While an ohana, condo, house or spare room may generate a legitimate income, is a vacation rental a saleable business? So it's just another example of the difference between a bed and breakfast and a vacation rental. We cannot put them under the same umbrella. They're so totally different. It would impact them negatively as well as us. Thank you for your time.

Mr. Hedani: Thank you very much Penny. Any other members of the public that would like to offer testimony at this time, please step to the microphone and state your name for the record.

Ms. Tanna Swanson: Aloha, my name is Tanna Swanson. I'm speaking as myself tonight, not as a president of the B&B Association. And as you guys have heard testimony you have seen one extreme to the other. You've seen James give testimony, he lives here part-time because he has a big fishing fleet he needs to attend to in Canada, yet he is a U.S. citizen. He is a member of the local community church. He does provide housing for a young couple over the years and he does provide them a job. He doesn't take away housing. If his house were to sit empty, you know, six, seven, eight months out of the year,

the thought of it being vandalized is a real hazard here as you can pick up any newspaper and read all the little petty crimes and things that go on. Empty houses are certainly a target. And yet he needs to come out here for months at a time, so a long-term rental would not even be considered, it wouldn't even be practical. You can't keep throwing your tenants out every six or eight months. That's one example because you do have these houses. His house wouldn't qualify for affordable housing. His house is obviously over a million dollars. So it's not accumulating to the problem of affordable housing, but it is providing housing as he stated before. That he does provide a job.

And I just wanted to stress too that a lot of the bed and breakfasts are also providing housing for their staff. They provide housing and jobs for other people. And again, not only for themselves. I know in my little network of eight, there's three of us that have live-in help, that actually live and reside with us. So to me the housing, as far as taking away housing, we're providing our own housing for one thing and then we usually provide or sometimes provide housing for others as well as far as permanent live-in help.

Again, I want to stress it is a very convoluted thing, if you looked in my neighborhood, I have a owner-occupied house on one side who rents an ohana, then there's myself, and it's a four-room bed and breakfast and then we have what's called an illegal four-plex residing next to me. And the argument goes the same, a lot of people want to say, well your B&B is a little inn. Then why don't you call the house right next door to me a little apartment and yet they don't have no parking requirements. They have 10 to 12 cars parked there everyday all over the house. I mean, you have traffic in and out. We've had to call the police on several occasions and yet, you know, you hear about the noise or the sex offenders that may be coming and going, is this hearsay? Again, are we dealing with hearsay? Where is the police reports or the evidence that a short-term or B&B rentals are having all these problems? You know, Buck Buchanan back in testimony when we made the bed and breakfast bill got up and testified about his neighborhood. Where he had long-term and short-term and he even admitted in his own testimony, that right, the short-term problems in neighborhood were not caused by the short-term rentals, they were actually caused by the long-tenants. Where it was very ...(inaudible)... with the tenants and the domestic violence and on and on and the noise problems were actually the long-termers. And like I said in earlier testimony, if you go back to the original transcripts, this is not a new thing, these issues have been dealt with a long time in the county level, they have been dealt with within other counties and we don't need to start from square one. A lot of history and time's been put into this, but it would be nice to send this back to the Council so they can kind of straighten out a lot of these issues. Thank you.

Mr. Hedani: Thank you Tanna. Anyone else that would like to offer testimony at this time? Step to the microphone, state your name for the record.

Ms. Beverly Livingston: Thank you Chairman and Commissioners, my name is Beverly Livingston and I would like to clarify some things. The legislation that's before you is not about condos. That's a whole separate issue. So the people from Puamana, I'm very sorry

about what they're experiencing but our legislation doesn't have anything to do with that. That would need to be addressed in a different way. This is for single family residences.

Also, we're not necessarily, we're not looking at making everybody legal. We're looking at simplifying the permit process, but everybody would have to go through and meet the qualifications of the permit process so there could be quite a few who would be turned down because they don't have – maybe have an illegal addition or maybe they don't meet the plumbing codes or the fire codes or something like that. The only thing we're asking for is for you to look at the possibility of passing on this law back to the Council to make sure that all the requirements are put in that would be necessary to protect the neighborhoods but also have a smoother permitting process so that if somebody does qualify they can go through smoothly and not have these four-year delays. But if they don't meet the requirements, then they could not get a permit. So we are not asking that everybody be legal. So I just wanted to make that clear. Thank you.

Mr. Hedani: Thank you very much. Any other members of the public that would like to offer testimony at this time? Okay, if not, then the public testimony portion of the meeting for this subject will be closed. We had a request by Dr. Dantes for some time to make a presentation as part of the panel that was previously before the commission. Dr. Dantes. Commissioner Starr.

Mr. Starr: I think in fairness Dr. Dantes should be limited to the same three minutes as every testifier.

Mr. Hedani: Okay, if you don't have objection, Dr. Dantes, three minutes.

Dr. Dantes: David Dantes, President of the Maui Vacation Rental Association. Thank you Mr. Chairman and Commissioners, my request however was not to testify as a member of the public with a three-minute limitation. The material that I would like to review with you cannot be effectively presented in three minutes. What I had requested was 10 minutes and I think it is possible to present it effectively in 10 minutes. So, Mr. Chairman, I leave it up to you. I can either present three of the 10 minutes of what I want to say and hope that someone will ask me a question or I could speak for 10 minutes whichever you feel is appropriate.

Mr. Hedani: Dr. Dantes, hold on while I consult with my legal counsel here.

Dr. Dantes: Certainly.

Mr. Jesse Souki: This is Deputy Corp. Counsel Jesse Souki. I think we have an issue with the agenda here. I don't think that the public had the right notice to listen to a presentation from Dr. Dantes. On subsection C it says, "May 4, 2006 letter from Dr. David Dantes asking that presentations be allowed by a TVR panel and planning commission designate

the MVRA as a resource during meetings where vacation rental legislation is discussed.” That doesn’t say anything about a presentation and so if you would like to provide information outside of public testimony, you would need to have yourself agendaed for the next meeting so that the public could get proper notice.

Dr. Dantes: Just for clarification, on the May 24th meeting there was also a request granted that the resource, members of the resource panel could make presentations. As a matter fact, they were allowed to make a 20-minute presentation at the last meeting. It was also determined by the commission that the resource remain in effect as a resource panel throughout the legislative process. So what I’m requesting is to perform my function and my duty as a resource and I’m saying that that would require more than three minutes. But if you would consider that and I’ll respect whatever your determination is.

Mr. Hedani: Okay, at this point what we’ll do is – at this point what I’ll do is I’ll reopen the public hearing portion of the meeting. I’ll give you three minutes to offer testimony Dr. Dantes and then be available for questions from the commission after that three minutes if that’s okay with you.

Dr. Dantes: All right, thank you. Commissioners, would you please find this document that starts, “Dear Chair and Commissioners,” dated June 10th, and if someone would let me know when my three minutes are up so I can wrap it up please.

Where we left off at the last meeting when you were about to take action – may I put my time on hold till the commissioners have located this document?

Mr. Hedani: For the commission members, the document he’s referring to looks like this. Everybody there? Okay, go ahead.

Dr. Dantes: Where we left off beginning action at the last meeting, your attention was respectfully directed to the three policy questions which the Council had identified having to do with this legislation and on this piece of paper there was three policy questions, question number one, question number two, question number three are listed, and next to each one is a proposed response. This is an idea to stimulate discussion focused on the questions which the Council requested your assistance with.

The first policy question is “Shall the Council allow for special less burdensome permitting for additional types of vacation rentals?” What we’re suggesting is that you should direct the Council that there appears to be the need for a less burdensome permit process. Listening to the testimony that you heard on June 28th, and then today, I think it’s fair to say that a preponderance of the testimony indicated that the present permit system is too cumbersome, too difficult and too burdensome for people to be able to comply. All the contention, all the questions that are unanswered, all the range of conflicting opinions really falls under policy question three which is, “if the Council is going to allow for a less burdensome permit process, what types of operations should be allowed, under what

circumstances and where? These are the questions that the commissioners are probably not prepared to answer in detail at the moment. These are the questions which the Council needs to fill in in much more detail before the commission would be able to make a useful recommendation about the ordinance.

Policy question number two is a technical issue whether to expand the bed and breakfast ordinance or develop a new chapter to the Land Use Code just for vacation rentals. But what I'm urging you to consider is that if you find that the answer to question number one is no, there should not be a less burdensome permit process regardless of how it's restricted or how it's structured, what would you do with the thousand or so vacation rentals that have been in operation? It's been testified that they have a significant contribution in visitor spending to our local economy. The significant tax revenue. Studies done by the Planning Department have shown that they do not detract significantly from affordable housing.

The State Legislature first recommended that counties adopt this kind of legislation in 1981. It took 16 years for the Council to get around to starting it with the bed and breakfast ordinance in '97. But the bed and breakfast ordinance has not been successful. The compliance with it has been very poor because it is too burdensome. Even people who are successful can't succeed in getting a renewal.

Mr. Hedani: Three minutes.

Dr. Dantes: Thank you, I'll wrap it up. So I'm asking you rather give the Council the direction to abandon this ordinance, given them encouragement to develop it appropriately. And with respect to the specific conditions and restrictions make sure that people's concerns about the General Plan and the relevant community plans are honored by telling the Council that no permit should be approved unless it conforms to those General and community plans.

Regarding people's concerns about agricultural land, make sure the Council knows that any ordinance they pass must conform to HRS 205. The planning commission must hear all these applications to determine that the use is consistent with the intent of agricultural zoning. But please don't kill this ordinance. Give the Council a chance to refine it, improve it and see if we can't work out something that's good for the community and good for the property owners as well. Thanks.

Mr. Hedani: Thank you very much Dr. Dantes. Any questions from members of the commission at this point? Commissioner Freitas.

Ms. Freitas: Okay, I spoke with James Krueger recently and I was hoping he was going to be able to make it here tonight. So just so upfront it's how I stand on this and it's from my conversation with him. If you read in the paper recently, he had a case of a illegal vacation rental where a gentleman died. And so I asked him his opinion being that he's just

gone through that with this whole situation and a very serious matter and asked him how he felt about it. And he said, vacation rentals, yeah okay, but only if they comply with all the same requirements that a hotel has to. Frankly I agree.

You know it was pitiful what happened out there. It never should. And if you want to blame it on the inspectors and those kinds of things, we just don't have them. And so maybe until we can police it, we shouldn't have it. But we should only have it at the level that it can be controlled and policed and so that is how I'm going to stand on it. When they write the rules that they are the same as hotels, then I'll be voting for them. Can you speak to that please?

Dr. Dantes: Sure. You are not alone in suggesting that. But I think it may be an oversimplification to attempt to write the rules for single family residences that are rented to guests in exactly the same way that you write rules for hotels. I think the primary thing is that there be safety standards, health standards, fire standards, water standards, building code standards that protect the occupants of that dwelling and the surrounding community from harm. I think that that is the bottom line.

Whether to achieve that by requiring hotel standards or not is a different question. Every other county in the state does not follow Mr. Krueger and your thoughts on this. We've interviewed the engineering staff of every other Planning Department and their opinion is with respect to single family dwellings, the nature of the structure doesn't change because the tenant is only there for a short time. It's still a single family home. It must meet all code requirements that make a single family home safe to inhabit. But to ask a single family home to install for example, the type of heating and air conditioning that the hotel would require for the health of some its guests or a fire hydrant in rural or agricultural areas which would have water supply in excess of that required to extinguish a fire on a single family home. Those kinds of things would just I think negate the opportunity for owners to participate in this type of an enterprise.

Well, I guess to summarize my long winded answer, every step must be taken to assure the safety the inhabitants but I think that some adjustment is appropriate in consideration of the fact that these are not high rise structures with associated shopping malls, liquor served on the premises , beauty and health spas, extensive grounds. They're homes. That's my answer.

Mr. Hedani: Commissioner Freitas.

Ms. Freitas: You know just because it's hard doesn't mean that we should sit here and have any pity on that. Because I got to tell you, this guy what he put his contractors through to get their license is pitiful and we need contractors. But they go through it. You know, they don't go out there and do it just cause it's too hard they don't do it. You have to follow the rules. If you can't comply, sorry. You can't comply.

I object to that where I live I have illegal vacation rentals going on and that when I call the county and they go up and they red tag and everything, it continues. So your thing about single family versus hotel, you know what, at the hotels, they're set up for that. They have the security. They have everything in place. It's all right there. When you start sprinkling these vacation rentals all over and you can't please them and you can't have inspectors out there and the only time is is when somebody does walk off a cliff. You know, that it gets some kind of, you know, notice. You know, so until you know we can, you know, maybe Maui just isn't the place set up for it. Maybe these other counties are, but until we can meet those standards, I don't just say because it's too hard for you we should make it easier. I wish it was harder because then maybe my neighbors wouldn't be doing.

You know, I don't appreciate that. And so why should I? I've lived up there 25 years and because they can't pay their mortgage, they say, oh but we have to to be able to afford our mortgage, well then don't buy it. Not everybody can afford to do that. You know, I would like to do them too, but it's not legal, so I won't. So why should us that live here just say, okay well, you know, you want to make a lot of money, you got to do vacation rentals. You know if you want them go through it, go through it just like everybody else does for any other kind of license that you need. Now, yes, streamlining, we got problems. Yes, we do need to correct them. But to just, you know, say like oh make it easier or less than a hotel, can't go for it. Not me any way.

Dr. Dantes: Well, I think that's one entirely valid point of view and by the way I wasn't asking for you to take pity on us or make it easy on us. We expect it to be difficult. What we're asking for is to have some realism about it, some practical realism about what's possible. You set a standard that it isn't possible to achieve and you say, tough. I think it would be simpler to say, we don't want these here than to say you can get a permit but you have to meet an impossible standard for it.

Mr. Hedani: Any other questions from members of the commission? Hearing none, thank you very much Dr. Dantes. Dr. Iaconetti.

Mr. Iaconetti: Do you feel that it is possible to get all of the vacation rentals registered? Those that are operating illegally as well as those that are operating legally or trying to.

Dr. Dantes: No, but I think it is possible to get a much better handle on it. Recently there was an audit performed at the request of the Planning Department. The Planning Department asked an independent consulting firm to evaluate their permit practices and to make recommendations about how they could be improved. The audit was published in March. What it recommended was that the permit process for vacation rentals be made less burdensome and then that enforcement be escalated.

Now why do they do that? They said the two factors that are contributing to the existence of all these unregistered none permitted businesses are that the process is too daunting and the enforcement is too lax. Well, why not just enforce never mind the process? They

had a recommendation about that. They felt that enforcement in this county is complaint based. There aren't the resources to go out and proactively investigate, discover and enforce every land use violation. The audit suggested that if a selective target were made of vacation rentals to go out and proactively enforce, that probably would fall afoul of the constitutional requirement for equal protection. In other words, you'd have to do the same kind of aggressive outreach for every home occupation. But what they said is if you got a clearly defined ordinance that defines vacation rentals, establishes standards and conditions and requirements, then it would be much more possible to go out and enforce against the ones that are not in compliance. So it's a roundabout way of saying if there were reasonable ordinance adopted first the ones that didn't come forward to comply would be I think more vulnerable to being shut down than they are now. I hope that answers and gets at your question.

Mr. Iaconetti: By a reasonable ordinance, do you feel that the ordinance should apply to homeowners who don't rent as well as to -- other words, the same rules apply to people that are living here without rental or living here with a rental unit. Do you feel that the issues are the same? In other words, we should make it more difficult, you shouldn't need your fire hydrants and etc., because you're a rental. It's still just a single family residence.

Dr. Dantes: Well, if I understand you correctly, are you asking whether I think the standards for a short term rental should be less than for someone living permanently in a dwelling?

Mr. Iaconetti: No, no, the same as.

Dr. Dantes: Generally speaking, yes. I think there are some exceptions to that which would be entirely practical. For example, requiring fire extinguishers, single station smoke alarms, posting an evacuation plan. These are life safety things that are inexpensive and easy for anyone to provide compared to a fire hydrant. In general, yes.

Mr. Iaconetti: If both things went concurrently, the registration of all of these units as well as the making it less difficult to comply with the rules, would that not be a solution to our problem if they both went at the same time, they both concurrently became the rule.

Dr. Dantes: Both what? I didn't follow what the both are.

Mr. Iaconetti: That the rules that apply to vacation rentals become less stringent at the same time that we get a total registration of all of the units.

Dr. Dantes: Would that be an approach that could be a solution?

Mr. Iaconetti: Right.

Dr. Dantes: I think once, when I say rules being less stringent, I don't mean become lax about fire safety or anything. I mean not have it require an ordinance passed that takes four years. That's the kind of thing I mean by less stringent. But if at the same time as they became less stringent there were a requirement that everyone who plans to stay in business register right now, yes indeed, I think that that's appropriate.

Mr. Hedani: Okay, any other questions from the Commission? Seeing none, thank you very much Dr. Dantes. Members of the commission we have the recommendation that was put before by the Planning Department's report. The conclusions on page 14 and the recommendations on page 15, what's your pleasure? Commissioner Starr.

Mr. Starr: Mr. Chair and members I'd like to make a motion. I move that the commission endorse the recommendations of the Planning Department and send the recommendation to the County Council.

Mr. Hedani: Okay, it's been moved by Commissioner Starr to recommend approval of the recommendations of the Planning Department. Is there a second?

Mr. U'u: Second.

Mr. Hedani: Seconded by Commissioner U'u. Any discussion?

Mr. Starr: Yes, Mr. Chair.

Mr. Hedani: Commissioner Starr.

Mr. Starr: I feel that this ordinance as written is somewhat ill-conceived. First of all, I feel that especially our agricultural and rural communities are better off without vacation rentals and I just don't understand what about the word, "illegal" the proponents of them don't seem to understand. You know, I feel that it's on a wrong track. I would like to see some fixing of the bed and breakfast ordinance because I believe that there's a place for bed and breakfast. And perhaps something that can happen in business and commercial districts but certainly not as being proposed and, you know, the discussion I also have too was small amendments that I'd like to make to --- Add to the recommendation but I'll leave first an opportunity for other commissioners to make their comments.

Mr. Hedani: Thank you. Any other commissioners with discussion? Commissioner Amarin.

Ms. Amarin: Good evening everybody. I take a lot of this paperwork home and just to brief myself on the difference between a B&B and what a transient vacation rental is all about and I understand it's the stove. There's a two presentations from the Council and the one that I see revised is June 2, 2006. Going through some of the recommendations in here, I'm actually against these transient vacation rentals on ag property. I understand that rural there's other recommendations also to be on that property. I don't understand as far as

agricultural lands the extent of the property, how many acres? Is it one acre, two acres, ten acres? And the usage, whether it's a small acreage or a large acreage. To me that make a big difference. And I can understand some of you trying to toil the land and not coming up with sufficient means to have a livelihood on your ag property. But it's a business and government says it has to be regulated.

I can see the initial attempt at going through the process to be stringent and that's the safeguard whatever the intent is to do this type of business. I don't want to see this type of business on agriculture properties. But also I have a hard time understanding how you can go ahead and do a one-acre or two-acre parcel and have a livelihood to provide for yourself. I don't like the idea that it's managed. You need to live on the property. You need to manage it. So there's a lot of things I think that the Council presented to us that has to be amended and like I say it's a business, it has to be regulated. I'm a businesswoman and believe me, it's not easy and I did everything right. And whoever's out there, on your business, you need to do everything right. I don't like investors thinking that hey, I'm coming here I'm a part-time resident. You're investing and taking our lands away from the locals and then also if you have a business, you're bringing up the value of that property and I don't think it's fair for the neighbor who doesn't have a business and then he has to pay the taxes because of you. So there's so many areas that needs to be ironed out and I hope the commission today, I don't know if this thing will resolve, but you know, I'm thinking for everybody and like I say it's a business, it has to be regulated. Thank you.

Mr. Hedani: Thank you Commissioner Amorin. Any other comments from commissioners, discussion? Commissioner Starr.

Mr. Starr: Mr. Chair, I have two amendments to offer to the original motion. The first is under the first, the paragraph, 19.64.030, after "each separate sleeping area." The wording I'd like to add is "additionally commercial fire flow standards shall apply for all bed and breakfast homes.

Mr. Hedani: Slowly Commissioner Starr.

Mr. Starr: What?

Mr. Hedani: Can you repeat that slowly?

Mr. Starr: Yes sir. "Additionally, commercial fire flow standards shall apply for all bed and breakfast homes." I believe Mr. Alueta has a comment.

Mr. Hedani: Is there a second to the motion:

Mr. Iaconetti: Second.

Mr. Hedani: Seconded by Commissioner Iaconetti, Discussion? Staff.

Mr. Alueta: My only comment is the comments that we got I believe he's making amendments to 19.64.030 and those are the comments that came straight out of the Fire Department. The Planning Department with regards to bed and breakfasts, we try to encourage true bed and breakfasts. And we rely heavily on the Department of Fire, Department of Fire Control for comments. Typically what happens is you'll get comments from the Water Department which will require stringent fire flow standards and you'll get the Fire Department saying all we want is to make sure they have an alarm system as well as some fire extinguishers. The Planning Department and this commission has generally been supportive of the comments and taken the comments from the Fire Department over the Water Department. And the rule of thumb is one is that the bed and breakfast is subordinate to a true residential operations, a residential purpose case. So the bed and breakfasts is subordinate to it and we want to encourage people to do legal bed and breakfasts or true bed and breakfasts.

And secondly, when push comes to shove, if there is a fire, the person that's going to jump into that building or help fight that fire is going to be the Fire Department. It's not going to be Engineering Department from the Water Department and that's been pretty much standard. And I understand Mr. Starr's condition and concern and that's normally done when – if it comes up during the permit review at the commission level. As you know, there's three types of B&B levels. Type 1 and 2, which one and two bedrooms are administratively done. Type 2 is commission and Type 3 goes to Council. I think I'm still quoting that correctly. But I think that at the higher intensity of Type 2 and Type 3, the commission would have the opportunity to add increased fire flow or if they need to have – do water system improvements at that permit phase should it be required and you get comments from the Fire Department indicating that that's what they would want. I'm leery of just, because this is a blanket requirement that's being placed within the code itself, all, even Type 1 where someone's only renting out one or two bedrooms like you saw Ichimuras come before. I just think it's a little burdensome. I agree with a lot of the testifiers that there is a lot of – we're making it burdensome for the types of operations we want and –

Mr. Hedani: So your comment basically is that you think this is making it harder for everybody rather than making it easy.

Mr. Alueta: You got it. Yes, and I'd rather have it be more specific.

Mr. Hedani: And you're also saying that you believe that this is addressed in the permit application process as a matter course.

Mr. Alueta: Yeah, if comes up during a public review at the planning commission or Council it would come up – you could add it then. But I'm concerned about it being added now ...(inaudible)... means that Type 1 permits which are done administratively, we would be forced to require that and that's not – I don't think that was the intent of –

Mr. Hedani: Somebody once said a little bit of information is a dangerous thing. Commissioner Starr.

Mr. Starr: You know I sat in on lots and lots of discussion on the Water Board on this issue and there were a lot of --- there's a lot of construction going on for what was intended to be bed and breakfast and vacation rentals where they were being put in under very substandard fire flow conditions. My believe is is that if someone goes and rents a room from a commercial organization whether it be a B&B or a hotel, and if they're subject to a fire then they should be ...(inaudible)... of the proper facility for having that – their lives saved which is what the commercial fire flow requirements do. Because the Fire Department really can't fight a fire if there is that kind of water flow available. If there isn't there's not much they can do. But perhaps to placate staff I would be willing to change my amendment to Type 2 and applications – To the only – in the case of Type 2 and 3 applications and I'd like to ask Mr. Alueta if he feels that that would be more reasonable.

Mr. Alueta: It would be more reasonable than your original proposal. I just think at the Type 2 and 3 you're going to have the ability based on the circumstances that exists and we've relied on a lot of times the good judgment of the commission to balance out comments from the Fire Department as well as comments from Water. Because sometimes, like I say, Fire Department even if though there's no "flow" they don't have a problem or they're not – but if they do have a problem, they're going to let us know and because like I said they're the ones that are fighting the fire we'd rather rely that – make sure that they tell us before we volunteer harsh requirements.

Mr. Starr: Mr. Chair, if I have the concurrence of the seconder I'd be happy to change it to only apply for Type 2 and applications.

Mr. Iaconetti: I'll second it.

Mr. Starr: Okay, thank you Doc. My amendment has been altered to relate to only Type 2 and 3.

Mr. Hedani: So the amendment now reads, "additionally commercial fire flow standards shall apply for all Type 2 and Type 3 B&B homes."

Mr. Starr: Yes, sir.

Mr. Hedani: Any other discussion?

Mr. Starr: I have one –

Mr. Hedani: I think we need to vote on this one before you propose another amendment.

It was moved by Mr. Starr, seconded by Mr. Iaconetti, then

VOTED: To Add the Following Amendment: “Additionally, commercial fire flow standards shall apply for all Type 2 and Type 3 B&B homes.”
(Assenting – J. Starr, W. Iaconetti, P. Eason, J. Amarin)
(Dissenting - S. Freitas, B. U’u, W. Hedani)
(Excused – D. Shepherd, J. Guard)

Mr. Hedani: All those in favor please signify by raising your hand. Okay, Commissioners Starr, Iaconetti, Eason, Amarin in favor. Those opposed, Commissioners U’u, Freitas. The amendment passes four to two.

Mr. Foley: No.

Mr. Alueta: You need five Chair.

Mr. Hedani: Sorry, it fails for a lack of a fifth vote. You need five votes.

Mr. Starr: Excuse me, I believe the Chair could vote if he wanted.

Mr. Hedani: The Chair abstains.

Mr. Starr: Is it that the Chair abstains then that’s a vote in favor.

Mr. Hedani: Chair votes against the motion. So the motion fails. Four to three. Silence is not golden in this case. Second amendment.

Mr. Starr: Yes sir. This would be at the very end after the word, “code.” And that is, I’d like to add the wording, “these ordinances should be enforced vigorously and equally.”

Mr. Hedani: This is after the last paragraph?

Mr. Starr: “These ordinances should be enforced vigorously and equally.”

Mr. Hedani: Is there a second? Amendment dies for lack of a second. Back to the main motion. Any other discussion? If not are you ready for the question?

Mr. Iaconetti: Okay, would you repeat that?

Mr. Hedani: Okay, the question is to recommend approval – The motion is to approve the recommendation of the Planning Department as presented on page 15.

It was moved by Mr. Starr, seconded by Mr. U'u, then

**VOTED: To Approve the Recommendation of the Planning Department to Recommend Denial to the Maui County Council.
(Assenting - J. Starr, B. U'u, S. Freitas, W. Iaconetti, P. Eason, J. Amarin)
(Excused - J. Guard, D. Shepherd)**

Mr. Hedani: Carried. Thank you.

Mr. Alueta: Thank you.

A recess was called at 7:20 p.m., and the meeting was reconvened at 7:29 p.m.

C. PUBLIC HEARING (Action to be taken after public hearing. Item to be taken up at 7:00 p.m. or soon thereafter.)

- 1. MR. RYAN CHURCHILL of KAPALUA LAND COMPANY requesting a Special Management Area Use Permit and a Phase 2 Project District Approval for the Honolua Store Renovations Project consisting of the reconstruction of the store's ancillary rear building to accommodate a deli, storage, and retail store building as well as other minor repairs and functional upgrades to the main store building and related improvements at 502 Office Road in West Maui Project District No. 1 (Kapalua) at TMK: 4-2-004: 024, Kapalua, Island of Maui. (SM1 2005/0029) (PH2 2005/0009) (J. Hunt)**

Mr. Jeff Hunt presented the Maui Planning Department's Report.

Mr. Hedani: Commissioner Iaconetti.

Mr. Iaconetti: At one time there was a gasoline pump there. In fact I think there were two grades of gasoline in front of the store. I used to get my car filled occasionally there. What's happened, how I don't remember, what happened to those tanks? Have they been removed? Are there any laws that require their removal?

Mr. Hunt: I'm not aware. You should probably ask the applicant that.

Mr. Iaconetti: All right.

Mr. Hedani: Ginger has the answer.

Ms. Ginger Prince: I have the answer. I was managing the store during the period.

Mr. Hedani: Ginger, state your name for the record.

Ms. Prince: I'm sorry, Ginger Prince and I'm the Manager at Honolua Store. I've been managing the store and I was managing it through the period where the tanks were taken out. It's when, kind of all the mom and pops closed down because the EPA requirements changed and they did take the two tanks out. There was a 800 gallon and a 1,000 gallon. Neither tank leaked because they were the old-fashioned thick ones. The plumbing on one had leaked but it was removed and inspected and everything was done legally at that point.

Mr. Iaconetti: Thank you.

Mr. Hedani: Thank you Ginger. This is the person that serves me my mini bentos at Honolua General Store. Commissioner Iaconetti.

Mr. Iaconetti: Just for personal interest, what happened to the bath house that they used to have there?

Ms. Prince: I think that was before my time.

Mr. Iaconetti: It was before mine too, but I know families that used to congregate there, I think Saturdays, to have their weekly baths. And I just wondered what happened to it. Wouldn't that be an interesting item to add.

Mr. Hedani: I believe there was a bath house at Puukoolii Village too. Okay, the other question that I had for Jeff actually is that we normally have a standard condition for down light. I don't see that as listed as a standard condition.

Mr. Hunt: Pardon me, a standard condition for what?

Mr. Hedani: For downlighting of any lighting, exterior outdoor lighting for the project.

Mr. Hunt: We can certainly add that. You may want to ask the applicant if they're proposing any lighting and then if they are, then we can address that.

Mr. Hedani: The does the applicant have any comments on that? Mike.

Mr. Mike Munekiyo: Thank you Mr. Chair and Members of the Commission. If I may just take a couple minutes just to recap the project because I think it will be helpful for the commissioners to see what it is that the applicant is proposing. Again, my name is Mike Munekiyo and I'm here on behalf of Maui Land and Pine.

So very briefly, I think all of you are familiar with the site, I won't go through the details. Just to recap however, this is Office Road however, right here. The Ritz-Carlton parking lot here, the Kapalua Village project that Jeff mentioned is here. The store actually consists

of or the project consists of two components. There is the Honolua Store, the main store building here and to the rear is a storage building which would be demolished and reconstructed. So that indeed collectively comprises the project itself.

As Commission Iaconetti mentioned, there was a gas pump station installed roughly in 1948, the store was constructed in 1929. Just a little bit of history. This is what the store looked like in 1978. There were some additions made over the course of time and at this point, the rear building, that storage shed that I mentioned is in fairly, very deteriorated condition. You can see – well, it's not clear here but the eaves are missing, there's severe termite and weather damage. Concrete foundation is cracked and compromised. So a number structural deficiencies which really make this building really not salvageable from a functional standpoint. Just a quick few pictures of the store itself. I think all of you are familiar with it.

The proposed improvements really quick would be to take down the storage building, that shed building in the back, provide a connector between that new building with the main store, provide some additional improvements to the main store building itself. This addition of lanai space to the front elevation, that is what Jeff had mentioned as being something that was not desirable from the standpoint of modification and the applicant is willing to forego that portion of the project. The new building which would occupy the equipment for the storage building would be served at a kitchen and deli at this point and we're looking at a cost of about \$2 million.

Just a real quick overview of the site. Office Road here. Looking in plan view, the main store area here. This building along north-south access is the new storage building or actually kitchen-deli area and this is the connection which Jeff spoke about here. Just switching the orientation a bit. Office Road here, front entrance to the store here. Again, we've got the kitchen and deli area here. The connector building here which has a chiller space here as well as the walkthrough area here. This area, this passthrough area here is where the SHPD has suggested and what the Planning Department is suggesting that we reduce the width from 14'9" by about three to four feet and the applicant is willing to make that reduction in the pathway. Again, just a quick elevation from the front this is the storage or actually the new kitchen-deli building which replaces the warehouse storage building connects the building, not very clear here, but I guess the intent of this photo is to show that from an architectural standpoint we are trying to maintain or will be maintaining the character of the store to maintain its historic integrity. Again, really quick, colors and materials will remain the same. The storage building as well as from a functional standpoint, the store itself is really in of updates. The storage building which will be demolished and reconstructed is well beyond functional repair and so what we're trying to do right now with the project is to make sure that the store can remain competitive, can service customers effectively and that commissioners concludes our brief presentation and we'd be happy to answer any further questions that the commissioners may have.

Mr. Hedani: Questions from the Commission? Commissioner Amarin.

Ms. Amarin: Looks like a nice setup as far as having that back storage thing redesigned and utilized as part of the main frame. The deli area that's 760 square feet is that to be also utilized as a sit-in for customers or are you putting them on the outside on the lanai?

Mr. Munekiyo: Actually there's a outdoor area for seating and there wouldn't be any space for seating within the building itself. It's the kitchen and the deli serving area.

Ms. Amarin: Okay, thank you.

Mr. Hedani: Commissioner Iaconetti.

Mr. Iaconetti: Could you explain or maybe the Planning Department can explain to me why is it important to narrow that communication?

Mr. Hunt: The two buildings historically had been separate. The historic preservation theory is the more changes you put to a building, the less historical integrity it has. So ideally, the two buildings would remain completely separate, but in the spirit of compromise and to promote adaptive reuse of the building rather than just letting the building sit idle and go through demolition by neglect, it's common to allow some modifications to historic building in order to preserve the building to some extent. So the further that building connector can be reduced the perception of the two buildings being separate is more enhanced. So that's what the condition was based on and we discussed it with the applicant and came up with a compromise that both parties are happy with.

Mr. Iaconetti: I have a hard time accepting that. The perception is going to be helicopter if you're flying over it and although that happens frequently in that part of the island, I don't see the necessity for making that isle way narrower and I wonder if it is as safe as if it were wider? You're already demolishing a building, so what difference does it make if you make the connection realizing they were never connected before? What difference does it make if you make the connection between the two buildings a little wider? Wouldn't that be safer?

Mr. Hunt: You can ask the – the issue of safety isn't a historic preservation issue. In terms of historic preservation you had the State Historic Preservation Division make that specific comment. The person on the Cultural Resources Commission who in my opinion is the historic preservationist or the person with expertise in that field also made that comment. As a staff member who has experience in historic preservation I concur with that comment. So perhaps we just have a difference of opinion, but there's a lot of professionals who agree with that comment that the narrower connector is a better preservation technique in this particular proposal. It's a common technique to connect buildings together and generally speaking, the push is always to make that connection smaller in historic preservation.

Mr. Hedani: Jeff, did the Urban Design Review Committee have a problem with reduction of the corridor along that area?

Mr. Hunt: We took it to the Urban Design Committee as it was proposed. We did not forward the CRC comments to them. We just looked at them as an agency looking at urban design and not historic preservation.

Mr. Hedani: Because I noted that the Urban Design had suggested approval as presented.

Mr. Hunt: Yes. And again, we didn't mention the reduction to them, so they didn't mention it to us.

Mr. Hedani: Okay, can the applicant determine whether or not the reduction in space would be a problem from a storage standpoint or ? You have a comment on that Ginger?

Ms. Prince: There would be adequate space. Personally I think for the customer it would be more comfortable with the additional two or three feet to travel back and forth with your full hobo, but ...(inaudible)... I don't know. Yeah.

Mr. Hedani: Okay, any other questions from the Commission? Commissioner Amarin.

Ms. Amarin: I don't know who to address this to. My concern is how many exits are there out of this building and where are they for safety measures?

Mr. Munekiyo: Mr. Chair, may I introduce Angela Stiber. She is with Mason Architects, the architect for the project.

Ms. Angela Stiber: Hi, there are two exits. There's one at the rear by the deli.

Ms. Amarin: Can you point that out?

Ms. Stiber: One right back there and then of course, the doors at the front. And then actually back here there is an exit through the storage room, but that does not count as a fire exit. They're only required for two exits. And there would also from the kitchen, you can exit back here.

Ms. Amarin: So you actually have four exits?

Ms. Stiber: There are, but from the general –

Ms. Amarin: But for the general public?

Ms. Stiber: General public there's two exits which is what's required.

Ms. Amarin: And on that corridor that's passing through, what is on the outside, it's going to be landscaped?

Ms. Stiber: This area is paved and then this is the wheelchair access over here, and this we'll probably do a little different in the landscaping than what is done now because they need to change the drainage there a little bit.

Ms. Amarin: I thought that if that was the deli, you would have a porch going out to the area that's closer to the food and people can sit down. So I thought maybe that's why you have that open space there.

Ms. Stiber: That will be like a path – you know it will be paved and they'll be able to put tables or whatever for people to eat there.

Ms. Amarin: Okay, makes sense. Thank you.

Mr. Hedani: Any other questions for the applicant?

a) Public Hearing

Mr. Hedani: We're going to open the public hearing portion of the meeting at this point. Is there any member of the public that would like to offer testimony on this item? Please step forward and state your name. Seeing none, the public hearing portion is closed.
Recommendation.

b) Action

Mr. Hunt presented the Recommendation.

Mr. Hedani: Do you know whether or not the applicant is going to be handling recycling of demolition materials on this particular project?

Mr. Hunt: That's generally a standard part of the demolition permit.

Mr. Hedani: Okay, members of the commission?

Ms. Amarin: Move to accept.

Mr. Hedani: Move to accept by Commissioner Amarin.

Mr. Iaconetti: Second.

Mr. Hedani: Seconded by Commissioner Iaconetti. Discussion? Commissioner Starr.

Mr. Starr: Actually I wanted to offer an amendment deleting Item 24 and including wording regarding down lighting, standard wording regarding down lighting. That's my amendment.

Mr. Hedani: Okay, there's a motion to delete Item No. 24, and to include down lighting. Is there a second?

Ms. Freitas: Second.

Mr. Hedani: Seconded by Commissioner Freitas. Discussion?

Mr. Iaconetti: ...(inaudible)...

Mr. Hedani: Delete the requirement on Item No. 24, that's for reduction of the connector.

Mr. Starr: For discussion, I feel that the applicant should be allowed to build the thing as they best see fit. I wish them all success with it.

Mr. Hedani: Commissioner Freitas.

Ms. Freitas: This is for Corporation Counsel. Can we do something that comes against the State though on something like that?

Mr. Souki: This is for Planning staff. Was this a condition put in by the State?

Mr. Hunt: It as a condition based on comments from the State. I believe you have an exhibit which would give you their exact wording. If someone can find it quicker than I can let me know. Exhibit 15, and there's two letters from the State. The first one regards the archaeology part of the application, the second one addresses the architecture. My answer to Susan's question would be, I don't see this as State law, again the buildings are not within a historic district. They're not listed on the national register. However, these are agency concerns that had been consistent throughout this application.

Mr. Hedani: They're recommendations. It says recommendation, right?

Mr. Hunt: Yeah.

Mr. Souki: Because it's a recommendation and not a requirement, I guess you could. Well, I'm not guessing. You could choose not to follow that recommendation.

Mr. Hedani: To delete item no. 24 and to include a requirement for down lighting. Any further discussion?

It was moved by Mr. Starr, seconded by Ms. Freitas, then

VOTED: To Delete Condition No. 24 and Include a Requirement for Down Lighting.
(Assenting – J. Starr, S. Freitas, B. U’u, W. Iaconetti, P. Eason, J. Amarin)
(Excused – J. Guard, D. Shepherd)

Mr. Hedani: Carried. Thank you. Now for the main motion. Any further discussion on the main motion? Ready for the question.

It was moved by Ms. Amarin, seconded by Mr. Iaconetti, then

VOTED: To Accept the Recommendation of Approval of the Special Management Area Use Permit and Phase 2 Project District Approval, as Amended.
(Assenting – J. Amarin, W. Iaconetti, S. Freitas, J. Starr, B. U’u, P. Eason)
(Excused – J. Guard, D. Shepherd)

Mr. Hedani: Carried. Thank you.

Mr. Munekiyo: Thank you very much Mr. Chairman, Commissioners.

Mr. Hedani: Thank you Mike.

D. DIRECTOR’S REPORT

Mr. Foley: The only item I have is that I distributed copies of a letter from Commissioner Starr at the request of Chairman Hedani. I don’t imagine you want to talk about this tonight so I would ask you to read the letter and we can talk about it at the meeting tomorrow.

E. NEXT REGULAR MEETING DATE: July 11, 2006

F. ADJOURNMENT

The meeting was adjourned at 7:55 p.m.

Respectfully submitted by,

CAROLYN J. TAKAYAMA-CORDEN
Secretary to Boards and Commissions II

RECORD OF ATTENDANCE

Present

Wayne Hedani, Chairperson
Bruce U'u
Suzanne Freitas
Johanna Amorin
William Iaconetti
Patti Eason
Jonathan Starr

Excused

Diane Shepherd, Vice Chairperson
JB Guard

Others

Mike Foley, Planning Department
Clayton Yoshida, Planning Department
Joe Alueta, Planning Department
Jeff Hunt, Planning Department
Jesse Souki, Department of the Corporation Counsel
Michael Miyamoto, Department of Public Works and Environmental Management