

**HANA ADVISORY COMMITTEE TO THE
MAUI PLANNING COMMISSION
MEETING OF FEBRUARY 15, 2011**

** All documents, including written testimony, that was submitted for or at this meeting are filed in the minutes file and are available for public viewing at the Maui County Department of Planning, 250 S. High St., Wailuku, Maui, Hawai'i. ***

A. CALL TO ORDER

The meeting of the Hana Advisory Committee (Committee) was called to order by Vice-Chairperson, Shane Sinenci, at 4:20 p.m., Tuesday, February 15, 2011, Helene Hall, Hana Bay, Hana, Island of Maui.

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

Mr. Shane Sinenci: Okay, we we'd like to call the Hana Advisory Committee to the Maui Planning Commission meeting today, February 15, 2011. I'm Shane Sinenci, the acting Chair, Kawika Kaina is absent.

Mr. Edward Cashman: Edward Cashman

Ms. Dawn Lono: Dawn Lono

Ms. Lehua Cosma: Lehua Cosma

Mr. Sinenci: Okay. Do we have any unfinished business from the County Department?

Mr. Clayton Yoshida: Good afternoon, Mr. Vice-Chair and members of the Hana Advisory Committee. My name is Clayton Yoshida, Planning Program Administrator with the Department of Planning. With me from the County are Deputy Corporation Counsel, James Giroux; Staff Planner, Paul Fasi; and Secretary to Boards and Commission, Suzie Esmeralda.

B. UNFINISHED BUSINESS

- 1. MS. SUSAN O'CONNOR of ALA KUKUI requesting a State Land Use Commission Special Use Permit in order to operate the Ala Kukui Spiritual Retreat Center, a facility for spiritual and educational activities and retreats on approximately 12.008 acres of land in the State Agricultural District at TMK: 1-3-004: 008, Wakiu and Kawaipapa, Hana, Island of Maui. (SUP2 2009/0013) (P. Fasi) (Deferred at the January 20, 2011 meeting. Committee Members: Please bring your documents.)**

The public hearing was conducted and closed on January 20, 2011.

The Committee may make a recommendation on this application to the Maui Planning Commission.

Under unfinished business, we have an item from your January 20, 2011 meeting of an application from Ms. Susan O'Connor of Ala Kukui requesting a State Land Use Commission Special Use Permit in order to operate the Ala Kukui Spiritual Retreat Center, a facility for spiritual and educational activities and retreats on approximately 12.008 acres of land in the State Agricultural District at TMK 134 Parcel 8, Wakiu and Kawaipapa, Hana, Island of Maui. The Staff Planner is Paul Fasi.

We wish to note that a public hearing was held on January 20, 2011, here at Helene Hall. The public hearing was open and was closed. With that, I'll turn it over to Paul.

Mr. Paul Fasi: Good afternoon. And my name is Paul Fasi. I'm a Senior Planner, Planning Department. This item was before the Hana Advisory Committee on January 20, and for those that weren't here, what we came away with was that the Advisory Committee and perhaps the community didn't have enough time to digest all the information that was in the Department's report and recommendation.

You know, I believe it was pretty well discussed. The applicant's consultant did give a presentation. I think they're going to give another presentation tonight. But, basically, the important thing we came away with was that it was deferral, and giving the Advisory Committee members more time to go through the Department's report and come up with some of their concerns that we can address in more detail tonight.

The Department has not received any communications up until just now. One testifier did hand us a communication, an item here for testimony. But other than that, the Department has not received any communications, either verbally, or email, or otherwise from the public.

So the Department's recommendation on January 20 was a "no recommendation" from the Department, as it was the Department's intent to kind of engage the will of the community and let the community have some little bit exercise it's home rule and see which way they want to go on this matter, rather than the Department imposing its will upon the community.

So, we think the process worked. I think we had a pretty obvious consensus. We had approximately twenty-eight testifiers, all in favor, speaking favorably for the project. There was one testifier requesting a deferral. But other than that, the majority was almost unanimous in favor of this application.

So, that will conclude my update. If you don't have any questions from the Committee, that will conclude my portion. Thank you.

Mr. Sinenci: Thank you, Paul. We'd like to open it up for public testimony at this time. Rick Rutiz.

Mr. Rick Rutiz: Thank you very much for coming out to Hana to hear our voices. And I guess I have a nonprofit. I'm Executive Director of something called "Ma Ka Hana Ka Ike," which we teach young high school students building trades and kokua the community. I've been doing this for ten years. I have a good education on what it takes to make a budget work for a nonprofit and how you keep programs going. And with this insight and also attending a lot of the cultural and educational events that have gone on at Ala Kukui in the last few years, and living in this community for the past twenty-five years, I see Ala Kukui, not so much as a retreat center—I know they have to do that part of it to help pay the bills—but what I see them is as a place, a venue, for cultural events, for educational events to happen which will benefit the community of Hana, the Hawaiian culture.

And living here and seeing how the hotel used to be, in the earlier years, a place where those events could be, with our new management and hotel that switch every four years, three years, I don't think the community can count on the hotel as a host for these things. We have very few resources where we can have musical events, where we can have, like we used to have the Haku Mele events, where we can have lauhala making, where we can have many -- we don't have a meeting place where people can come and spend a weekend, do these types of things. And, in the past, Ala Kukui has come up and said yes at every step of the way to allow events like this on their premises with zero money.

So, you know, even the groups that can't afford to pay for this have been able to find a place at Ala Kukui to do this. And I believe, in the future, this will continue to happen this way. In closing, I think if there is a "no" decision on this, and, yes, I'm very much for agriculture, and we have a lot of agriculture here, but if it's deemed that we want to keep this land in agriculture, that those gates will close up. We'll have a very rich, very private owner, and those gates will stay closed, and that will be the end of this resource for the community. And I think that would be the biggest shame in any decision. Thank you very much. Any questions?

Mr. Sinenci: Thank you, Rick. John Blumer-Buell.

Mr. John Blumer-Buell: Aloha, Chair Sinenci and Members of the Committee and community members. I attended the entire January 20, 2011 meeting of the Hana Advisory Committee to the Planning Commission. I gave oral and written testimony. I stated I could support a Special Use Permit with conditions, provided the conditions supported the specific activities and concerns brought forward by members of the community. And I have included those in my Exhibit A on pages 3 and 4. So, if you get that far today, I made note of virtually everything that the community came forward with and put that under the conditions.

I also testified I could support a Conditional Use Permit as the legal and preferable way to permit the proposed transient accommodations at Ala Kukui. In addition, I raised other land use issues brought forward in the Planning Department report and exhibits and asked for a clarification.

The currently proposed conclusions of law and recommendation by the County of Maui Planning Department have not provided you with findings of fact and conclusions of law to specifically address the issue of transient vacation rentals, bed and breakfast accommodations, and documentation from the U.S. Internal Revenue Service that the applicants are a nonprofit corporation or association for religious, charitable, or educational purposes. And, I will point out that the Office of Hawaiian Affairs also asked for that documentation.

Instead of relying on a written and documented legal opinion with case law, the Department and applicant rely on a revised interpretation of the requirement for a County Conditional Permit as requested by the applicant's consultant. And see Exhibit 9F. In a letter of September 2, 2008, the applicant requested the County reconsider the requirement for a County Conditional Permit for the short-term, overnight accommodation use. In a letter dated October 14, 2008, which is again Exhibit 9F, the County Planning Department changes its interpretation of the law provided that no rental income is produced. However, it is clear income from short-term rentals has been and will be produced. The applicant states, "The classes, accommodations, and meals are being packaged as one retreat expense for participants." Therefore, the applicant argues, "No rental income will be produced." This is simply a self-serving interpretation that helps the applicant to avoid a Conditional Use Permit and avoid paying transient accommodation taxes at a time the State of Hawaii is projecting a two-year \$800,000,000.00 deficit.

In a 2006 advertisement for the retreat, which is Exhibit 16 and page 8 of that, titled "Love In Action," the applicant states: "The cost of food and accommodations to be \$800 per person." Clearly, the participants are being asked to pay for accommodations. In addition, to the TAC tax issue, the issues of County of Maui property taxes have not been addressed.

Next point: The applicant proposes building additional units to accommodate participants at retreats. How are those proposed units, which are designed for transient accommodations, defined under State and County laws? They certainly are not farm dwellings for farm workers. The units are for transient accommodations for visitors attending retreats.

Next point: In the Planning Department's recommendation, Conclusions of Law, 15-15-95 of the Hawaii Administrative Rules, no. 5 states, quote: "The land upon which the proposed use is sought is unsuited for the uses permitted within the district." This statement is not

true when applied to the subject parcel. There is clear evidence and testimony the land is suitable for agricultural use. The Department's conclusion that the proposed special use is unusual and reasonable is questionable.

The letter from the Office of Hawaiian Affairs, which is Exhibit 9, states, "This proposal does not warrant a Special Use Permit." Part of the OHA argument's against the SUP addressed the issues of 15-15-95. The applicant's representative belittled the letter from OHA. The Planning Department should explain their conclusions and justification in more detail and explain their view of the OHA letter.

Two short paragraphs:

This application is precedent-setting and could have both and long-term consequences to land use and planning process. It is important there be legal clarification to avoid supporting or creating a loophole in the law. Remember, the County of Maui has already given two contradicting interpretations.

I recommend deferring a decision regarding the application until the important information I request can be incorporated into the Planning Department report and considered in the Planning Department recommendations. Mahalo.

And in closing, I would just like to say that what I said at the previous meeting about supporting this if we got to the end of it, I still mean, I listed the specific conditions the community supported, and the community supported activities they've been a part of, that a number of people told me they weren't assured that they were going to be part of future activities.

Last thing is I had a former member of the Ala Kukui Board call me at least three to five years ago and ask me what I thought of it, and I said then, "I suggest you go through the permitting process," and suggested ways that this could be a project that should be given approval with conditions.

At the last hearing, I heard recriminations against I don't know who, but the delays caused in this process. And it hasn't been this community. I recommended that long ago that they start the hearing process. There's information in the Planning Department's report going back at least five years. So, there's been no delay on the part of this community. So, I just want to make that clear.

And I'm happy to -- I've tried to make some constructive suggestions. And I will support this project with conditions, and I will support this project with a Conditional Use Permit. And it's very clear from my exhibit what I think it takes to do that, and that goes right to what

Rick Rutiz has said. I agree with Rick Rutiz right down the line. But it's not, the conditions are not there to protect this community currently. Aloha.

Mr. Sinenci: Thank you. Robin Rayner.

Ms. Robin Rayner: Good evening, and thank you very much for giving the opportunity to speak to you. My name is Robin Rayner. I'm here representing Hana Architecture and Interior Design, which is an interior -- an architectural firm here in Hana. And I just would like -- I'll just read you a letter that I wrote:

I attended the Ala Kukui Special Permit meeting on the 20th of January and was impressed with how many of our community had experienced the calm feeling from attending spiritual events at Ala Kukui. But I would like to address my comments to this proposal on another level, and that is the overall impact to Hana.

There are two main reasons, I believe, that the Department or the -- should support our proposal, this proposal. First is the concept of a spiritual retreat, which is a low impact, positive force, and compatible to Hana's spiritual nature. It is obvious that our community needs alternatives to our existing business industry base rather than a lack of it. A spiritual retreat is a sensible option for Hana.

Secondly, the petitioner, Susan O'Connor has done immense "good" in supporting numerous causes throughout her years in Hana. Based on her track record in the community, the community should feel confident in placing their trust in her, knowing that she will nurture and care for the land and the program she has proposed, and that the Ala Kukui Retreat Center will prove a benefit to the people of Hana.

A comment was made that we might set a dangerous precedent by allowing this business model onto agriculturally zoned land. But again, looking at the overall picture, our Hana community has been locked-in by its zoning. How does our County of Maui expect people in Hana to make a living here? Home occupancy rules greatly limit businesses that can operate within our homes, and there's little commercially zoned property that exists here in Hana, and what does exist is really -- does not seem to be available for any kind of development.

Developing and strengthening our farming industry is a fine goal for our community and the County, but even farmers need basic services and outlets within the community and not a two-hour drive down the Hana Highway. Since a large percentage of Hana's land is zoned agricultural or interim, it is inevitable that, over time, this land will need to be used for other purposes necessary to support the community and to encourage diversification so that we are no longer dependent on a single source of income, albeit tourism or agriculture.

We can pick this proposal apart. We can dissect every little bit. We can delay. We can postpone, and we may, in fact, lose the opportunity. Or we can trust that the applicant will do the right thing, embrace the opportunity for a new and different industry in Hana. So I would like to support this application.

I would also like to add that, as well as being the architect in Hana, I am also the President of Hana Arts, which is a nonprofit organization here in Hana that brings art and cultural events to Hana. And I can tell you, it is a challenge to find places to bring our events, and I wholeheartedly concur with Rick Rutiz's comments regarding another location, another place where we might be able to use it for artists retreats and for other kinds of cultural events that we would very much like to be able to bring to Hana and at this time, it is a little difficult for us to find a venue for that.

So I thank you very much for the opportunity to speak. And I'm happy to answer any questions.

Ms. Lono: I'm not quite sure how to address this. When it comes to this precedent-setting issue, and ag land, and so forth. I see a basic conflict here with this accommodation situation. I don't think the actual activities and what's trying to be done up there is of concern, and meshes with the land and can be woven into the agricultural activity, and so forth, but what I do see is the problem that there may be a precedent-setting here in that we're avoiding the actual acknowledgment that there are overnight accommodations happening by doing this lumping in situation, where you charge a fee for a retreat, where you actually have overnight accommodations that aren't being acknowledged as overnight accommodations. So it's a little bit -- that part of it is a little bit conflicting. And if there's another venue where that actually gets addressed in its true form and the way it's actually being used, then maybe that needs to be considered because that's the only thing that I see here that's a really big problem is we're kind of not calling a spade a spade. So do you have any comment on how that might be --

Ms. Rayner: I think there's a couple things to think about. First is we're talking about a spiritual retreat. I'm not hugely knowledgeable about these things, but my understanding, I know, having done different kinds of retreats, you get into a mindset in a retreat, and you're at sessions eight hours a day, and then you go to probably what is a very austere environment and you're sort of still in retreat mode, and you're still in meditative mode, and the last thing you want to actually do, if you're staying for a week, you want to stay in that environment. You want to stay sort of in that calm mental state of mind. I assume the meals, again, will be very austere and simple. The last thing you want to do is get in your car and drive somewhere else to stay. So I think it's actually really important that there are accommodations in the facility itself to keep that spirit and nature of what they're trying to do in a spiritual retreat intact.

The other thing is that you can -- I mean, okay, so they have accommodations. You know, as I say, you can pick it apart. You can sort of -- you can say, they're not doing transient rentals, because you can't just go there and say, "I would like to rent a room for the night." That's not what they're proposing. What they're proposing is a package deal that includes a retreat for the week or for the weekend, or whatever it is, all your meals and accommodations included, so that you will come, drive up the driveway to Ala Kukui, and you are there, and you are there for the duration. And you are going through a spiritual experience. And you don't have to go anywhere else to interrupt that experience. And I think that's what makes having accommodations on that property important to the overall goal of what Ala Kukui is trying to achieve. And, as I say, I mean, you can't go in there, it's not an idea where you can go and rent a room there for a night. I mean, the definition of "transient rentals" should be specific enough, so that it's very clear that this is a different event going on. And to me, they're totally different animals. Does that answer your question?

Ms. Lono: Okay. That helps me. Thank you.

Ms. Rayner: Okay. Anybody else? No.

Mr. Sinenci: Thank you.

Ms. Lono: Thank you very much.

Mr. Sinenci: If there's any other testimonies, anyone else? If not, we'll conclude public testimony. One more?

Ms. Mary McClung: Hi, my name is Mary McClung, and I was also at the last meeting on the 20th, and I spoke then in favor of it. And one thing that I just kind of think I forgot to add then that I would just add now, is, you know, I thought about it a lot and, to me, this entire application and everything, I think that because of who is -- has put this together makes it really different than anybody else coming here and doing this. And I think probably anybody else here in Hana realizes that. And that clearly this person, I mean Susan O'Connor, by saying that, that clearly she, in her heart and in her actions, has shown such love of this community in so many different ways. So I respect that and I think a lot of people in this community also respect that. And you can see that from how many people showed up last time in support. And I would just -- I would put my faith in her. And I believe this is a spiritual retreat. I believe they will have a religious 501(c)(3), whatever. If they don't have it now, that they will have it. I don't see funny business going on. And I think you for your time. Thanks,

Mr. Sinenci: I'd like to -- we're going to close at this time. Thank you. Okay, the applicant would like to add.

Mr. Chris Hart: Thank you, Mr. Chairman, and Members of the Hana Advisory Committee. First of all, I'd just like to thank all of you for taking the time to come up to Ala Kukui and to be present there. It was very nice of you to take that time, and the staff, as well.

I have with me Arnie Kotler and Therese Fitzgerald, and my son, Jordan Hart. And my name is Chris Hart, Chris Hart & Partners. And we have been undertaking the task of putting together the application for the Special Use Permit. And I want to thank all the members of the audience from Hana, especially those that were present at the last meeting on January the 20th. There were seventy of you present. And about thirty-one actually testified in favor or read letters in favor of the project. And I've been told that that is a very strong, positive response from the Hana community about the issue of granting a Special Use Permit for Ala Kukui, and I thank you for your participation.

In the context of some of the things that have been said, you know, the issue of whether or not this should be a Conditional Permit essentially was discussed with the Planning -- with the Planning Department, the Zoning Enforcement Division, and in a letter dated October 14, 2008, which is the last letter in the Appendix A of your application, the Planning Department says that "We have reviewed your request to reconsider the requirement for a County Conditional Permit for the short-term overnight accommodation uses of the Ala Kukui Spiritual Retreat Center. As you know, the definition of transient states in part shall not apply to lodging provided by nonprofit corporations or associations for religious, charitable, or educational purposes, provided that no rental income is produced." Now, the Planning Department says, "We concur with your assessment and are withdrawing our requirement for a County Conditional Permit for the short-term, overnight accommodation use, as stated in our letter dated March 31, 2008. However, a County Special Use Permit will still be required." Now that letter came from the Planning Department on October 14, 2008. And that's the basis for our application for a Special Use Permit.

And, as the testifier who's the architect—I can't recall her name—actually stated, you know, when you -- we're asking for the approval for a retreat center, a spiritual retreat center, in the agricultural district. Now, first of all, this does not open up a loophole. Can you imagine the possibility of other people trying to go through this process? It is not a simple process, okay.

The second thing is that, you know, when you essentially pay to go to a place like Ala Kukui for a spiritual renewal, a time of spiritual renewal, and you're basically there, and you feel the ambience, the spirit of the place, it certainly, you know, would be appropriate to be able to stay overnight. And now we're talking about ultimately fifteen individuals having that opportunity. And an individual who would have that opportunity would pay a fee for a retreat. And the retreat would include meals and a place to stay. We're not -- we're a 501(c)(3). We're not, you know, basically renting out beds to people on a street without

participating in the retreat. So that's really what it is all about, and that's why the Planning Department looked at it in that way.

The other important point that, you know, our one testimony in opposition, you know, fails to really look at is the fact that Chapter 19.30a.060, Special Uses of our Maui County Agricultural District Zoning Ordinance, identifies as Item J, Churches and Religious Institutions. There the opportunity exists in our ordinance to apply for a Special Use Permit in the Agricultural District for a church and religious institution. And the Ala Kukui Spiritual Retreat Center is a religious institution. That's how it fits. And that's the essence of our application.

And, again, I believe, as a result of our meeting that we had last time, on January 20th, we have had the opportunities since then to work with the Planning Department, very closely with the Planning Department, and we have come up with a recommendation for approval that outlines standard conditions and project-specific conditions for the control of the Ala Kukui Spiritual Retreat Center.

And I will say one additional thing, or a couple of additional things, but one is that the time for the Special Use Permit is three years. At the end of three years, you know, it is going to expire. Now if at the end of three years, ninety days prior to that date, we apply and provide to the Planning Department, a full, detailed Compliance Report with all the conditions, and the opportunity to basically talk to people in the community and come and see the activities that are taking place at Ala Kukui, if we have lived up to those conditions, then there's the possibility that we could get a further extension of time. But this is not a permit that's going to be granted forever. We have to work to keep the permit. And in the context of working to keep it, we have to live up to the conditions that have been recommended. So it's not an automatic. It's not a "slam-dunk," as they say. And we want to work with the community.

And the last thing I'm going to say is something that I said to Committee Member, Dawn Lono, you know, I've known Susan O'Connor for about ten years. She's talked about this, okay. It was going to be at another location. Her bottom line, she has lived here in the community for forty years, over forty years, and she wants to give this as a gift to the community. And that is her sincere feelings about it. It's not to take away from the community. It's to give something to the community.

And there is a condition that Committee Member Cashman proposed—to have an advisory participation on the part of this Advisory Committee to ensure that it continues on and it lives up to, again, the conditions, and actually provides services that will service the needs of the community.

So with that, I thank you. We do have the powerpoint set up, if there's anything that you would like to see in the powerpoint again. We can certainly show it to you. But I'm available for questions, and all of us are available for questions. And, again, we appreciate your cooperation and, again, for coming to see Ala Kukui today. Thank you very much.

Mr. Sinenci: Question.

Mr. Hart: Sure.

Mr. Cashman: I have a few questions.

Mr. Hart: Sure.

Mr. Cashman: Ed Cashman, yeah. In your view, how many people from Hana would be able to afford \$800 or \$1,000 for the retreat? I mean, \$800 or \$1,000?

Mr. Hart: And how many of them would be able to?

Mr. Cashman: Yeah. You know, I look at it, when we have a house right down the street, not too many of us would be paying something like that. And it might not be that. It might be \$2,000. It's a figure that we don't know. The \$800 is from years ago.

Mr. Hart: Well, from what I understand, again, in the context of prior practices, Mr. Cashman, Susan has done things to subsidize events there. And I think that, in the context of most activities that are going to be available to benefit the community, that those activities would be affordable to the Hana community, okay. And I think, you know, there's, it's a two-way street. We have to perform for you, and for the County of Maui. And I think that, in the context of that performance, you have to have some trust that there is going to be consideration given. I can't tell you, I can't give you the answer that you want today. I'm sorry.

Mr. Cashman: I have one other question. One of the testifiers stated that the if the overnight accommodations wasn't approved, you folks would shut down. How do you take that statement?

Mr. Hart: How did I what?

Mr. Cashman: How would you -- what did that statement mean to you?

Mr. Hart: I would say that, you know, there is a desire on the part -- Hana is a unique place. Maui is a unique place. People come from other places to experience renewal and respite, regeneration. I think that the opportunity of being able to have retreats that would

allow people to come—some from Hawaii, maybe some from Hana, from Central Maui, West Maui—to come here for that purpose is legitimate. That is part of a retreat center, which is in the Ag District, a religious institution. So having the opportunity to stay overnight is part and parcel of a retreat center.

Mr. Cashman: I think my question was, if you weren't allowed the overnight accommodations, would you folks shut down, close the gate?

Mr. Hart: Well, we might have to.

Mr. Cashman: Yeah, thank you. I had another question, yeah. You know, in your original application for this Special Use, was the religious and faith-based within that original application?

Mr. Hart: It was. It was.

Mr. Cashman: What was the one you folks did in September 2010?

Mr. Hart: September 2010? I don't remember.

Mr. Cashman: You folks amended the application to include the religious, yeah?

Mr. Hart: No, no we didn't. From the very beginning, there was always the religious and the spiritual part of it. What happened in 2010, there was, you know, the list that's in the application included related activities, like, for instance, writing workshops, more community-type facilities. We were being told that we had to tighten it up and make it all strictly religious. Now, there's a condition that's being proposed where we can work together with the Planning Department and the Zoning Enforcement Division and come up with a list that's more similar to the list that was in the application, the original list, okay. So, in other words, to broaden that list so that it can be more open, you know, to serve the needs of the community.

Mr. Cashman: Okay, thank you.

Mr. Hart: You know, can I just say one thing about that? You know, like, for instance, you know, we believe, like, for instance, a church, okay. Now, having Boy Scout meetings at a church is not a spiritual event, but many, many churches sponsor Boy Scout troupes. So, I mean, the question is, is that a spiritual experience, or is that something for the community? I believe that, from the point of view of what Boy Scouts are all about—building character, you know, building personality qualities that have high integrity—that that does have spiritual relationship. So, therefore, those are the kinds of

things that we would look toward to be able to provide, you know, at Ala Kukui. Maybe we're not going to sponsor Boy Scouts, but I mean, as an example.

Mr. Sinenci: Thank you.

Mr. Hart: Yes, Sir. You're welcome.

Mr. Sinenci: We'll take a short recess at this time, five minutes. We'll reconvene in five minutes. Thank you.

(A recess was called at 5:05 p.m., and the meeting was reconvened at 5:13 p.m.)

Mr. Sinenci: Okay. We'd like to go ahead and reconvene the meeting of the Ala Kukui request for a Special Use Permit.

Ms. Lono: Mr. Chair, I'd like to make a recommendation that we go through the Planning Department's standard conditions and recommendations, one by one, and consider them and perhaps we could make amendments as we go along, if we need to, or add or subtract from them as we see fit. Would that be an appropriate way to approach this?

Mr. Fasi: I can meet you halfway on this. The standard conditions are conditions set by the Maui Planning Commission, and so these standard conditions are relatively inflexible, and I don't know if this Committee has the authority to change standard conditions set by the Maui Planning Commission. You can make recommendations on them.

What I would like to do is go over the more notable conditions that are project-specific conditions.

Ms. Lono: I think it's really important that we start with the standard conditions, and we can make recommendations, so there are a few small ones that we might want to make slight wording changes on, if perhaps they would consider. So, I would like to do that.

Mr. Yoshida: Yes, I would concur with the Board Member Lono that, you know, you are making recommendations to the Maui Planning Commission. The Maui Planning Commission will make the final decision. So if you feel you want to tweak conditions, you can tweak conditions.

Ms. Lono: So, the first standard condition that "the Land Use Commission Special Use Permit shall be valid for three years from the approval date made by the Maui Planning Commission, subject to further extension by the Maui Planning Commission upon a timely request for extension filed at least ninety days prior to its expiration. The Commission," it says, "may require a public hearing on the time extension." And perhaps that should say

“shall” or “will” or something more definitive that requires there to be a public hearing in Hana on the time extension. That would also include a site visit to the property. That would be my recommendation on that.

Mr. Giroux: James Giroux, with Corporation Counsel. As far as procedural, this is, you have a document before you that’s the Department’s recommendation.

Ms. Lono: Right.

Mr. Giroux: You have every right to change and amend that document. Just, procedurally, what normally happens is that there’s a process of having a motion to adopt the recommendation of the Department. And then you get a second. Once you get a second, you go into discussion, and you can, through the discussion, you can then start recommending line item amendments, and it will make it very easy. Once there is a like the motion you just stated, if you get a second for it, you’ll discuss that motion to amend. Then when they call for the vote, that motion will either pass or fail and then it’ll be incorporated into the main motion. And the main motion will always stay, and it’ll stay as amended, or it will just stay as is, if there’s no amendments.

Ms. Lono: Okay, so I jumped the gun a little bit. So I’ll make a motion that we adopt the recommendations as submitted by the Planning Department. Yeah, okay, that’s my motion. If there’s a second, then we can discuss it.

Mr. Sinenci: Is there a second?

Ms. Cosma: I second the motion.

Mr. Sinenci: Discussion?

Ms. Lono: So, the first amendment that I would make would be to item no. 1, in the last line, where it says “The Planning Commission may require a public hearing,” I would like to recommend that “The Planning Commission shall require a public hearing and a site visit in Hana to address the time extension.” And if there’s a second, we can discuss it; if not, it just dies.

Mr. Sinenci: Is there a second?

Mr. Cashman: Second.

Mr. Sinenci: All in favor?

Ms. Lono: So, the reason that I feel that's important is that, you know, Hana doesn't get overlooked in this process, and that it's important that this come back to the Hana Advisory Committee, or to Hana, to be reviewed at the time of extension and that it doesn't just happen in the Maui Planning Commission in Kahului. So, I think it's important that it be addressed in Hana, since it is a Hana project.

Ms. Cosma: I just want to add that I like Dawn's motion because we've had similar issues in the past from just that word alone. "May" plays a big part, because when it leaves here, it's gone. But "shall," you have to, and that will include everybody, the community. So, I just want to let you know that's important what we just did.

There being no further discussion, the motion was put to a vote.

It has been moved by Ms. Lono, seconded by Ms. Cosma, then unanimously

VOTED: to recommend an amendment to item no. 1, in the last line, to read: "The Planning Commission shall require a public hearing in Hana and a site visit to address the time extension."

Mr. Giroux: Okay, that amendment passes, so it's now incorporated into your main motion as amended. You're still in discussion. If anybody has any further motions to amend, they can state their motion now.

Ms. Lono: So I guess a similar situation in item no. 3, where it says that "the subject Land Use Special Use Permit shall not be transferred without the prior written approval of the Maui Planning Commission." Perhaps some way to incorporate the recommendations, including the recommendations of the Hana Advisory Committee to the Maui Planning Commission. So, again, bringing it back to Hana. Or maybe we already took care of that in item no. 1? That's a question.

Mr. Fasi: If I may, the Planning Department has a comment. On Standard Condition No. 1, there's an ongoing effort that's been ongoing in the Planning Department to streamline our efforts and address public concerns and address their applications in a timely manner. We're always getting criticized in the paper for what's taking so long on these permits. And the reason why the language says "may," and I understand your concern, rather than "shall," is to leave it up to the Director's discretion to make the call on whether or not we should have a public hearing. Standard operating procedure is, normally, if there have been no changes, no substantial changes on site or in the operation regarding the subject matter, the Department normally does not require a public hearing on the matter because there's been no change. And so we're trying to streamline our efforts as much as possible. The Department does not want to preclude the Hana community from this process and

that's not our intent. So we just would like to request that, as we go through these standard conditions, that you help us out a little and help us streamline our process at the Department. Thank you.

Mr. Sinenci: Thank you. Okay. Is there any other motions? We're out of motions.

Mr. Giroux: You can be in discussion and that might formulate a motion.

Mr. Sinenci: Okay.

Mr. Cashman: So you say now that we are going to say it "may" not "shall"?

Mr. Giroux: No, you've made a motion. You adopted it.

Mr. Cashman: Yeah, it's passed, yeah? He just -- continue.

Mr. Sinenci: Yeah, he just added --

Mr. Giroux: You can go to the next motion.

Mr. Sinenci: Okay.

Ms. Lono: I was just kind of trying to make the same point for no. 3 that it also include the Hana Advisory Committee, and a meeting in Hana, that the -- it says "without the prior written approval of the Maui Planning Commission." It talks about, you know, "contested case hearing for said Land Use Special Use Permit, a public hearing shall be held upon due published notice, including actual written notice to the last-known addressees and parties to the contested case," and so forth. I don't know if it's necessary to add that in on this one or not. I guess that's a question I'm asking. How do the other members feel about that?

Mr. Sinenci: What Dawn is addressing is the County Standard Condition No. 3 that "the subject Land Use Commission Special Use Permit shall not be transferred without the prior written approval of the Maui Planning Commission." And you would like to add "a public hearing in Hana, in front of the Hana Advisory Committee."

Ms. Lono: Correct

Mr. Sinenci: Is there a second?

Ms. Cosma: Second.

Mr. Sinenci: Discussion?

Ms. Cosma: Again, this would be like item no. 1 - bringing it back?

Mr. Sinenci: No. 3. Yes, correct.

Ms. Cosma: Item no. 3 would be similar to item no. 1.

Mr. Sinenci: That “the Special Use Permit shall not be transferred without the prior written approval from the Maui Planning Commission.” However, we’d like to include “a Hana Advisory meeting in Hana if that is to happen.”

Ms. Lono: Because so much of this testimony that we’ve heard from the community has to do with the actual person that is proposing this. If transferring the permit to a whole other person or entity became an option, then that really changes how -- it may totally change the way a lot of people feel about it. If it’s not Susan O’Connor and her—what am I trying to say? Yeah, her -- the way she is and her aloha for the community, if it were somebody else completely that it were being transferred to, then we want to look at that because they may not have the same aloha and respect and honor of the community that she does. So we would just like to make sure that that gets looked at before it were transferred to someone else other than this particular nonprofit with her as the person making the decisions.

There being no further discussion, the motion was put to a vote.

It has been moved by Ms. Lono, seconded by Ms. Cosma, then unanimously

VOTED: to amend item no. 3 to add language to include a meeting in Hana in front of the Hana Advisory Committee.

Mr. Sinenci: Okay, duly noted that the recommendation -- that we approve the recommendation from the County, no. 3, “That the subject Land Use Commission Special Use Permit shall not be transferred without the prior written approval of the Maui Planning Commission and to include a meeting in Hana in front of the Hana Advisory Committee.” Any other motions?

Ms. Lono: No. 9 says “That the applicant shall improve the access driveway from Hana Highway to the gate entering the applicant’s property.” No, I just kind of wanted to discuss this a little bit, improvements to the driveway situation. I have concerns about lots of pavement, and things like that, and, you know, widening, and, you know, things that could potentially happen there. I know there are going to probably be requirements from various departments, as they develop through this project. The Fire Department will have

requirements, and so forth. But I'd really like to not see it overly developed into an access where it becomes some big, huge, concrete, you know, access point to the property, calling a lot of attention to it, causing water and drainage problems, which a lot of asphalt does. So I don't know how we can address this. I think somewhere in here, or somewhere I read something about gravel, or something like that, which would be appropriate. But my concern here is that we don't create a bigger problem by trying to solve a small problem. And I don't know how to address that. If anybody has a recommendation?

Mr. Sinenci: Okay, well, we're still in discussion, but ten is real similar. Item no. 10 says "That the applicant shall post signage calling for slow driving within the access driveway area." No. 9 says "That the applicant shall improve the access driveway from Hana Highway to the gate entering the applicant's property. So it's kind of the same. We did mention that it needed to follow fire code so the fire trucks could get up there. There was also an issue about noise. The gravel actually -- dust and crackling of the gravel as the cars go up there. There's also an issue of keeping it rural in nature. So we could recommend that the -- maybe they pave to the applicant's property line, and then maybe stripping or grass-crete was also mentioned all the way up to the -- at least to the barn or the garage, that first building or structure.

Ms. Lono: Maybe you kind of hit it on the head by the words, "rural in nature," that we would -- that wherever possible, that those improvements would be rural in nature. You know, I mean, they automatically have to comply with whatever Fire Department, whoever is going to -- whatever they're going to require. But keeping them rural in nature, I think, is probably the key to what I'm thinking on this one.

Mr. Sinenci: That might be a little vague, but if we can be a little bit more specific: "with the grass-crete or the concrete stripping." That way, you still get grass in between.

Mr. Fasi: Paul Fasi, Planning Department. I would also consider not precluding the applicant from concreting or asphaltting the driveway. You have to think in terms of not only Fire Department, Police Department, but paramedics. You know, their vans are kind of wide. And, if you've ever been in the back of a paramedic ambulance, and the guys trying to put an I.V. in you on a bumpy road, it hurts. So, you have to keep that in mind. It's also a safety feature to get those paramedics up there. So I would, if they tend to lean towards paving it, I wouldn't give them a hard time about it.

Ms. Lono: We do have Hana design guidelines and perhaps when addressing signage, that the Hana design guidelines be followed when addressing the signage issues. Sure, I'll make a motion that any signage required, any signage would be required to follow the Hana design guidelines.

Mr. Sinenci: Is there a second?

Ms. Cosma: I second.

Mr. Sinenci: Discussion? Okay, so for -- I know no. 10 "That the applicant shall post signage calling for slow driving within the access driveway area."

Ms. Lono: Shall comply with the Hana design guidelines.

Mr. Sinenci: Okay.

There being no further discussion, the motion was put to a vote.

It has been moved by Ms. Lono, seconded by Ms. Cosma, then unanimously

VOTED: to amend no. 10 to include language that the signage shall comply with the Hana design guidelines.

Mr. Sinenci: Okay, so the motion has been voted on "That the applicant shall post signage calling for slow driving within the access driveway area and shall comply with Hana design guidelines."

Ms. Lono: The only other really important thing that I kind of wanted to clarify is this overnight accommodations situation. And perhaps there could be a no. 15 added, that says something like, "Overnight accommodations shall be allowed only in association with retreat activities and that no, you know, overnight or vacation rentals outside of retreat activities would be allowed." That way you're really nailing it down to it being a retreat, and those accommodations are specifically for that, and it's not a transient vacation rental or an overnight accommodations situation. I think that may alleviate some of the concerns that were brought up about it, setting some sort of a precedent in the community for using this technique of saying, you know, oh, okay, if we do a blanket charge of bla-bla-bla-bla for a three-day thing, then we don't have to call it a transient vacation rental or an overnight accommodation. So maybe some sort of wording, and I'm not sure, maybe counsel could help with, maybe, how to word that, so it's specific to the -- overnight accommodations are specific to the retreat activities. And overnight accommodations outside of that would not be allowed. I don't know where the -- yeah.

Mr. Sinenci: Yes. I'd like to add that, right, this has been an important topic for us for the last three or four years. So if you feel like this is something just we're going up against, it's been on our agendas for the last three or four years. That's why it's a really sticky subject, not just with us, but with the rest of the community. So we're trying to make it where it is just for the retreat and not going into anything else that we've been addressing this last couple of years. Counsel, is there anything that we can --

Ms. Cosma: So that will be an additional condition add-in?

Mr. Sinenci: Well, we're discussing it.

Ms. Cosma: Now, right.

Mr. Sinenci: Yeah.

Mr. Fasi: If I could suggest that 15 be that "all overnight accommodations be specifically related to the retreat use, and not TVR-type use."

Mr. Sinenci: You're going to add this recommendation?

Ms. Lono: Okay, I would like to add recommendation item no. 15: "Overnight accommodations shall be specifically related to retreat use, and not TVR and/or B&B accommodations." ". . . TVR or B&B, bed and breakfast, accommodations."

Mr. Sinenci: Is there a second?

Ms. Cosma: Second.

Mr. Sinenci: Okay, so we'd like to approve Ala Kukui's Special Use -- request for Special Use Permit, with the added condition

Mr. Cashman: I didn't --

Ms. Cosma: I wanted to -- Mr. Chair, if I may, I'd like to another condition, please. And that --

Mr. Sinenci: On the same motion?

Ms. Cosma: This will be, yeah.

Mr. Sinenci: Okay.

Ms. Cosma: See, right now we're on condition no. 5 -- 15.

Mr. Sinenci: Yes.

Ms. Cosma: So mines would be 16. And that is just so that it's noted, too, that for the community's support from their last testimony of making -- continuing the senior yoga, senior gardening, youth programs, canoe gardens, agricultural walks. And one of the most

important things that I wanted to be done down in part of the condition is employment for residents of Hana. I think that is important we have that. So, if that can be as a condition for no. 16?

Mr. Sinenci: Motion.

Ms. Cosma: I make a motion first? Yes, Mr. Fasi?

Mr. Fasi: I think I understand your concern, but I think your concern is addressed in condition no. 8, where you can more thoroughly sit down with the entity and go over what you guys want or don't want up there. And that was the whole reason that condition no. 8 was put in so you guys do have some dialogue, and the community does have some input. I don't think at this point we want to just ad hoc on the fly start adding things, because later on you may miss something, or you may have overstepped it and want to delete something. So I think if we can agree that condition no. 8 addresses that.

Ms. Cosma: Thank you for pointing that out.

Mr. Fasi: I think we're good.

Ms. Cosma: And I agree with what you said. And that would be applied to condition no. 8. Yeah.

Mr. Sinenci: So let's go back to the motion no. 15 on the overnight accommodations being strictly for retreat use and not for any TVR in nature.

Mr. Fasi: And if I could perhaps suggest the wording be that "all overnight accommodations shall be specifically related to the retreat use and not short-term rental use," which will cover TVR, B&B, or anything other hybrid that may come down the road.

Ms. Lono: Okay, so the motion that we made on no. 15 about the overnight accommodations died because we did not have four votes to pass it. So if we re-word it to -- the motion to be "Overnight accommodations shall be specifically related to retreat use, and not to be used for short-term rental use in any form." Is there a second to that motion?

Mr. Sinenci: Is there a second?

Ms. Cosma: Second.

Mr. Sinenci: Discussion?

Mr. Cashman: I am not going to be accepting this motion. My view is, when you going for the Special Use Permit, by allowing the Special Use Permit, we allowing them to build six more structures. When the three years when the thing comes up for review, if they built the structures and they didn't do what -- we still have the six structures. I would love to put six more buildings on my -- my land. To me, that's what we we're dealing with. I love the idea of retreats, cultural, senior citizens, youth groups. But I cannot see we allowing them to build six more buildings. I'd like to put up six more and call it a retreat and rent it out. To me, that's the issue here. Because in three years, we cannot tell them, "You go knock down the buildings." We'd be in court. I mean, just like if I told you, "You've got to go knock your buildings." That's my -- that's my concern and so I won't be backing this motion.

Ms. Lono: So then we won't be addressing the overnight accommodation issue. It's just going to go the way it is then, and there's nothing we can do about it. There's nothing that will really define it as being associated with the retreat only, and not allowing B&B, TVR, or any other short-term rental use. It'll just go through the way it is right now, which leaves --

Mr. Sinenci: Right now it's part of the --

Ms. Lono: Which doesn't change the situation that you're talking about at all.

Mr. Sinenci: Right now it's part of the entire application.

Mr. Fasi: The Special Use Permit is a discussion on the use itself. We're approving the use, not necessarily the additional structures. The additional structures are in conceptual, at best, at this point. But mainly we're discussing the use, and what type of uses are going to be approved or disapproved, allowed or not allowed. Our Department does not give out building permits, and that's a whole other issue. So they may or may not get building permits for these structures.

Mr. Sinenci: So they would still have to go through the entire building permit process.

Mr. Fasi: Oh yeah.

Ms. Lono: I guess I just felt like this would be a way to kind of tighten it up a little bit, for those people who are concerned about the possibility of this being a transient vacation rental situation, or turning into one. You know, you never know, somebody gets in a desperate situation, and they need to find a way to make money. That's would it would turn into, and that's what we're saying, is that they adhere to what they said they were going to do, and that it would be associated with retreat only.

Mr. Fasi: Let the Department go on the record here that the Department does not have any definitive evidence that they are a nonprofit. I have yet to see their 501(c) nonprofit form. So right now, we're basically -- made a decision based on their application. I have yet to see that form. And I --

Mr. Kotler: We have them here ...(inaudible)...

Mr. Fasi: I believe the applicant has them in their hands.

Ms. Lono: So all of this would be contingent upon that proof of that, anyway, correct?

Mr. Fasi: That is correct. Thank you.

Ms. Cosma: So that's the letter of determination?

Mr. Sinenci: So still discussing the overnight rentals. I think Committee Member Cashman has a concern. We've also discussed about how, you know, at the January 20th meeting, we discussed that cultural and spiritual retreats have gone on without these additional accommodations, one. Also, they still have to abide by building codes, the—what is that, the leach field?—all the kind of thing still has to go through that -- septic.

Mr. Cashman: My motion is no overnight accommodations. Let me add to that why I'm saying this. You know, like when we visited the property today, you allowed one residence and an accessory. When you look at the residence, it's not what I call a normal residence. It's divided up into -- it looks like a rental, like eight, ten beds. The accessory building, what they call a "barn," I mean, I've seen barns in my life, and it, within this application, they try to turn the barn into a residence for the -- the resident manager. To me, when you look at that so-called "barn," you are stretching the -- that's not how, to me, that's not how a barn looks like. I mean, you got to be honest with us. You honest, you up front, and we can work. But I don't think -- when I look at the application, and I -- I cannot support it.

I understand what the community is saying, but I volunteered for this Committee. I can only look at only one view. I listed down everybody when they -- we had, like, twenty speakers. To me, nobody addressed it. Only John addressed the overnight accommodations. Everyone was talking about culture. And I buy that. I can accept that. I can accept the youths, the kupuna, the hula. I can accept that. But I cannot accept overnight accommodations.

Mr. Sinenci: Some of the other discussions was there is already accommodations on site with the main dwelling. I believe we looked at four different bedrooms that seated maybe ten, twelve comfortably in there. There was also the issue of supporting our community's legal transient rentals that are in the community. Mr. Blumer-Buell also mentioned that the

Hotel Hana Maui had proposed to provide additional accommodation and accommodations package to Ala Kukui, as well.

So, again, we're trying to make this work. We're trying to address all of this with the community. Everybody has a say in it. We're not just going to with one or two other people's -- you know, we're trying into consideration everybody's viewpoint, here. We are still a community who can talk with each other, right? So any other motions?

Mr. Sinenci: You had no. 8 that you wanted to add.

Ms. Cosma: I wanted to point out no. 8 again. But did we already make a motion on that? No?

Mr. Sinenci: No. You can go ahead.

Ms. Cosma: Okay, should I read no. 8, then?

Mr. Sinenci: Sure.

Ms. Cosma: Okay, no. 8, from the Planning Department's recommendation, was: "That the applicant shall maintain an advisory committee comprised of Hana residents who shall provide input on the types of programs and operations occurring under the Special Use Permit, and that the types of programs and operations shall be a balanced list of community, cultural, and spiritual events, subject to the final concurrence by the Planning Department." So, with that being said, I wanted to just add that maybe, you know, the community's expressed concerns: "support for senior yoga, senior gardening, youth programs, canoe gardens, agricultural walks, and, importantly, employment for Hana residents." If that could be incorporated in item no. 8.

Ms. Lono: I'll second for discussion.

Mr. Giroux: Can we hold off. I don't think we fully disposed of item 15, so --

Ms. Lono: We did. It died.

Mr. Giroux: Well we had discussion. We know what's going to happen, but on the record, we have to make the vote, and, I mean, I know it's going to be moot, but we just have to clean the table as we go along. We'll just call for the vote on item 15.

Mr. Sinenci: Okay, for going back to motion number fifteen, that we include "overnight accommodations specifically for retreat use only and not short-term rental use."

There being no further discussion, the motion was put to a vote.

It has been moved by Ms. Lono, seconded by Ms. Cosma, then

VOTED: to recommend adding item no. 15: "Overnight accommodations shall be specifically related to retreat use and TVR or B&B, bed and breakfast, accommodations."

(Assenting: L. Cosma; D. Lono)

(Dissenting: E. Cashman)

(Absent/Excused: K. Kaina; T. Kahula)

Mr. Sinenci: Okay, the motion has been -- died. Okay, and then a motion has been made and seconded on item no. 8 to include, the County's recommendation no. 8, "That the applicant shall maintain an advisory committee comprised of Hana residents who shall provide input on the types of programs and operations," "to continue senior yoga, senior gardening, youth programs, canoe gardens, agricultural walks, and, added employment for Hana residents under the Special Use Permit." Is that correct? All in favor? Discussion? Oh, did I miss the food -- did I miss their employment.

Ms. Cosma: "Local economy," I mean, "employment for local residents." And then I was going to finish up with "gardens, agriculture, food preparation, food catering, housecleaning, other community and cultural programs, as well as writing classes, and other spiritual pursuits." You know, all of that noted in this condition. And that's what I --

Mr. Sinenci: Okay.

Ms. Lono: I'm not really clear on the motion. I think I understand the intent. So I'll, I'll say "Aye."

There being no further discussion, the motion was put to a vote.

It has been moved by Ms. Cosma, seconded by Ms. Lono, then unanimously

VOTED: to amend item no. 8 to include the following language: ". . . to continue senior yoga, senior gardening, youth programs, canoe gardens, agricultural walks, and, added employment for Hana residents within the gardens, agriculture, food preparation, food catering, housecleaning, other community and cultural programs, as well as writing classes, and other spiritual pursuits . . ."

Mr. Sinenci: Okay. It's been a unanimous vote on no. 8, County condition, "That the advisory committee be comprised of Hāna residents," and to include "programs and operations of senior yoga, senior gardening, youth programs, canoe gardens, agricultural walks, employment for local residents within the gardens, agriculture, food preparation, food catering, housecleaning, and all other community and cultural programs, in addition to writing classes and other spiritual pursuits . . ."

The motion has been made and approved. Any other motions? If there are no other motions, we'd like to go ahead and return to the main motion as amended. Question?

Mr. Cashman: You know how it stands now, do they have the permit to operate a overnight accommodations?

Mr. Fasi: There's no permit.

Mr. Cashman: So as this -- as the Special Use goes forward now, where do the overnight accommodations stand? I mean, does it still go forward or it --

Mr. Fasi: If you approve this Special Use Permit under the conditions that you have so far specified, overnight accommodations will be allowed, unless you specifically --

Mr. Sinenci: Take 'em out.

Mr. Fasi: Deny it. But as it stands, overnight accommodations are allowed.

Mr. Cashman: I -- one other -- I'm kind of confused, yeah. How would I allow it to go forward without overnight? Because if I make the motion for no overnight accommodations, I'm sure it's not going to pass.

Mr. Fasi: You would have to make a motion for no overnight accommodations, and whether it passes or not is up to the Advisory Committee.

Mr. Cashman: Because if it doesn't pass, I am going to have to reject the whole thing. That's where you're putting me.

Mr. Fasi: I don't quite understand your question.

Mr. Cashman: You know, if I make the motion for no overnight accommodations, and it doesn't pass, when the main motion comes back on the table, for me to correct that, I would have to reject the main motion.

Mr. Fasi: That's correct.

Mr. Cashman: I make the motion that there be no overnight accommodations allowed.

Mr. Sinenci: Is there a second?

Ms. Lono: I'm going to second it for discussion purposes.

Mr. Sinenci: Discussion?

Ms. Lono: It's a sticky-wicket. We got that. And I just, I don't have a problem with the overnight accommodations associated with the retreat. But having it be a vacation rental B&B, short-term rental of any sort, I cannot support that. But the concept of the retreats and the benefit to the community and to -- and beyond, I think is, you know, kind of speaks for itself—all of the experiences that have already been had there by our own community and others from basically around the world. You know, I think that if we can contain it and feel assured that the overnight accommodations would strictly be for the retreat, I can feel comfortable with that. But I really hate to restrict it to the point where no overnight accommodations would be allowed, and then, you know, there could be retreats, but there's no overnight stay, so it would basically kind of put a kibosh on having retreats, 'cause you basically don't have one-day retreats that are really effective. I understand your point, Mr. Cashman, and I have concern about it, but to the extent of this application and what I've seen, I feel like I could support the application the way that it stands, with the condition that no TVR, B&B, or short-term rentals be allowed on the property.

Mr. Sinenci: This is just strictly for the haies, correct, that would house four bedrooms, I believe, this one?

Mr. Fasi: That is correct. Four separate structures.

Mr. Sinenci: This is not to include the Hale Pule and the outside pavilion, but just the overnight sleeping quarters, yeah?

Ms. Lono: ...(inaudible)...

Mr. Sinenci: Right and the Certificate of Occupancy, as well, correct? They would have to go -- no. 7, they would need to obtain the certificate of occupancy.

Ms. Lono: So there's a motion on the floor that ...(inaudible)...

Mr. Sinenci: Yeah. I mean, that's just to consider. Like I said, there's already on-site accommodations with the main dwelling and the one below. There's other legal TVRs around town. There's the hotel. There's -- if -- I know people did mention about just being

there, up on the property, and not leaving to go sleep somewhere else. I've gone to many retreats where I had to sleep on the floor on cots. So --

Mr. Cashman: Another comment, you know. Hana community, we always have revivals, retreats, hula retreats, religious retreats. In fact, my neighbors are going to have one pretty soon. It's a hula -- that's what they call it, "a retreat." They're not asking to build any more. We have this all the time. And we can do it without -- in fact, the letter here we had from the Hotel Hana Maui is they're willing to provide blocks of room when they have their retreat. I don't think it's necessary.

Ms. Lono: I'd like to call for a vote.

Mr. Cosma: What I wanted to say is, it's very complicated, because right now there are existing space for people to stay if they have to stay at the retreat. And how -- I see it working because that's what I've been hearing the community supporting—what's already existing, in other words, and I think that that's something Mr. Chair was trying to bring up. I mean, what's already there on the property, and I think Mr. Cashman's concern is if we allow more structures -- or that's what he's probably against, because of the overnight, I'm not sure. But it's very complicated.

Ms. Lono: I think we should just vote on the motion that's on the floor and move on. I call for the question.

Mr. Sinenci: So a motion has been on. Would this be no. 15? The recommendation --

Ms. Lono: The one that no overnight accommodations be allowed ...(inaudible)...

Mr. Sinenci: Okay, a motion has been made and seconded that no accommodations be allowed on the property, overnight accommodation, new overnight accommodations. Just, oh, so is this to include what's on there?

Mr. Cashman: I didn't say "new." I said "no overnight accommodations shall we allowed." I said "permitted."

Mr. Sinenci: To include the main house and the barn -- the barn?

Mr. Cashman: Yes.

There being no further discussion, the motion was put to a vote.

It has been moved by Mr. Cashman, seconded by Ms. Lono, then

VOTED: that no overnight accommodations be permitted.

(Assenting: E. Cashman)

(Dissenting: L. Cosma; D. Lono)

(Absent/Excused: K. Kaina; T. Kahula)

Mr. Sinenci: So that motion died. Are there any other motions?

Ms. Lono: Unless there are other, anyone has any other things to add or adjust in the Planning Department's conclusions of law and recommendations and project-specific conditions, I would like to make a motion that we adopt this document as amended.

Ms. Cosma: Second that motion.

Mr. Giroux: That motion's already been.

Mr. Sinenci: ...(inaudible)...

Ms. Lono: Okay, well, I call for the question on the main motion.

Mr. Sinenci: Okay, is there a second on the main motion to --

It has been moved by Ms. Lono, seconded by Ms. Cosma, then

VOTED: to adopt the recommendations as submitted by the Planning Department.

(Assenting: L. Cosma; D. Lono)

(Dissenting: E. Cashman)

(Absent/Excused: K. Kaina; T. Kahula)

Mr. Sinenci: So that motion died. No action on that motion. The main motion.

Mr. Giroux: The result is that, with a -- you have bare quorum here, so without unanimous consent, there's no recommendation actually being sent to the Planning Commission.

Ms. Lono: Well, actually could we take the ones that we, like the ones that we agree on, like item number one, which passed with the changes, and adopt that. We can't -- we don't have to adopt this entire document. We can do some specific recommendations of our

own, and we can say that we would like to recommend no. 1, read it, bla-bla-bla-bla-bla, and put our change in there. We could do that, is that correct?

Mr. Sinenci: Yes

Mr. Giroux: Okay, so as far as adopting the recommendation of the Department, there was no action.

Mr. Lono: Right.

Mr. Giroux: What we prefer, and I'll couch it in that, is that, basically, when a body is making a recommendation, that it's a recommendation of the body to another body. So without unanimous consent today, that's not going to happen.

Mr. Lono: Right.

Mr. Giroux: Any comments made at this meeting, this transcript, is basically comments from each individual, just as public testimony would be testimony from each individual. There's no consensus right now. There's no majority vote, actually, coming out of the Hana Advisory Commission at this point.

Mr. Lono: But we do have consensus on some of these conditions. So you're telling me that we have to adopt this entire thing with our amendments, or we can't make any recommendations at all? Is that correct?

Mr. Giroux: Well, it's part of the record. I mean, you have a record that it happened. But it's not, just because members voted to make amendments to the document, the failure to adopt the document as a whole doesn't mean that everybody is in favor of the project, per se. I think that what you're looking at is a thumbs-up, thumbs-down, and, basically in your deliberation, you were looking at if it were a thumbs-up, these are the conditions you would have preferred. And that's about the weight and effect of the action today.

Ms. Lono: Okay. We're done. Move on to the next item on the agenda?

C. DIRECTOR'S REPORT

- 1. Next Meeting date - March 15, 2011, Public hearing on the Uakea Bridge SMA application by the State Department of Transportation**
- 2. Scheduling of other Hana Region Applications**

Mr. Sinenci: So, moving on to the next thing on our agenda, we have Clayton.

Mr. Yoshida: I guess, Mr. Chair, members of the Commission. I was wondering if the board could move it to the Planning Commission without a recommendation, as I guess you can't reach a -- enough votes to make a recommendation. And our next meeting is scheduled for March 15, but Commissioner Sinenci cannot be here. So, and effectively, you only have five active members on the board, so we're in the same similar situation, unless, you know, votes change. But we do have the public testimony. We have your individual statements. And, if we could move it forward that way.

Ms. Lono: I think, with the situation the way it is, I don't really see that we have a choice. I mean, I'd hate to defer this again and hold it up any longer. We have done what we've done at this meeting. Our comments are on -- are of record. The Planning Commission can take those into consideration. And we just move on. And it will go to the Planning Commission without a clear recommendation from the Hana Advisory Committee.

Mr. Sinenci: There is one from the County.

Mr. Fasi: Could the Department get some clarification on the recommendations? So you're accepting the Department's recommendation unchanged? Or you are making recommendations on slight modifications that you've recommended?

Ms. Lono: We cannot -- we do not have enough votes to accept the Department's recommendations as they are, or with changes. Either way, we have no, we do not have enough votes. So we do not have a recommendation, basically, is what it sounds like to me.

Mr. Fasi: Thank you.

Mr. Sinenci: Clayton, is there anything else? Well, you still have Chairman Kaina for March 15th

Mr. Yoshida: Well, that's very important, because we know that the Vice-Chair, Shane Sinenci, cannot be here.

Mr. Sinenci: What day is March 15th

Mr. Yoshida: It's a Tuesday, four weeks from today.

Mr. Sinenci: I think I gotta re-check, but I, yeah, it's during the spring break.

Ms. Cosma: I know there's other applicants that put in their application to sit on this Advisory so if you guys -- should look into that.

Mr. Yoshida: Yeah, again, they have to go through the confirmation procedure with the Council before they can take the seat, which hasn't gone before the Council yet. So it's very important. You're going to be dealing with the other three members. We get four members here.

C. DIRECTOR'S REPORT

- 1. Next Meeting date - March 15, 2011, Public hearing on the Uakea Bridge SMA application by the State Department of Transportation**
- 2. Scheduling of other Hana Region Applications**

We will be dealing with the Department of Transportation SMA application for what they call the "Uakea Bridge Improvement," although other people may disagree as to what the name of the bridge is.

And I guess this will be board member Sinenci's last meeting or not, but if it is, you know, we'd like to thank you for his service --

Mr. Sinenci: Thank you.

Mr. Yoshida: On the record, to the community.

Mr. Sinenci: Thank you, thank you, for having me.

Mr. Yoshida: And with that, that's all we have to report.

Ms. Lono: We do have a next meeting, correct, for March 15? Is that correct?

Mr. Yoshida: Yes.

Ms. Lono: Okay. Mahalo.

Mr. Sinenci: Meeting is adjourned. Thank you, Suzie.

D. ADJOURNMENT

There being no further business brought before the Committee, the meeting was adjourned at 6:16 p.m.

Respectfully submitted by,

SUZETTE L. ESMERALDA
Secretary to Boards and Commissions

RECORD OF ATTENDANCE

Present

Shane Sinenci, Vice-Chair
Ed Cashman
Lehua Cosma
Dawn Lono

Absent

Tina-Marie Kahula
Kawika Kaina, Chair

Others

Clayton Yoshida, Planning Program
Paul Fasi, Staff Planner
James Giroux, Deputy Corporation Counsel