

**MAUI PLANNING COMMISSION  
REGULAR MINUTES  
MARCH 25, 2013**

**A. CALL TO ORDER**

The regular meeting of the Maui Planning Commission was called to order by Chairperson Kent Hiranaga at approximately 9:03 a.m., Monday, March 25, 2013, Planning Conference Room, First Floor, Kalana Pakui Building, 250 South High Street, Wailuku, Maui.

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

Chair Hiranaga: Good morning. I'd like to call the Maui Planning Commission to order. Today is March 25, 2013. First agenda item is...actually, let me open the floor to public testimony. Is there anyone here that wishes to provide public testimony regarding any agenda item, please come forward? Seeing none, public testimony is now closed. Moving onto Agenda Item B. Director?

Mr. Spence: Good morning, Commissioners.

Commission Members: Good morning.

Mr. Spence: What we'd like to do first in this meeting read the resolutions fo our outgoing Members, Donna Domingo and Chair, Kent Hiranaga. I'll just say that it has been a pleasure working with the both of you, and look forward to seeing you in other capacities in the future.

**B. RESOLUTIONS THANKING OUTGOING MEMBERS - Donna Domingo and Kent Hiranaga**

Mr. Spence: So first, I'll start with Ms. Domingo. This is a resolution of the Maui Planning Commission.

**WHEREAS**, The Maui County Planning Commission was established in 1958; and

**WHEREAS**, since April 2008, Donna Domingo has served as a member of the Maui Planning Commission; and

**WHEREAS**, Donna Domingo, has served the Maui Planning Commission with dedication and provided valuable guidance in serving the needs of the people of Maui County; and

**WHEREAS**, Donna Domingo's term of office will expire on March 31, 2013, now therefore

**BE IT RESOLVED**, by the Maui Planning Commission that it does hereby express its deepest gratitude and appreciation to Donna Domingo for her service during the past five years and does hereby extend its best wishes in her future endeavors; and

**BE IT FURTHER RESOLVED**, that copies of this resolution be transmitted to the Honorable Alan M. Arakawa, Mayor of the County of Maui and the Honorable Gladys Baisa, Chairperson of the Maui County Council.

Chair Hiranaga: Donna, would you like to say a few words? Few.

Ms. Domingo: Thank you. You know, this has been an experience the last five years. And I take it to heart that it took more courage just to even apply for this position 'cause it kinda, it was five years, and we plan...I had made a commitment to be here in all the meetings because it was important for the community and the process. I wanna say for the Planners, you guys do a great job. You guys have improved a lot, a lot in how you guys do your presentation. So I appreciate that. As well for Will, and his guidance in running the Department. I, thank you. Carolyn, always making sure our lunch was there, and making sure we had quorum. So I take that, you know, as kinda bittersweet because where every two weeks I could plan to down dress because, you know, like in my position, so it was good to just get away from my job and be able to be around you folks. I commend you guys for taking...for taking me and absorbing my mana`o. So I wish you guys well. So, keep up the good work. I have to say that, Wayne, now I have one of yours. You know, this is your second term, I don't know why, you decided to and so dedicated, you know, but you guided us through when I came on board. Yes, when this day comes, and you guys are gonna be facing that day, you guys are gonna be just as happy as I that life do go on. Thank you.

Mr. Spence: I would also note there's a...we have a letter from the Office of Mayor congratulating Donna her service and expressing his belief in the importance of community participation and the process and there's also a certificate from the Mayor.

Ms. Domingo: Does it come with a frame?

Mr. Spence: And Commissioners, we also have an outgoing Chairperson, and I would like to read his...with your permission, Mr. Chairman?

Chair Hiranaga: Proceed.

Mr. Spence: Not too many opportunities to get his permission to speak. This is also a resolution of the Maui Planning Commission.

**WHEREAS**, The Maui County Planning Commission was established in 1958; and

**WHEREAS**, since February 2007, Kent Hiranaga has served as a member of the Maui Planning Commission; and has served as Chairperson of the Maui Planning Commission from April 2011 to March 2013; and

**WHEREAS**, Kent Hiranaga, has served the Maui Planning Commission with dedication and provided valuable guidance in serving the needs of the people of Maui County; and

**WHEREAS**, Kent Hiranaga's term of office will expire on March 31, 2013, now therefore

**BE IT RESOLVED**, by the Maui Planning Commission that it does hereby express its deepest gratitude and appreciation to Kent Hiranaga for his service during the past six years and one month and does hereby extend its best wishes in his future endeavors; and

**BE IT FURTHER RESOLVED**, that copies of this resolution be transmitted to the Honorable Alan M. Arakawa, Mayor of the County of Maui and the Honorable Gladys Baisa, Chairperson of the Maui County Council.

Chair Hiranaga: Thank you very much. Yes, I'd like to say a few words. First of all, I'd like to thank a few people. I'd like to thank the Mayor for nominating me, and the Council for confirming me. I'd like to thank the Director, the Deputy Director and the entire Planning Department Staff for their professional support, especially Carolyn. I'd like to thank Corporation Counsel and the Deputy Director of Public Works for their expertise. I'd also like to thank Akaku for sharing these meetings with the people of Maui. And last but not least, I'd like to thank my fellow Commissioners, past and present for their support and participation. It has been a rewarding six years. God, six years. I think it was well-spent. Anyway, I've learned a lot and I think I've met a lot of interesting people and that's what I take away from this particular experience was the people that I met that normally you would not meet in my normal course of activities I guess I could put it. So in closing, I just would like to say to the people of Maui that civic participation is a great opportunity and I urge all of you to please become involved with whatever boards and commissions that may become available, and thank you very much.

Chair Hiranaga: Okay, moving on. I'll relax the rules of order and allow Mr. Lay to speak.

Mr. Lay: At this time, I would just like to thank Donna and Kent for the professionalism that they brought to this Commission. Their views and their meticulous attitude to make sure that everything done in a professional manner, thoroughly and respectfully for the people out there too, I've learned a lot from both of you. And I appreciate what you've taught me, and I thank you.

Chair Hiranaga: Thank you, Ivan. Commissioner Wakida?

Ms. Wakida: And I, too, would like to echo that and thank Donna for being here and especially have one other woman on the board has been supportive. And Kent, thank you for keeping our meetings in such firm control. I, at first, was a little of wary of that, and then I saw another Commission, not our Commission, but another organization in this building meeting and how loose their rules were and how, our meetings give our testifiers more respect, and I'm appreciative of your efforts to do that.

Chair Hiranaga: Thank you very much. Okay, moving on to Agenda Item C-1. Director?

Mr. Spence: Okay, Commissioners, we have one public hearing item for you this morning. This is Ms. G. Kim Hembree and Mr. John M. Swanson requesting a Bed and Breakfast Permit for the Halama Dolphin House B&B, and our Staff Planner this morning is Ms. Gina Flammer.

**C. PUBLIC HEARING** (Action to be taken after public hearing)

1. **MS. G. KIM HEMBREE and MR. JOHN M. SWANSON requesting a Bed and Breakfast Permit for the Halama Dolphin House B&B, a two (2) bedroom Bed and Breakfast (B&B) Home located at 1676 Halama Street, TMK: 3-9-011: 009, Kihei, Island of Maui. (BBKM T2012/0004) (G. Flammer)**

**Planning Commission review is required because there is another permitted bed and breakfast operation located within 500 feet of the subject property.**

Ms. Gina Flammer: Good morning, Commission. This particular bed and breakfast is located in Kihei. It's in the County R-3 District, and in the State Urban District. The reason you have the approval authority is because there is another one approved within 500 feet. In doing some of my research for next week's orientation, I realized this Commission has only seen five, no, six B&B applications including this one. What you normally see are the State Land Use. You saw, four in 2009. Those were all within 500 feet, and then you saw one for a variance. Actually saw three within 500 feet. One, because of neighbor protest that was deferred, and you just saw one a couple months ago for a variance. So you don't get to see these very, very much. So you'll notice that the regulations on Page 3 are different than what you normally see for the State Land Use.

So like I normally do, I'm just gonna show you a slide presentation. Mostly to just give you a feel for the neighborhood. Okay, so this is a long Halama Street off of Welakahao. If you're familiar with Kalama Park, Kukui Mall, it's right in that area. The old Marco's is right up the road from there. Lipoa Street, St. Theresa's Church is right around that area. This is black and white in your reports, but this shows you an aerial view from what it looks like. If you look down to the left with the big tree, that's where the existing B&B is. I think that was approved in January of this year. You can also see, this is...serves a site plan. The bed and breakfast is for a two-bedroom ohana. So you can see it's located in the back of the property right there. Some of the photos were provided by the applicant. I'll you guys figure out which ones are mine as we go through. This is the front of it right there. So you can see, they put a gate or a fence right out there. This is as you come into the entrance of it. That shows you a little bit more how they kind of block it off. When you come on in, here's an outdoor patio. There is a wall to the right. And behind it is if you go directly that direction is landscaping and then there's a beach easement that's on the other side of that. This shows a little more about the wall. That's internally in between the main house and the ohana right here. I'll show you the inside here. The applicant is an interior decorator. I would have been curious to see what it looked like before they redid it. Here's the entrance and there is a gate. Is there a gate now. Okay, there will be a gate right here installed soon. You can see the parking right there. There's another stall up a little bit further. This is a view to the south, Kalama Park if you continue walking this direction you'll see it. If you look to the north, that's Halama Street that continues on.

I wanted go over just Fire Code or fire basics. We talked a little about this the last time we saw a bed and breakfast. So how the County looks at it, is we start all the way with County Code building standards and we require that all B&Bs and short-term rentals that come in meet the County Code for the year in which it was built. The applicant has to prove that to us. And that's all based on preventing fire. One of the most important things is egress windows. It's based on preventing fires as well as getting occupants out and getting firemen in. So it goes anywhere from egress windows where they have to be a certain size so that people can get out, they have to be a certain height so that you can actually get out, and so that firemen can get in with something on their back. Proper electric work. When you're looking at what causes fires, faulty electric work is one of the most common causes. So they make sure that everything is done property and to Code standards. And then there's many, many other Code requirements. Water heaters have be on noncombustible

floors. They have to have certain ignition things going on on the top. Lots of other examples of small Code requirements. Also the building permits are routed to the Fire Department to be reviewed specifically under just the Fire Code.

Next the Fire Department gave the Planning Department standard regular conditions that they wanna see on all of these. One of them includes the fire extinguish. You'll notice it's a shorter, fatter one. It's a larger size than you might see sold at Costco. That's more for just preventing fire. Usually they're right near the kitchen. That one's in the kitchen. That's a common place where fires can start. They also require a fire escape plan be put into the sleeping rooms. And then real importantly they make sure that the smoke detectors are working. So we make sure that we have pictures when it comes in for the application. We test them when we go out and the applicant is also required to keep a monthly log that turn in at renewal. So then if you do have a fire, where's the fire hydrant? Well, in this particular case, probably the best case you guys are gonna see, it's right in front of the unit. But fire hydrants don't work by themselves, so where's the fire station? Again, probably perfect case scenario, you're gonna see in this case. Fire station is just a couple of blocks away.

So why are you seeing it today? And you're gonna see more and more of these because of the provision that says when there's more than one within 500 feet, the Planning Commission is the reviewing authority. So it's your job then to take a look at the larger picture.

So the larger picture, the cap in Kihei is 100. Right now we have 18. Interestingly half of them are in Maui Meadows. Interestingly also I realized from doing the research for this most of them were permitted in 2009. Some of that is because we had old B&Bs, BB1s, BB2s, 3s that were converted, but also there was a lot of publicity after the bill. So people did go in for permits at that time. With our outreach with the short-term rental, we're seeing more B&B applications come in. So you might start seeing them more. So we've only had four approved in Kihei since 2009. Two of which were just approved a couple months ago.

So what does it look like? This is the entire community plan region. So you can see the Maui Meadows cluster up there. The rest of them are kinda disbursed Central Kihei and then we've got a couple ...(inaudible)... in Southern Kihei. Those ...(inaudible)...right there, there's the existing bed and breakfast, it's just a couple lots down. It's called Maui Oceanfront or the Garden Cottage. It's a unique, it's a hybrid. It's called an either or. They could have done the five bedrooms with a short-term rental or even with a B&B, but they don't wanna rent out their personal residence except maybe at Christmas so they came in for the either or. And I just wanted to show you some pictures. That's what it looks like. There's the main house and there's the cottage.

Then we have one a little bit further up the street. That's permitted for two bedrooms in the main house and one bedroom in the cottage. And then if you go even further up the street, this is the one that you just saw that had the variance. And there it is, it's six bedrooms. I think you have five in the main house and one in the cottage, maybe two in the cottage. So I did hand out some letters that came in recently. I think the last one which made it into your staff report, but I know the first two didn't so you can read those. It shows you where they are on the 500-foot map.

I also have the two applicants here if you have any questions. I think I put it in the report but they do own other rental properties. I think they also own a couple condos. So I included some reviews

on their management too for you to see. So if you have any questions, either one of them can answer. Thank you.

Chair Hiranaga: Okay, at this time I'll open the public hearing.

**a) Public Hearing**

Chair Hiranaga: Is there anyone here that wishes to provide testimony regarding this agenda item, please come forward? Seeing none, the public hearing is now closed. I'll open the floor to questions from Commissioners? Commissioner Wakida.

Ms. Wakida: I have a question for Gina. In...it's a general question. In applications of this sort, are the neighbors within 500 feet notified?

Ms. Flammer: They're notified twice. They're notified in the beginning with a letter that's sent. It's called a Notice of Filing. The Department receives the application. We make sure it's complete. And then we sign this Notice of Filing. The Notice of Filing goes to everybody, all owners within 500 feet with a site plan and a location map. If it goes to public hearing, then they get notified again through the public hearing process.

Ms. Wakida: But are they aware of the rule that says...when people are notified of the rule that says that another B&B is not automatically allowed with 500 feet?

Ms. Flammer: No, that is not in there, but the actual provision is that you are the approving authority in those cases.

Ms. Wakida: Because I just have a concern about how the community knows what the rules are. So, it seems to me that they should know that the rule is that there's no other B&B within 500 feet unless they come in for a special application. It's not just your regular first time application.

Ms. Flammer: Let me just take a quick look and see what the Notice of Public Hearing...No, it just mentions that it's scheduled for public hearing. That's a good comment.

Chair Hiranaga: Director?

Mr. Spence: So what is the initial notice?

Ms. Flammer: It's a Notice of Filing which says, let's the neighbors know that the applicant has filed a permit with the Department. They then have 45 days in which to comment and that comment period could cause another trigger for you guys to review which is the protest figure. So if we get 30 percent of neighbors, then you review the application. There's also a sign that goes up which is quite large. So renters are notified that way.

Mr. Spence: And there's the Planning Department's phone number on that if anyone within 500 feet is concerned they can call the Planning Department and we will give them whatever information that they need. That information is also online and we would direct them there. They can email us and

we would email them back. There's a lot of opportunity. And the neighbors within 500 feet have also been notified that, you know, they were notified of the other bed and breakfasts. So they're really aware of what's going on in the neighborhood.

Ms. Flammer: This particular neighborhood actually had a community meeting about vacation rentals so they're very aware of what's going on. And I believe the applicant sent out a notice also and invited everybody...was it within 500 feet? Everybody within 500 feet for an open house, to come in and see the property.

Ms. Wakida: One more.

Chair Hiranaga: Commissioner Wakida?

Ms. Wakida: Thank you. That I understand. What I don't think is clear, maybe the neighborhoods is that there is this rule that you only can have one B&B in a 500-foot radius and if you apply for a second one it's an exception.

Ms. Flammer: Actually the law reads that the 500...one within 500 feet is a trigger to go to the Planning Commission. So I'm gonna put it up on here so that you can see. This is probably one of the most common reasons I get phone calls. It's a trigger. It's not listed in the restrictions and criteria. It's not in the area where the cap is. It just shifts the approval authority from the Department to the Planning Commission. Let me show you where the Code is. It would be interesting though in the notice to put why it was going before the Commission though. I completely understand your point.

Ms. Wakida: Okay. Yes, and I think that, that ...(inaudible)...

Ms. Flammer: Can you read it with the red? So it's actually under the section that's under Permit Processing. The Council did talk about keeping one within 500 feet. I do remember this body discussing it, and there was some discussion. I though the third within a neighborhood in Haiku to this board in 2009, and there was a lot of...maybe it was 2010 when it was approved, but there was a lot of discussion about that. And there were comments such as maybe there's some neighborhoods where you might want more, and some where you don't want any and that they wanted the discretion to be with board to take a look at that?

Chair Hiranaga: Commissioner Hedani?

Mr. Hedani: Gina, when I was reviewing the application, you know, I saw a couple of problems with it. The first thing is that it's in multiple people's names, two people instead of one person. Where a B&B Permit is supposed to be offered to an individual. So we're making an exception to the rule in this case?

Ms. Flammer: Oh, no. We frequently have more than one person. And recommend to people that if you're married couple, in this case, it's mother and son, that you have both on the application. They're not transferrable. So heaven forbid something were to happen to one, it would not automatically pass on to the other person. And then also in this case—

Mr. Hedani: So my reading of the law is incorrect?

Ms. Flammer: We have this interesting thing where we have two applicants but they're referred to as an applicant. We did just look at this with the Division with our reports. Applicant can mean more than one person.

Mr. Hedani: Okay, my concern with that is that I thought the law was such that it had to be issued to the name of an individual so that if there were complaints, you would know who to complain to as to opposed to people going, I'm not in charge, he's in charge. No, I'm not in charge, he's in charge and nobody knows who's in charge.

Ms. Flammer: Oh, that's a good point. If the law says it needs to be issued in the name of a natural person or persons?

Mr. Hedani: Singular, person, right?

Ms. Flammer: No, it can be more than one. We just don't want it held in a name of a corporation or an LLC. We do require that the manager be listed out. We have a manager...we have a part of the application that they have to tell us the contact phone number and who's in charge. In this case, it's Mr. Swanson is the person that's gonna be handling the day to day. Mrs. Hembree, however, is responsible so that should a violation occur, she would also be part of that violation.

Chair Hiranaga: Perhaps, Wayne, you wanna direct your legal question to the legal counsel?

Mr. Hedani: Jim, do you have any comments on it?

Mr. Giroux: No. Just kidding. Gina's correct. You know, when we were going through this whole process, I think from the enforcement side, the real concern was we didn't want to be a position where we couldn't give service. And when you give the...when the person's name is on the application whether it's one or two, if we can get one of those people served then we can start the process for enforcement. So the idea that we're chasing this nebulous Chinese corporation around, you know, the back side of Himalayas, you know, we're trying to avoid that, and that's that's where you know, we have offshore owners who are not accepting our Certificate of Service, those types of things. So that's, that's really where we're...the closest we could get was the wording, "a natural person or persons," and to basically make it clear that we, we're trying to avoid the corporate, you know, veil issues. So it's more of enforcement.

Mr. Hedani: So the law reads, "natural person or persons."

Mr. Giroux: I'd have to look at that again, but again, I don't think we were so much going for plurality as we were going for the natural. Super human corporate entity--

Mr. Hedani: As opposed to unnatural person.

Ms. Flammer: Sorry, to interrupt, you're also only allowed to hold one permit. If a couple wants to put both names on there, that's the only permit they can hold.



Chair Hiranaga: Commissioner Hedani?

Mr. Hedani: The second question that I had related to very beautiful picture of the outdoor lighting on this facility which to me does not comply with the Outdoor Lighting Ordinance. Does it comply?

Ms. Flammer: Is it up lighting?

Mr. Hedani: From my perspective that's a violation of the Outdoor Lighting Code. I notice we deleted it as a standard condition on all of our permits because it's assumed that everybody complies with the law. But in this particular case it appears that it's an oversight not only by the applicant, but by the Department for recommending approval under this condition.

Ms. Flammer: The Title 16, I think is that the Lighting Code? Yeah, I have to take a look at that. Maybe you wanna craft a condition or we can put something to address it so it doesn't just get lost?

Mr. Hedani: The standard condition used to read that the applicant shall comply with the Outdoor Lighting Ordinance of the County of Maui.

Ms. Flammer: Yeah, we could add something like that. I don't have it right in front of me so it's hard to say exactly in terms of compliance but that would cover...

Mr. Hedani: And although it's very attractive in this case, even hotels I guess would like to have attractive landscape lighting like this, but are prevented from doing that because of concerns over protection of the astronomy on top of Haleakala.

Ms. Flammer: This is also oceanfront.

Mr. Hedani: Well, if oceanfront not so much, but it's facing the street in this particular shot, but it's still a violation.

Ms. Flammer: Yeah, okay. That's a good catch.

Ms. Dagdag-Andaya: Just for reference, it's Chapter 20.35, Outdoor Lighting.

Ms. Flammer: Oh, thank you.

Chair Hiranaga: Deputy Director of Public Works, do you know if that ordinance applies to residential properties or is it...

Ms. Dagdag-Andaya: I believe it does. We had a, we had a concern brought to our attention maybe a few weeks ago regarding up lighting just to illuminate trees, and that, that was a concern for our department. So you might wanna just double check with our staff.

Chair Hiranaga: If it applies to residential, because it may only apply to commercial.

Ms. Dagdag-Andaya: Yeah...(inaudible)...

Ms. Flammer: I think if we were add a condition like was just mentioned, that would give us the flexibility to take a look and then apply it if it needed.

Chair Hiranaga: Any other questions, Commissioners? Commissioner Ball?

Mr. Ball: I notice that this is next to a public access, beach access. I remember last year maybe 18 months ago there was something about that access and the adjoining neighbor had to maintain that access or something like that. May have been a proposal by DLNR or something to that effect. Anyway, I'm just curious on what that access looks like and...

Ms. Flammer: There you go. I was curious too. I almost went out there actually last week just to take another look, but you can see from the picture it is cleared. There is an access north of here that's overplanted and watered extensively. There's been discussions with the Mayor's Office about that one. I'm not...wonder if that's what you're thinking of?

Mr. Ball: Yeah, and I remember it wasn't specific to a property, just to the accesses along that kind of southern coast and it probably was that because it was overgrowing into the access. So people were like well, it's growing from there over, so who's supposed to cut it back and there was some discussion of that and I don't where that ended up.

Ms. Flammer: The Parks Department is in charge of maintaining the accesses and doing the landscaping. However, in the case we're talking about there may have been some different instructions due to all the fertilizing and watering that was going on. This one I wanted to make sure it was clear and easy for the public to get in and out.

Mr. Ball: ...(inaudible)...

Chair Hiranaga: Please speak into the microphone.

Mr. Ball: Thank you.

Chair Hiranaga: Any more questions, Commissioners? Commissioner Hedani?

Mr. Hedani: During the presentation I heard that there were five B&Bs in the area, is it one B&B within 500 feet or are there more than one B&B within 500 feet?

Ms. Flammer: There's five B&Bs that you, this board since the B&B Ordinance passed that you've reviewed. There are...well, let's look at the map. That's the original map, but I think if we go a little closer. I tried to just kinda see just what's in the area. So that's what we have right there. So in the Department's recommendation we do look at the cap total and how close we are to the cap. The B&B doesn't give any specific evaluation criteria. I'm hoping when we take it back we could add some things like we did with the short-term rental home bill. So you could say there's three probably within a couple block, well, this would be the third within a couple blocks. The Aloha Aku up at the top is accessed in a...it's a, in a pretty separate area.

Mr. Hedani: So there's only one within 500 feet?

Ms. Flammer: Yes, uh huh. That's this one. The applicant is requesting to answer the question.

Chair Hiranaga: If she wishes to answer the question. We'll hold that for later. Commissioner Wakida?

Ms. Wakida: I do have a couple of questions for the applicant based on a letter that we got this morning.

Mr. John Swanson: Hello, I'm John Swanson, one of the owners of the property and I'll be the acting manager.

Ms. Wakida: Has this property, have you been having existing short-term rentals on it?

Mr. Swanson: Absolutely not.

Ms. Wakida: Well, there was a letter that we all received this morning where you have apparently a neighbor a little concerned about a wedding that took place recently?

Mr. Swanson: Yeah, that letter was I believe for another property on Alanui Street which is the street behind us. That had nothing to do with us.

Ms. Flammer: If you don't me addressing that? That happens to be...someone who is in for a permit right now. That is the one that is up in the right-hand corner. And I have spoken to him several times. He has trash problems that blow over. I can understand why he's upset. From what I understand there was an event that did happen. There was noise. His daughter's bedroom is right next door to the unit. It's not this property however. But it's not to say what he's saying isn't legitimate, it's just not this property that he's talking about. That is also an unpermitted operation right now. And I have explained to him his legal options with that as well which I think you can read in the letter he's struggling a little bit.

Ms. Wakida: Yeah, thank you. I was confused by who he was addressing here.

Chair Hiranaga: Commissioner Ball?

Mr. Ball: So Gina in that case then what is the Department's action against the illegal rental if the neighbor doesn't wanna...(inaudible)...

Ms. Flammer: Well, it's not...we don't file Requests for Service as the County. I've explained to him that he could final a request for service and we can have an enforcement officer go out. I've spoken with the owner several times and asked her to come up with a plan to address this. At this point in time, I know she's gotten trash bins and recycling. It's kinda being held in abeyance until we can come to some resolution. It's hard when the neighbor doesn't wanna...he didn't send a letter of protest either.

Mr. Ball: No, I understand that but if the Department knows that there's an illegal operation happening why are they not gonna do something about it, and then you kind of are allowing it by

having them get recycle bins. I don't know what the deal was with that, but it's kind of like okay, well, we get some recycle bins then you can continue this illegal operation.

Ms. Flammer: I'm gonna let our Deputy Director handle the policy of the Department.

Mr. Ball: Deputy?

Chair Hiranaga: Deputy Director? Welcome.

Ms. McLean: Thanks everyone. Our enforcement policy is complaint based and so unless these owners are willing to file a complaint then we don't enforce on it. Typically people don't file complaints because they...we don't allow anonymous complaints, and typically people are reluctant to that because they don't wanna put their names to it. They don't wanna cause disharmony in the neighborhood or they fear some sort of retaliation. In this particular case though, these folks have put their names on it. So I don't see why they wouldn't want to just go ahead and file and then we absolutely would enforce. And the complaint system is very easy. You can do it online. You can do it with a phone call. You know, it's not a complicated process. So...and it would be appropriate for us to let these folks know that that's an option available to them and that will result in enforcement.

Chair Hiranaga: Commissioner Lay?

Mr. Lay: When the complaint is put in, is it kept confidential?

Ms. McLean: We would disclosure the name of the complainer to the person who the complaint was filed against if they request it, but we do not withhold them, but we let people know that their name will be revealed if it's asked.

Mr. Lay: One more question.

Chair Hiranaga: Commissioner Lay?

Mr. Lay: I guess this isn't a way of trying to keep it pono with the neighborhood. I mean, wouldn't it be a little better that you know who the complaint is and who's filing the complaint and not letting the, you know, who you're complaining against know who filed it 'cause you don't want the disruption between neighbors? Just curious about that.

Ms. McLean: This is an Administration wide policy, it's not just Planning Department policy. So the same would apply for DSA if there's a complaint about construction without a building permit for example. And I...my understanding is that in the past there were enough bogus complaints, people just wanting to make life difficult for a neighbor or something that it was determined that that we wouldn't take anonymous complaints and that also, the person having to respond to the complaint is entitled to know who, who made the complaint against them. Certainly it is a concern about harmony in the neighborhood, and certainly there are violators who can make life difficult for people who complain against them, but overall that is the Administration policy, so we follow it.

Mr. Lay: Thank you.

Ms. Flammer: If I could add something to that?

Chair Hiranaga: Gina?

Ms. Flammer: Another way to file a complaint is to call the Planning Department and they will enter it for you too. So when I've spoken to him on the phone I have told him I can do this for you on the computer right now and put your information in. Sometimes people that aren't real computer savvy will do that, so we do offer that as well. It just has to be in their name, not in our personal names. He cooled off a little bit after the letter. I did call him once I got the letter. And he didn't, he felt..he talked to the owner, expressed his displeasure and I guess felt a little bit better, but he still does have those options.

Chair Hiranaga: Commissioner Wakida?

Ms. Wakida: I have a question for our Deputy Director. The number 100 for Kihei, do you know the history of how that number came about?

Ms. McLean: I don't, perhaps Gina does?

Ms. Flammer: I do. I worked for the Kula Community Association when the bill was being discussed so Gladys is our representative. I wasn't working for the Department from what I understood from talking to our former Director. There was a Kauaian Study done or study done by the Kauaian Institute to look at how many bed and breakfast were currently in operation at the time. I believe the Director took that number and just cut it in half.

Ms. Wakida: The reason I ask is I'm being to sense that we're getting opposition from people who say there's too many bed and breakfasts. So I was just interested if the Kihei Community Association had any input into this, if the community discussed this. I don't know how this number came about.

Ms. Flammer: There was a lot of discussion at the time. This is probably 2007. How do you protect the residential housing market is how it started. There was no easy way to come up with that. I kinda figured out in my head later with doing the short-term rental maybe you look at the number of the residential market and you work off of that and you keep it a small percentage of that, but they didn't do that at the time. They went a different way. I did go out and speak to the Kihei Community Association for the short-term rental bill, and I asked them, I asked the board, their feeling about that and how to manage it in Kihei. And their comment to me was we were being overly regulatory which I was very, very surprised. But none the less, that was the response that I got. One of the things I talked about this neighborhood when they all got together was private CC&Rs. And that you don't need government necessarily to craft your neighborhood for you to put restrictions that a lot of communities do it themselves and they regulate it that way. So they are talking now about forming an association and putting private restrictions on it so they can regulate themselves.

Chair Hiranaga: Where is this?

Ms. Flammer: This is Halama Street. There's no real name for that neighborhood, but it is three or four blocks in one direction and one street behind.

Chair Hiranaga: Curious how you can create a homeowners association after the fact because what legal power do you have to make homeowners comply because HOAs are usually in the deeds when they purchase the property. So it be interesting.

Ms. Flammer: Yeah, I did...they will need to talk to an attorney. It has been done before. It's happening out in Haiku now also. You do have to get buy in from your current owners.

Chair Hiranaga: Commissioner Hedani?

Mr. Hedani: I was curious that the owner of the property does not have to be a resident of the B&B. Have regulations changed?

Ms. Flammer: Do you mean every owner or do you mean the applicant? The applicant must be a resident. So they sign...they provide proof to us of residency which can come in several different forms. They also have to sign an affidavit certifying that that particular home is their primary residence.

Mr. Hedani: I guess what I'm referring to is the complaint letter that came in, well, it's testimony that came in where they're complaining about the second B&B, the B&B that's within 500 feet, that the owner of that B&B does not reside in the residence. So the B&B is allowed to operate without the owner being present on the site?

Ms. Flammer: No, that's not how it works. The B&B owner has to be there at all times when operating. It's one of the conditions. We do allow a few exceptions, medical care. We've had some applicants have to go to the mainland for medical treatment. I think we also, we allow temporary manager in the case of certain circumstances which is one of the conditions. These people that when they do rent their house, they need to be in the cottage when that happens.

Mr. Hedani: Okay.

Ms. Flammer: It's an interesting...(inaudible)... I don't think we've done one of these before an either/or.

Mr. Hedani: So in the case, in the case of the B&B that's within 500 feet of this applicant, it would be a violation if they did not have the applicant as the resident of that unit?

Ms. Flammer: Yes, if we showed up and knocked on the door and there were guests and the resident was off island and we didn't have anything in our records, that yes, it would be a violation.

Mr. Hedani: So is there...I guess the question that I would have is, is there action that should be taken against the B&B that's within 500 feet of this to revoke their permit?

Ms. Flammer: If they're not...

Mr. Hedani: If they're having violations of the rules for B&B, is there a procedure to have their permit revoked?

Ms. Flammer: Yes, there is. It would be under our standard permit revocation which I believe, maybe our Deputy Director could talk about those procedures. We changed it for the short-term rental homes so that this body would review those cases. I believe it goes to Board and Variances and Appeals. Maybe our Deputy Director wants to describe how a revocation. This would be for any permit...(inaudible)...your question.

Mr. Hedani: Deputy Director?

Ms. McLean: We would need to look at the language of the original approval letter and how revocation could occur. If revocation is under the authority of the Planning Director then the Planning Director could revoke the permit and then, the recourse for the applicant if they wanted to challenge that would be to go to...would probably be to go to the Board of Variances and Appeals to appeal the Planning Director's revocation.

Ms. Flammer: If I could jump in too, there's also a ...(inaudible)...provision in the B&B Bill that says if there's been any misleading information provided we can revoke the permit and then essentially ban the person from applying for two years.

Chair Hiranaga: Deputy Director?

Ms. McLean: If could clarify with Commissioner Hedani, it's not clear to me that the B&B that's referenced in this one letter where it says the owner and the manager do not live on the property, it's not clear to me if that's a permitted B&B. That might be an unpermitted B&B in which case there's no permit to revoke, and in which case, this person should file a complaint and then we can go in and force the B&B not being permitted.

Ms. Flammer: Is that the second letter? Oh, the second letter, it's a short-term rental home that's in for an application. The owner does not live on the property. It's confusing because it used to be a B&B. It used to be Plantation Bungalow, the Baneys had the permit and then they sold the property and moved. Permit was closed out. New owners came in for a short-term rental home permit. So in that case, if it did get a permit and there were problems, you would be the revocation authority that would hear it and make the decision. There's also, if they were to get a Notice of Violation prior to getting their permit, there's a five-year ban on the applicant applying for any permit on any property, too. So yeah...when we do the B&B Bill again, you'll have lots of options to, to look at.

Chair Hiranaga: Commissioner Hedani?

Mr. Hedani: Gina, how do we keep the neighbors in this particular neighborhood happy without making them crazy? You know, if we have two permitted B&Bs within 500 feet of each other and two other operations within 500 feet of each other that aren't permitted which we're not gonna take

action again?

Ms. Flammer: Well, they could form a homeowner's association and regulate themselves. That would be one way. And this board can take a look at the neighborhood and you can, you are the approval authority. So you can take a look at that. When you look at the map where the protests came in, some of the things that I looked at as the planner in nobody adjacent or across the street. Now you're gonna have ones that are gonna come to you. You had one recently in Maui Meadows when there's protests right next door and across the street. Also, if there's 30 percent or if there's more than 40 lots, there's 15 percent, you'll have those come to you. We also take a look at the nature of the complaints. Are they complaining about the concept in general that they don't like or have there been problems in the past specifically, trash, parking, noise? We take a look at that, and then testimony either letter or people coming, taking time off from their day or work to actually come down here and speak. We take a look at that as well. It really, it falls on this board is the approving agency to look at the factors.

Chair Hiranaga: Any other questions, Commissioners? Commissioner Hedani?

Mr. Hedani: Can you explain what's on the map, Gina?

Ms. Flammer: This is the 500-foot list where notification goes.

Mr. Hedani: What's the little red pegs?

Ms. Flammer: The little red ones are where the letters of protest are from. I tried to make little stop sign. So down, you can see the key on the bottom. The square is a letter of support that came in.

Mr. Hedani: Okay. Do we know if there's any TVRs within in this area?

Ms. Flammer: Do you mean unpermitted current operations?

Mr. Hedani: Both.

Ms. Flammer: Do you mean, short-term rental homes there--

Mr. Hedani: Short-term rental homes permitted or not permitted.

Ms. Flammer: I have...I don't not know. I have heard that has a long history.

Mr. Hedani: Well, you have one complaint letter that came in that said they have an operation next door.

Ms. McLean: And this letter refers to one that you said--

Ms. Flammer: Oh, okay. So we know that...okay, so from what we've heard from the neighbor we understand that that is going on up in the corner. I have heard from other neighbors that there's a long history of TVR operations in the neighborhood, some good, some not good. The Council did



not put any provisions for us to consider unpermitted. We kind of tried to look at it. I did actually go and look at VRBO to try to see what was there and I just found the two that were there. There very easily could be...people have gotten a little more savvy with their advertising. So there very easily, very well could be other ones.

Mr. Hedani: So they'll be no permitted TVRs within this 500-foot area?

Ms. Flammer: No, there are applications in, I understand, but I don't have any of them.

Chair Hiranaga: Commissioner Hedani, there is a difference between a TVR and a STR. It's two different entities?

Mr. Hedani: STR? What's an STR?

Chair Hiranaga: Maybe the Deputy would like to explain the difference between a STR and a TVR?

Ms. McLean: And STR is a short-term rental and there is a specific permit process for those. B&Bs...With short-term rentals, the owner, applicant, proprietor does not need to live on the property, but there needs to be a manager who's always available. B&B also has its own permit process where the owner or proprietor or applicant has to live on the property and is the...operates and is there the whole time guests are there which is different from a short-term rental home.

Chair Hiranaga: And a TVR?

Ms. Flammer: A TVR is something that does not qualify as a short-term rental home. So it could be something that has multiple units. It could be something that has more than six bedrooms. They come in for a Conditional Permit. If you think of OW Ranch that came through here a couple years ago. They don't qualify for a short-term rental home because they have more than six bedrooms, so they would be considered a transient vacation rental.

Chair Hiranaga: I'm also thinking of the apartments in Kihei that were grandfathered in prior to that date. Aren't those TVRs?

Ms. Flammer: It's an interesting question. They call them nonconforming uses. So I guess...

Ms. McLean: They would fit the definition of a transient vacation rental because they aren't detached dwellings which is another requirement for B&Bs and STRs. So if there are...however, they may be permitted whether through a Conditional Permit or whether through grandfathering which a number of the condominiums in Kihei are subject to that grandfathering and they fit the definition of a transient vacation rental. Although that term, I mean, you can call it a transient vacation rental by definition but that term isn't used for a type of permit or anything like that the way that STR and B&B are.

Chair Hiranaga: So STR and B&Bs are primarily for residentially zoned property?

Ms. McLean: Well, residentially zoned Rural, Agricultural. It's detached dwellings. It's not multi-

family.

Chair Hiranaga: Any other questions, Commissioners? Seeing none, I believe the applicant wanted to make a statement? Did you still wish to make a statement?

Ms. Kim Hembree: My name is Kim Hembree, and I'm the owner of the property on Halama along with my son. And I just wanted to clarify a little bit our family situation. We moved here to Maui in last year, and we brought my son and his wife and our two grandchildren. So we're multi-generational family living in the...on the property. I have a 7-year-old and 14-year-old who attend the local schools. We live in the neighborhood. We're very friendly with our neighbors. We wanna be a part of that neighborhood. The ambience that we're trying to create in this B&B is an experience for the island visitors to come in, in a very quiet, solitude type of situation that they can, you know, not be in the busy condos and the hotels, but to have that family experience of living in Kihei. We've had a lot of family and friends already come and visit and stay in the ohana, and we're gonna be asking them to write reviews for us to let the people know what to expect coming here. This is not a party place. We have children there. We are going to be very diligent in our screening of who rents our property, and we're gonna be, like I say, they're right in the front of our property. So we will be right on site. If not myself, my son, we're all there. So I think, we're gonna be a good applicant, and I think it would be a good testing ground for this whole system, that if we get complaints we risk losing that, that privilege of doing the B&B. And I think that's what the regulations were all instituted for to give the owners in the neighborhood that right to do that. And one of the things we did do and I think Gina mentioned it was, where at Christmas time we held an open house and we sent a letter to all of our neighbors to invite them over to come see our home, meet our children, meet our grandchildren and see what type of people we were and explain to them what we had in mind and what we were doing for the neighborhood 'cause we definitely wanna keep that neighborhood. So we plan on being good neighbors and being very respectful of the rules and regulations and honoring our community. We wanna be good community members. So I thank you for considering it. Thank you.

Chair Hiranaga: Questions for the applicant? Seeing none, Commissioner Hedani?

Mr. Hedani: So question for the applicant? Are you willing to make modifications to the property in order to bring the building into compliance with the Outdoor Lighting Ordinance.

Ms. Hembree: Oh absolutely. Absolutely.

Mr. Hedani: Thank you.

Ms. Hembree: We did do some up lighting for the pictures just to show the ambience at night. Most of our lighting is pathway just so they can see the driveway as they drive in.

Mr. Hedani: I think the pathway lighting is also not in compliance with the Outdoor Lighting Ordinance.

Ms. Hembree: Really. Okay, I don't have any problem doing any...complying to any regulations. I'm a firm believer in trying to be a good citizen.

Chair Hiranaga: We don't really need to ...

Ms. Hembree: Those are a little pathway lighting.

Chair Hiranaga: Let's just say the Outdoor...what is that ordinance, Commissioner Hedani? The Outdoor what?

Mr. Hedani: The Outdoor Lighting Ordinance.

Chair Hiranaga: If the Outdoor Lighting Ordinance applies to this property that they should comply. Is that appropriate? Any other questions for the applicant? Thank you very much. At this time, I'll open the floor to a motion. Oh, I'm sorry, staff recommendation.

Ms. Flammer: So procedurally I'll make the recommendation and then when it comes to the floor you can add your amendment. In consideration of the foregoing the Planning Department recommends that the Maui Planning Commission adopt the Planning Department's report and recommendation prepared for today's meeting as its findings of fact, conclusions of law, decision and order and authorize the Director of Planning to transmit said written decision and order on behalf of the Commission. I will note that there are 17 conditions in the recommendation.

Chair Hiranaga: Floor is open to a motion? Commissioner Shibuya?

Mr. Shibuya: I move to accept the recommendations of the Staff and include a condition to have compliance with the outdoor exterior lighting ordinance.

Chair Hiranaga: If applicable.

Mr. Shibuya: If applicable, yes.

Mr. Ball: Second.

Chair Hiranaga: Moved by Commissioner Shibuya, seconded by Commissioner Ball. Any discussion? Commissioner Wakida?

Ms. Wakida: Yes, Gina, on the recommendation No. 7, it says, the B&B home operation be subject to periodic inspections by County enforcement personnel. Is this really happening? Is County enforcement, not this one of course, but in general?

Ms. Flammer: We go out if there's a complaint.

Ms. Wakida: So only complaints, you don't do periodic inspections 'cause that's what it says here that the County will do.

Ms. Flammer: Yes, it's written in there so we don't make an appointment with people. There's been requests before...people wanna know when the inspectors are coming, so that's why this clause says reasonable times. I'm not of our whole Department how we're doing the enforcement.

Chair Hiranaga: Deputy Director?

Ms. McLean: We have a couple of Zoning Inspector vacancies and once those are filled it was the Council's intent for us to become proactive with enforcement of short-term rental homes. And my understanding is that that would extend to B&Bs as well.

Ms. Wakida: Right. But periodic inspections of those that are also permitted then, right?

Ms. McLean: It would just be for those that are permitted.

Ms. Flammer: It's very broad in there.

Ms. Wakida: I see.

Ms. Flammer: Yeah, we wrote it that way.

Ms. McLean: Actually, excuse me, if I could make a correction. For the proactive enforcement that Council wants to see, that is also for unpermitted short-term rental homes. They do want us to be proactive with enforcement for those.

Chair Hiranaga: Any other discussion? Seeing none, I'll have the Deputy Director restate the motion.

Ms. McLean: The motion is to approve the proposed Bed and Breakfast Permit subject to the 17 conditions listed in the staff report plus an additional condition that if applicable, the applicant shall comply with the Outdoor Lighting Ordinance.

Chair Hiranaga: All in favor, so indicate by raising your hand.

Ms. McLean: Five ayes.

Chair Hiranaga: Opposed?

Ms. McLean: One no.

Chair Hiranaga: Motion carries.

**It was moved by Mr. Shibuya, seconded by Mr. Ball, then**

**VOTED: To Approve the Bed and Breakfast permit as Recommended by the Department with the additional condition that if applicable, the applicant comply with the Outdoor Lighting Ordinance.  
(Assenting - W. Shibuya, K. Ball, D. Domingo, I lay, P. Wakida)  
(Dissenting - W. Hedani)  
(Excused - J. Freitas, M. Tsai)**

Chair Hiranaga: Congratulations. Moving onto Agenda Item D. Commissioner Domingo?

Ms. Domingo: Thank you for this privilege. I just wanna make a comment. And this is something that was very dear to the Commission when we reviewed the TVRs and B&B and always wanna...we think that we're doing the best we possibly can. And you know, I'm very upset hearing about the...you know, when individual complaint about any activity that's happening with TVRs and B&B and we wanted to make it, and I think we voiced it to the Council to really to take any complaint serious enough to even to trigger someone to be knocking at somebody's door to have...and I would say, that's just the pono, the local style. You don't, you know, wanna confront your name, but you're upset 'cause local people won't. You will find that they will approach when they're so pissed off that it would be something that's, you know, a serious issue at that time. Just a little bit mana`o that people are, you know, making...this is one of many I can see coming, but to really to take the community complaints and individual, they didn't, don't have to go ahead and put their names in, and I think that we, we have money to be able to enforce it in a way that it will be for the community not, you know, the community and not the applicant on the complaints. But that's the only thing I kinda wanted to bring up there 'cause worked on it hard, and I can see where, you know, Commissioner Hedani really want to be able to we address the community and this is going to affect the community, and this is just one of many that you guys are gonna see. So that's just my mana`o.

Chair Hiranaga: Thank you. Moving onto Agenda Item D. Acceptance of the Action Minutes of March 12, 2013 and Regular Minutes of November 27, 2012.

**D. ACCEPTANCE OF THE ACTION MINUTES OF THE MARCH 12, 2013 MEETING AND REGULAR MINUTES OF THE NOVEMBER 27, 2012 MEETING**

Chair Hiranaga: Floor is open to a motion.

Mr. Ball: Move to approve no changes.

Ms. Domingo: Second.

Chair Hiranaga: Motion to accept by Commissioner Ball, seconded by Commissioner Domingo. Any discussion? Seeing none, all in favor say aye.

Commission Members: Aye.

**It was moved by Mr. Ball, seconded by Ms. Domingo, then**

**VOTED: To Accept the Action Minutes of the March 27, 2013 Meeting and the Regular Minutes of the November 27, 2012 Meeting.  
(Assenting - K. Ball, D. Domingo, I. Lay, W. Hedani, P. Wakida,  
W. Shibuya)  
(Excused - J. Freitas, M. Tsai)**

Chair Hiranaga: At this time, we're gonna take a short recess, and before we start the recess, I had requested that the minutes from the February 2010 for Agenda Item E-b be placed before us this morning. So if you have...may not be aware that those minutes are in front of you. You may wanna take an opportunity to review that before that agenda item comes up. We're reconvene at 10:20.

A recess was called at 10:10 a.m., and the meeting was reconvened at approximately 10:20 a.m.

Chair Hiranaga: Next agenda item is E-1, Deputy Director?

Ms. McLean: Thank you, Chair. Next item is the first of two applications where the Planning Director is notifying the Commission of his intent to process an administrative time extension request. The first one is a request from the State Department of Transportation, Airports Divisions requesting a two-year time extension on the period to initiate construction of the Kahului Airport Heliport Improvements at TMK: 3-8-001: 019 in Kahului. Candace Thackerson is your Staff Planner.

#### **E. DIRECTOR'S REPORT**

- 1. MR. WILLIAM SPENCE, Planning Director, notifying the Maui Planning Commission pursuant to Section 12-202-17(e) of the Maui Planning Commission's SMA Rules of his intent to process the following time extension request administratively:**
  - a. STATE DEPARTMENT OF TRANSPORTATION, AIRPORTS DIVISION requesting a Special Management Area Use Permit 2-year time extension on the period to initiate construction of the Kahului Airport Heliport Improvements project at TMK: 3-8-001: 019, Kahului, Island of Maui. (SM1 2008/0021) (C. Thackerson)**

Ms. Candace Thackerson: Good morning, Commissioners. As our Deputy Director stated, the item is before you to waive review of the time extension request for a Special Management Area Use Permit submitted by Munekiyo and Hiraga on behalf of the State of Hawaii, Department of Transportation, Airports Division for the Kahului Airport parking lot expansion and airport access. The request...this is the first time extension request filed for the SMA Permit. It was originally granted in April 28, 2009, and they were given initiation by April 30, 2012. So today's waive of review would grant the initiation of construction, no completion of construction to April 30, 2014. There have been no notable changes in the SMA around there. The applicant is asking for the time extension request because at the time the State has the revenues to provide for the project. In 2009, the State reprioritized their needs and that was dropped from the budget. And DOT is requesting construction funds in the next State budget. The applicant is here if you have any questions for them.

Chair Hiranaga: At this time, I'll open the floor to public testimony. Is there anyone here that wishes to provide testimony regarding this agenda item, please come forward? Seeing none, public testimony is now closed. I'll open the floor to questions from Commissioners? Commissioner

Shibuya?

Mr. Shibuya: I have no objections to this extension on time, but I do have some concerns that I'd like to have at least considered. These are not show stoppers. But the concern is that we have Kahului Airport Master Plan, ...(inaudible)... you were talking about expanding the number of visitors coming through Kahului Airport roughly about two million that's projected data for 2015. And I'm very concerned that we have right now in existence Runway 2L and on the master plan there is plans for 2R which is a parallel runway to the existing long runway that we have. I'm looking in terms of the impact of this master plan with the heliport that is proposed. I don't see a big show stopping thing because it can be adjusted in terms of location. But I just wanna voice that concern.

Chair Hiranaga: Was there a question there?

Mr. Shibuya: It's more of a comment. I could...

Chair Hiranaga: ...(inaudible)...response from the applicant or...

Mr. Shibuya: I could ask the applicant to respond to that and see whether they are willing to or have considered the master plan and how the heliport is gonna be impacting that heliport construction and the 2R runway construction.

Ms. Karlynn Fukuda: Good morning, Chair and Members of the Maui Planning Commission. My name is Karlynn Fukuda of Munekiyo & Hiraga, Inc. And joining me today is also the Kahului Airport District Manager, Marvin Moniz. With regards to Commissioner Shibuya's comment, we agree that that is something that can be looked at further relative to the Airport Master Plan. I apologize but I was not involved in the Airport Master Plan Update and I understand from Mr. Moniz that it is nearing completion, but what I can do is follow up with the DOT Airport's Project Manager to find out what the status is of the heliport improvements relative to the Airport Master Plan. First and foremost on the SMA Permit, it called for the demolition of a airport hanger building that is if you look at, I believe it's either Exhibit 3 in your packet or Exhibit...actually Exhibit 3 is probably the best one. It's a aerial photograph of the airport and you can see where this hanger is relative to the rest of the heliport hangers and it's kind of out of the way, and basically FAA and the National Transportation Safety Board had noted that there are concerns relative to the hanger and the heliport or helicopter traffic relative to the fixed wing or the jet aircraft that land on the adjacent runway. So the SMA Permit would allow for the demolition of that hanger building. And just to give the Commission a brief update, the hanger is privately owned and after receiving the SMA Permit, DOT and the private owner had had discussions whereby the outcome was that the owner wanted to take responsibility for demolishing the building because he wanted to reuse the materials to build another building somewhere else. And unfortunately the owner ran into some legal issues late last year and that has I think prevented him from completing the demolition of the building and that's why we are coming before you to request the time extension request. But relative to the new heliport, the replacement hanger building and the parking lot improvements, all of that we'll follow up with the DOT Project Manager on the Airport Master Plan.

Chair Hiranaga: Commissioner Wakida?

Ms. Wakida: I certainly understand that you're at the mercy of the State budget. You say here that you are going to request monies in the next State budget. Do you know when that will be?

Ms. Fukuda: I believe they work on bi-annual budget. So the current budget is in progress right now with the State Legislature, and I believe they do, do I guess it would half, one-year, like a budget update, but the next actual full budget wouldn't be for another two years. And I guess also to...related to my update, the time has passed that...for the demolition of the hanger that was agreed upon by DOT and the owner, and so right now the Attorney General is looking at legal recourse to get the owner either to demolish or if that's not possible, what are the other options. And if DOT has to look for money to then pay for the demolition, you know, that will be something that will be included in that budget request.

Ms. Wakida: Well, I guess my question is, if the next State budget that you're looking at is not for two years, and you're only asking for an extension of two years, are you gonna run out of time with this two-year extension before you get your money?

Ms. Fukuda: That is a possibility and we would certainly entertain a decision by the Commission if they would so like give the State longer than two years, you know, to initiate construction but we did ask for a two-year time extension request at this time.

Chair Hiranaga: Any other questions, Commissioners? Commissioner Wakida?

Ms. Wakida: I guess to Candace, it would seem logical that if the budget, the next budget isn't gonna be completed for at least two years down the road, that the...why didn't you ask for extension for three years?

Ms. Thackerson: That's a little housekeeping I was gonna get into. When we created this waive review of request...the waiver, the waiver form, two years is the cut off. If they ask for any more than that, then it's now open...it's a staff report, it's open to Commission to now look at the scope of the project, amend conditions as they see appropriate in order to meet the requirements such as come here before you and have you not get into the scope of the project and amend conditions. It's two years. Anything more...now should the Commission want to grant more time, you guys can do that, as a Planner, the Department, we cannot recommend more than that on a waiver request.

Ms. Wakida: Okay, thank you.

Chair Hiranaga: Commissioner Lay?

Mr. Lay: I have a question on Figure 4. The circles that indicate helipad landing areas.

Ms. Fukuda: Karlynn Fukuda, yes, I believe that is correct.

Mr. Lay: Is that existing helipad areas or new? Gonna be new?

Ms. Fukuda: I believe that part of this project had been for restriping of the heliport. So I'm sorry, trying to remember from back from 2009, but I believe that these would be the new, yeah, restriping.



Chair Hiranaga: Commissioner Shibuya?

Mr. Shibuya: I just wanted to have assurance that...I don't have the entire documents from 2009, but I think we did have a provision for the...that a copy of the approved National Pollution Discharge Elimination System, NPDES, be filed with the Planning Department and the Department of Public Works and Environmental Management prior to grading permit. Is this condition still in existence or does this need to be added in?

Ms. Thackerson: I believe the original approval letter should be attached in your packet. It's the last item dated June 3, 2009. That's the original approval, conditions of approval. I don't see the condition you're stating called out within the conditions. I'm not sure if that was something...that condition sounds familiar and usually comes back from Public Works or from a different agency when we route it out for comments. We're in the works right now of seeing what we put on as typical conditions and what we place on as just things that agencies say to look for that we don't place as conditions on the permit, but it's understood that the applicant has accepted them when they've responded to agencies letters within the SMA process. I don't know if that was done at the time of this permit or not.

Mr. Shibuya: The specific condition No. 13, would probably be the most closest aligned to what I've just mentioned. And that the NPDES is spelled out in my recommendation but would that be covered in Item No. 13 in terms of best management practices?

Ms. Thackerson: For the Department of Public Works?

Mr. Shibuya: Yes.

Ms. Thackerson: Does the department wanna answer that?

Ms. Dagdag-Andaya: Those are two different items, but we don't typically require it. It's a State permit, but if you wanted to forward a copy onto us, I mean, we can keep it in the file. That would be fine.

Ms. Thackerson: In order to amend conditions to the permit, we would need to--

Ms. Dagdag-Andaya: You have to go before--

Ms. Thackerson: --this would need to come back to the body as a staff report. We could place it as an item. We could review and amend conditions at the time, unless you think it's covered in that condition or Michele do you wanna add to that?

Chair Hiranaga: Deputy Director?

Ms. McLean: Thank you, Chair. Commissioner Shibuya, did you ask if an NPDES Permit is required, if that's a condition? Is that your question?

Mr. Shibuya: That's correct.

Ms. McLean: I would also think...well, I would think that that would be covered under Condition No. 8 which that full compliance with all applicable governmental requirements shall be rendered. So if that is a requirement under NPDES criteria then if they fail to obtain one, it would not be the violation of not obtaining the permit, but it would also be an SMA violation.

Mr. Shibuya: Okay, very good. Thank you.

Chair Hiranaga: Any other questions, Commissioners? Seeing none, ready for the staff recommendation.

Ms. Thackerson: The Staff recommends that the Commission waive review of the time extension request to amend standard condition, typical Condition No. 1 to read, that construction of the proposed project shall be initiated by April 30, 2014.

Chair Hiranaga: Floor is open to a motion. Commissioner Shibuya?

Mr. Shibuya: Motion to accept.

Mr. Hedani: Second.

Chair Hiranaga: Moved by Commissioner Shibuya, seconded by Commissioner Hedani. Any discussion? No discussion. We'll have the Deputy Director restate the motion.

Ms. McLean: The motion is to waive review of the two-year time extension request and allow the Director to grant the request administratively.

Chair Hiranaga: All in favor so indicate by raising your hand.

Ms. McLean: Five ayes, oh, six ayes, excuse me.

Chair Hiranaga: The motion carries.

**It was moved by Mr. Shibuya, seconded by Mr. Hedani, then**

**VOTED: To Waive Its Review and Allow the Director to Grant a Two-Year Time Extension Request.**  
**(Assenting - W. Shibuya, W. Hedani, D. Domingo, I. Lay, K. Ball, P. Wakida)**  
**(Excused - J. Freitas, M. Tsai)**

Chair Hiranaga: Moving onto Agenda Item E-b, E-1b. Deputy Director?

Ms. McLean: Thank you, Chair. This is another request to waive review of a two-year time extension on a Special Management Area Use Permit submitted by KAK II LLC and it would be a time extension to complete construction of the Ke Alii Kai II Subdivision also known as Moana

Estates Subdivision at TMK: 3-9-019: 004 in Kihei, and Candace Thackerson again is your Planner.

**b. KAK II, LLC requesting a Special Management Area Use Permit two (2)-year time extension to complete construction of the Ke Alii Kai II Subdivision (aka Moana Estates Subdivision) at TMK 3-9-019: 004, Kihei, Island of Maui. (SM1 2003/0013) (C. Thackerson)**

Ms. Candace Thackerson: So this item is before you to waive review of a time extension request for the Special Management Area Use Permit submitted by Munekiyo & Hiraga on behalf of Ke Alii Kai II Subdivision also known as Moana Estates for the construction of a 90-lot subdivision and related improvements located in Kihei, Island and County of Maui.

The request is to extend the time to complete construction by two years or until February 28, 2014. This is the second time extension filed for this SMA Permit. On February 23<sup>rd</sup> 2010 at the regularly scheduled meeting, the Commission was informed by the Director of his intent to grant approval of the two-year time extension request and after some discussion at this meeting the Commission...at the meeting, the Commission voted to waive review of the request.

I have a couple of updates on the progress of the current permit as well as before you we have an email that I passed out from Nancy Dennison, who is the secretary for the Homeowners Association. She had a few concerns about the length of the time of construction that was going on and some various things that have been happening there on the parcels as she outlined. I called her and spoke with her on the phone. After some discussion, she doesn't have an objection to it, she just wanted to make sure that Towne was making a good faith effort to complete the construction.

The current progress of the parcels are there's 11 lots remaining of the original 90. Since the time of that, since the time of the filing of this time extension, two have been finished. So there's only nine lots remaining. Three are currently under construction right now, so that leaves six lots. Of that six, two of them have filed for their building permits, so they intend to construct soon. So really there's just four that remain and don't have building permits yet filed for them. Towne is expecting full build out by June of 2014. I do see the time extension request only goes to February 28, 2014, unfortunately it follows the original date of the approval. Should this body want to extend that, they may do so, but Towne is expecting full build out by June 2014. The applicant is here to answer any questions about the minutes or any discussion on the topic.

Chair Hiranaga: At this time, I'll open the floor to public testimony. Is there anyone here that wishes to provide public testimony regarding this agenda item, please come forward? Seeing none, public testimony is now closed. I'll open the floor to questions from Commissioners? Commissioner Hedani?

Mr. Hedani: Candace, is Towne willing to agree to the three conditions requested by the Moana Estates Homeowners Association?

Ms. Thackerson: Willing to agree or make them conditions of approval? They're willing to definitely work with the applicant, not the applicant, the homeowners association. I feel No. 3, the good effort to timely complete construction has been met in my opinion with only the four lots left, three getting their buildings, three under construction, two have been finished since even time that they filed for this. They continued to make progress on it, and they're expecting full build out by June 2014, from what Towne has represented. So I feel that No. 3 has been met in a good faith effort. No. 2, with the not store equipment or materials on the undeveloped lots, I can have the applicant address that. I believe they're definitely willing to work with the applicant on that as well. I don't know to whose satisfaction, but they're here to address that.

Chair Hiranaga: Yeah, why don't we have the applicant answer the Commissioner's questions on 1, 2, and 3?

Ms. Karlynn Fukuda: Good morning, Chair, and Members of the Maui Planning Commission. Karlynn Fukuda with Munekiyo & Hiraga, Inc. To Commissioner Hedani's question with regards to the three requests that were received in the testimony from the homeowners association, in speaking with Towne, with regards to the request no. 2 and no. 3, Towne feels confident that they can address those. As Candace noted, Towne has for those remaining lots that have not filed building permit yet, it eminent to file building permits and basically finish up the subdivision. And with that on the second item, the second request, I believe the request was to not store any items that are not related to the home construction on those unused lots. So because they are planning to finish construction by June of next year, there won't be that opportunity because they'll actually be constructing the homes. So they feel confident that they can meet no. 2. With regards to no. 1, I would like to pass out this subdivision map to share with everybody to explain why there might be some technical difficulty in actually meeting condition no. 1, and it's just that when you look at where the remaining homes are, they are generally located at the top of the subdivision where you see Kananui Road on the handout. That is the top of the subdivision. So what you see here, the green lot, the lots that I have highlighted in green, those are sold and occupied homes right now. The three lots that you see in blue, they're either currently under construction or will be in construction soon. And so you see that to actually access those lots, they will need to go through the subdivision roadway and pass, you know, a few homes that are currently occupied. So unfortunately there is no access to Lots 86 and 87 from Kananui Road, and on Lot 80, they don't own the land to the south of the subdivision so it's not like they could come in that way. So in that respect, you know, again, I think that they'll make every effort to complete construction and they do notify, you know, all new homeowners when they're purchasing their homes that if there is an empty lot next to you that there will be construction to complete the homes in the subdivision. So there is notification to the homeowners. But as I said, they are planning to be out of there by June of next year.

Chair Hiranaga: Where are the other six undeveloped lots?

Ms. Fukuda: Okay, if we go through this...so Lot 81 and 82 as I have highlighted the top, those are completed and they are occupied. Lot 87 and 86 and 79 actually are currently under construction. Lot 85 and 83 have been submitted for building permit already. Lot 80 and 39, they have been submitted for building permit and they're in the process of addressing comments on the building permit application. And then Lots 40 and 41, the building permit submittal is eminent on those two

lots. So it's all lots at the top of the subdivision really. It's not as if they're gonna be driving through the subdivision itself.

Chair Hiranaga: So perhaps regarding the request no. 1, it could be more refined to say that the developer will only use Kananui Road for access purposes thereby not transporting anything from the lower portion of the project.

Ms. Fukuda: The applicant is—

Chair Hiranaga: No, I'm asking for their concurrence, not asking for a condition.

Ms. Fukuda: Yeah, the applicant is indicating, yes that that would be their preferred course of action.

Chair Hiranaga: Are you agreeable?

Ms. Fukuda: Yes, they're agreeable.

Chair Hiranaga: To voluntarily to comply with that?

Ms. Fukuda: Yes, yes. And I would like to also note that there are no materials relevant to the north-south collector construction that the applicant is responsible for, there's no materials being stored on any of those lots within the subdivision. So just to also clarify that.

Chair Hiranaga: Any other questions, Commissioners? Commissioner Wakida?

Ms. Wakida: What is this parcel zoned?

Chair Hiranaga: My guess is R-2.

Ms. Fukuda: That would be my guess as well, but I don't wanna give you the wrong answer.

Chair Hiranaga: Public Works Director has an answer, Deputy Public Works.

Ms. Dagdag-Andaya: I see here in a former staff report, R-2.

Ms. Wakida: The reason I asked is I'm just looking at former minutes and I don't know but this testifier said something about the parcel being zoned H-M and H-2. So I don't know where that information came from.

Ms. Fukuda: To clarify there's a separate project that the applicant had across the north-south collector road which was the Ke Alii Villas Project which is a multi-family project and that I believe the project that testimony is referring to.

Ms. Wakida: Oh, thank you.

Ms. Fukuda: Yeah, it was confusing. There were two...in the minutes that were done in 2010, there were two time extension requests being process at one time. So, but that project has since completed construction and it's done.

Chair Hiranaga: Commissioner Lay?

Mr. Lay: Just curious. Kananui Road, you're saying gonna have access through that for these different projects. Is there any fence or anything there or is it all open?

Ms. Fukuda: I believe there's a fence that belong...the Kananui Road, I'll have Leslie Lawton, the regional manager for Towne Development of Hawaii respond to that question.

Ms. Leslie Lawton: Good morning, actually there is no-

Chair Hiranaga: Please identify yourself?

Ms. Lawton: Oh, I'm sorry. Leslie Lawton, Towne Development of Hawaii. There actually is a fence that borders just the home areas. So there is two entrances into our Moana Estates project and there is no fence there. So there's fences just along the areas that the homes are gonna be built off of Kananui Road.

Chair Hiranaga: Commissioner Lay?

Mr. Lay: Just curious 'cause you're saying you're gonna use this as an access point for that building of it, right?

Ms. Lawton: Correct.

Mr. Lay: So the fence is not up yet?

Ms. Lawton: Well, actually there is a wrought iron fence that, that borders the property, but it just...the areas that don't have the fencing are just the areas that have access into the community because the homeowners do come from the top of Kananui Road and go down to their homes.

Mr. Lay: Okay.

Ms. Lawton: Sorry, did I confuse you?

Mr. Lay: Just wondering if they can get in from that road.

Ms. Lawton: Yes, yes, yes. There's two entrances and they can get through into the community. Thank you.

Chair Hiranaga: Commissioner Shibuya?

Mr. Shibuya: I was reading the minutes and Commissioner Hedani did have some concerns. I was

wondering if those concerns are still valid today that you would like to share with the rest of the Members here now that we have new Commissioners?

Mr. Hedani: Commissioner Shibuya, my memory goes back only like 72 hours in this day in age, I really can't recall.

Mr. Shibuya: I was just trying to reflect some respect here because I do know that you have some valid concerns all the time.

Chair Hiranaga: Any other questions? Commissioner Wakida?

Ms. Wakida: I think...I'm wondering if Mr. Lay's question was answered? Weren't you asking if I'm not mistaken if you can get to these lots like, Lots 86 and 87 directly off of Kanananui without going down through the subdivision road wasn't that what you were asking?

Mr. Lay: Yes.

Ms. Wakida: Yes. So if you can...if they can commence building or is there a fence in the way were they can't access the property except down through the subdivision area?

Ms. Fukuda: I believe Ms. Lawton had mentioned that there's a wrought iron fence that borders the property but at the two driveway entrances that you see at the top at Kanananui Road there's no fence there or gate. There's not a gate there either. So there is a fence along the border of the property.

Ms. Wakida: So construction workers can't get into that property without going down through the subdivision?

Ms. Fukuda: That's my understanding unless they remove that wrought iron fence.

Chair Hiranaga: Commissioner Lay?

Mr. Lay: I'm wondering if it be more...if that would be more feasible if that fence is removable, that wrought iron fence as far as not driving through that residential area 'cause if you have material and you're gonna be moving stuff and you've got workers coming in at the day time and leaving in the evening if it's might be easier for them to go through right through the fence. I mean, you know, make a opening in the fence where they can bring in all their equipment and the lumber?

Ms. Fukuda: I guess the good news is, is that Lots 86 and 87 are currently under construction. I think the other concern that they may have is you know, if they'll pose a traffic hazard, you know, along Kanananui Road by having their people coming in and out of not a regular driveway basically, you know, just off the site or having to park, you know, their construction vehicles along Kanananui Road as opposed to on the home sites themselves.

Chair Hiranaga: Commissioner Lay?

Mr. Lay: I just wanna express my concern on that because you're gonna have a lot of lumber coming through there, you're gonna have trusses, you know, if they're developed offsite, brought in and that's some pretty big equipment that will be driving through this residential area. And just, you know, worry about safety and also concerns about all that traffic going through there.

Chair Hiranaga: Commissioner Domingo?

Ms. Domingo: Well, this project is right around the corner where I live, and if they give entrance to off of that road, there's a lot of...there's a school, lot of kids, lot of the community use that wide sidewalk because the other side there's no sidewalk. So you know, I think it's more of a public hazard if we have them come through the side. There's...that school is very active, so I rather have them keep in through their, their development.

Chair Hiranaga: Commissioner Lay?

Mr. Lay: Hearing that, and I appreciate your concerns and you're pointing that out to us, I'll have to agree with that also.

Chair Hiranaga: Commissioner Shibuya?

Mr. Shibuya: You know, I was just looking at the topographical map and it does seem like there's a slope. It's not like a level two-dimensional drawing. There seems to be a slope to Kananui Road, so...to the lots, it's an upward slope. So it probably not be feasible to move heavy equipment up there. Thank you.

Chair Hiranaga: Any other questions, Commissioners? Go ahead.

Ms. Fukuda: Could I say one quick thing is, you know, again, as Candace had noted, Towne is intending to be done with construction by June of 2014, and so if the Commission would so be willing to entertain a request for a four-month extension to the two-year extension such that they would complete construction by June 2014, the applicant would appreciate that. However, if the Commission is not, you know, inclined to do so, we understand and we will take the two-year time extension if the Commission decides to waive the review for February of 2014, but otherwise, we would be back before you.

Chair Hiranaga: I believe the Deputy Director wishes to comment?

Ms. McLean: Thank you, Chair. I had a brief conversation with the Deputy Corporation Counsel, and we reviewed your SMA Rules, and I can't say how these have been handled in the past but he and I both agree that the waive review only applies to two years. Even if the Commission wanted to grant a longer period of time, hyou would have to review the project, not waive review, review the project in order to amend the condition to allow longer time. It seems, you know, it would be, it would be certainly easier and more efficient for us to be able to give more time, but according to the rules, you waive review and the Director can only give a two-year extension.

Chair Hiranaga: Any other questions, Commissioners? Commissioner Wakida?



Ms. Wakida: Just a clarification on the drainage. In the preliminary drainage report, it says that there's a shallow drainage channel meanders across the southeast corner of the site which I assume is the one shown on Figure 3, and then it exits the project site. Do we know where it exits to?

Ms. Fukuda: I believe there is a gulch, an existing gulch that's along the property, but the other thing to point out is that the park that you see...if you look at the handout that I passed out with the lots shown on there, if you look at the bottom, that park area, there is a drainage basin there, and when the SMA was done for this project, the basin was oversized so that it provided for greater retention on the site of the existing flows of the water coming through, the runoff coming through the property such that they decreased the downstream flows from the site by 21 cubic feet per second. So they, you know, took care of more than what had been required at the time.

Ms. Wakida: So what you're saying is this, this drainage reserve that you show here, this park takes care of, takes care of that then? It doesn't exit off on—

Ms. Fukuda: Well, part of it does exit off the site because...and you know, if need be, the Deputy Director of Public Works can clarify for me, but my understanding is that you are allowed to provide—the runoff that was existing on the property that runs through your property to continue to run through your property and the standard have been to capture and retain the flow, any increase of flow. So my recollection is that the drainage reserve that you see is that runoff that was allowed to continue to run through the property. However, some of it, that existing runoff was also being captured through the drainage system that's installed in the subdivision roadway and takes it to that park site. So what's flowing through that drainage reserve is less than what was flowing before there was even construction on the site.

Ms. Wakida: Okay, but do we still know where this channel continues off the paper, off our map?

Ms. Fukuda: See if I can find the name of the gulch.

Chair Hiranaga: Commissioner Shibuya?

Mr. Shibuya: While we're rummaging through to identify where the outlet is, I just wanted to point out that the developer has or the applicant has put in an injection well in which any leftover water that is within this retention basin is actually...drains into that injection well to minimize the overflow. So there are conditions here built in not only to capture it in the basin to also percolate it.

Chair Hiranaga: Deputy Director of Public Works wishes to comment?

Ms. Dagdag-Andaya: If it helps Commission Wakida, I have a Final EA before me. I have that section, I don't know if that's what...there's a section on drainage here. It's not a main channel. It's just a shallow drainage channel, and I didn't read through this, but I can read it for you. The shallow drainage channel that traverses the subject property has been designated as a separate lot, that's the drainage reserve and will be maintained by the homeowner's association. Proposed improvements within the drainage reserve will involve the installation of geocell linings at three separate locations for bank protection purposes as well as two six-foot by six-foot box culverts

where Road B crosses the drainageway. I'm not sure where Road B is. But basically it's as Karlynn had mentioned earlier it was a...the post development flows go straight basin, that detention basin and then the rest, the offsite runoff flows through that drainage channel as it presently, as it supposed...I mean not supposed to, but what it presently is doing. And that was reviewed through our drainage rules. So, it does...I mean, it follows it's path down, downstream. Post development runoff generated by the project site will be retained by a storm drain system and retention basin. And that's what I, that's what I have here.

Ms. Wakida: The answer is we don't know. I mean, that the development is taking care of their kuleana here. This is really just a general question of where this drainage channel goes. So I will table the question since we don't know.

Ms. Fukuda: I apologize for not having that information.

Chair Hiranaga: Any other questions, Commissioners? Seeing none, we're ready for the staff recommendation.

Ms. Thackerson: Staff recommends that the Commission grant the waive review of request and it will amend the typical condition no. 2 read, "that the construction of the project shall be completed by February 28, 2014."

Chair Hiranaga: No, we're just waiving review, right?

Ms. Thackerson: Yeah, and then I will have to go back and amend the condition that reads 2012 to read 2014. So it will be to waive review, to grant the Director.

Ms. McLean: The Commission would waive review and allow the Director to administratively grant the time extension which in effect would change that condition, but administratively.

Chair Hiranaga: Right. Floor is open to a motion. Commissioner Shibuya?

Mr. Shibuya: Move to grant I guess exemption from the review, the Commission review and to also, I mean, to waive Commission review and to allow the Director to grant appropriate extension.

Mr. Ball: Second.

Chair Hiranaga: Moved by Commissioner Shibuya, seconded by Commissioner Ball. Any discussion? Commissioner Ball?

Mr. Ball: So does that solve that four months then? They're still gonna have to come back here even though...

Ms. McLean: If the project hasn't completed construction by that date, the applicant could apply for another two-year time extension which the Department would probably recommend again the Commission waving review for just the last few months.

Chair Hiranaga: There's an incentive to complete the project. Any other discussion? Seeing none, we'll have the Deputy Director restate the motion.

Ms. McLean: The motion is waive review and allow the Director to grant a two-year time extension of the SMA Permit and also noting that the applicant will voluntarily comply with the Commission's request that only Kananui Road be used.

Chair Hiranaga: All in favor so indicate by raising your hand.

Ms. McLean: Six ayes.

Chair Hiranaga: The motion carries.

**It was moved by Mr. Shibuya, seconded by Mr. Ball, then**

**VOTED: To Waive Its Review and Allow the Director to Grant a Two-Year Time Extension of the SMA Permit and Also Noting that the Applicant will Voluntarily Comply with the Commission's Request that Only Kananui Road be Used.  
(Assenting - W. Shibuya, K. Ball, D. Domingo, I. Lay, W. Hedani,  
P. Wakida)  
(Excused - J. Freitas, M. Tsai)**

Ms. Thackerson: Thank you.

Chair Hiranaga: Moving onto Agenda Item E-2. Deputy Director?

Ms. McLean: This item requests that the Commission designate the Hana Advisory Committee to conduct a public hearing on a proposed application. I would like to note that Paul Fasi, the Staff Planner is out sick today. So I'll just note the request as posted on the agenda. It's a request by Nancy Plenty of Kauiki Enterprises, LLC who is requesting a change in zoning from Urban Reserve to Service Business Residential to operate the Luana Spa Retreat, a day spa with one short-term rental and a café at 5050 Uakea Road, TMK: 1-1-004: 005 in Hana. Again, the request today is for the Commission to direct the Hana Advisory Committee to conduct the public hearing and make its recommendation back to this Planning Commission for action.

**2. Designation of the Hana Advisory Committee to the Maui Planning Commission to conduct the public hearing on the subject application:**

**MS. NANCY PLENTY of KAUIKI ENTERPRISES, LLC requesting a Change in Zoning from Urban Reserve (UB) District to Service Business Residential (SBR) District to operate the Luana Spa Retreat, a day spa with one short-term rental and café at 5050 Uakea Road, TMK: 1-4-004: 005, Hana, Island of Maui. (CIZ 2013/0001) (P. Fasi)**

Chair Hiranaga: Any discussion? Questions? Question, Commissioner Hedani?

Mr. Hedani: I got a motion.

Chair Hiranaga: No questions? Floor is open to the a motion. Commissioner Hedani?

Mr. Hedani: Move to request the Hana Advisory Committee to conduct the hearing.

Chair Hiranaga: Could you speak a little louder for the people that are viewing.

Mr. Hedani: Move to have the Hana Advisory Committee conduct the hearing on behalf of the Commission as indicated by the Deputy Director.

Ms. Domingo: Second.

Chair Hiranaga: Any discussion? Seeing none, the Deputy Director restate the motion?

Ms. McLean: For the Commission to direct the Hana Advisory Committee to conduct the public hearing on the proposed change in zoning request.

Chair Hiranaga: All in favor so indicate by raising your hand.

Ms. McLean: Six ayes.

**It was moved by Mr. Hedani, seconded Ms. Domingo, then**

**VOTED: To Designate the Hana Advisory Committee to Conduct the Public Hearing and Make Its Recommendation to the Planning Commission.  
(Assenting - W. Hedani, D. Domingo, I. Lay, K. Ball, P. Wakida,  
W. Shibuya)  
(Excused - J. Freitas, M. Tsai)**

Chair Hiranaga: Moving onto E-3. Deputy Director?

**3. Planning Commission Projects/Issues**  
**a. Amending the SMA Boundaries**

Ms. McLean: The Department has nothing to present relating to the SMA boundaries.

Chair Hiranaga: Just a side comment. I think it was in first or second year on this Commission we made this request. I mean, hopefully some day sooner than later there'll be action on it.

Ms. McLean: ...(inaudible)...

Chair Hiranaga: No, I'm just making it to the...I'm not directing it to anyone in particular. Moving onto Items E-4, and E-5, and E-6. Commissioner Shibuya?

- 4. EA/EIS Report**
- 5. SMA Minor Permit Report**
- 6. SMA Exemptions Report**

Mr. Shibuya: I just have a question. It's on Page 1. You're talking about the project SM2, this Piilani Shopping, this is a EV Recharging Station in Kihei and on Page 12 of 13, you have another SMX 2013/00091, 2<sup>nd</sup> EV Recharging Station again in Piilani. My question is you have two in Piilani proposed, one in Kaahumanu, one in Kaanapali Beach Hotel, one in Maui Ocean Center when you're gonna do one in Upcountry?

Ms. Thackerson: I can actually answer some of those 'cause I was the Staff Planner on all of those. So I can kinda give you a brief overview 'cause I met with the Japanese firm that's installing these, Hitachi, so I can give you just a little bit feel for what their, their plan is. Those have come in because those are in the SMA. Unfortunately we won't see a lot of the ones that will be placed Upcountry should there be any. The Japanese fiscal year runs on a different date than ours does, so they had a deadline to grant money in to get some of those started here on island. So they just wanted to initially get in a few and also to come into compliance with the law requiring now electric vehicle charging stations for all parking lots with more than 100 parking stalls. So those have, those have gone ahead and come in. They have plans for 20 more that will be trickling in within the two years, hopefully all within the next year. I only saw a few really listed Upcountry. Unfortunately there's not a lot of parking lots that trigger the legal requirement. If it is legally required they will have to install one for over 100 spaces. Anything else will be for the person to do on their own. They're doing the more tourist areas, resort areas because they want to start electrical vehicle rental, car rental facilities where you can rent electrical vehicles so you can even try them out before you would like to purchase one, and that will be located also in the SMA area.

Chair Hiranaga: Commissioner Shibuya?

Mr. Shibuya: I would like to make a comment relating to that. If you're gonna run out of electrical power, you'd probably run out coming up Pukalani. So I would think that you would at least have somebody that have some EV station close by.

Ms. Thackerson: I can recommend that to them when I meet with them.

Mr. Shibuya: Thank you.

Ms. Thackerson: It be a bad place to run out of electric to have your car break down. An interesting note, they may be having a event up at Haleakala. They were talking about doing electric cars at the House of the Sun. So in order to do that media event, they may need to install some along the way.

Mr. Shibuya: Good idea.

Ms. Thackerson: Yeah, good idea.

Chair Hiranaga: Commissioner Freitas?

Mr. Freitas: Question. The Makawao Library has...that parking unit has a 100 stalls.

Ms. Thackerson: Then they will be legally required to come in and get an electrical vehicle charging station and that is State law.

Mr. Freitas: It's a County parking lot.

Ms. Thackerson: The County was the first one to put in their 100 spot more right here. So they will be then required to come into compliance with that.

Chair Hiranaga: Any other questions regarding these reports? Seeing none, we're moving onto Agenda Item 7. Deputy Director?

## **7. Discussion of Future Maui Planning Commission Agendas**

### **a. April 9, 2013 meeting agenda items**

Ms. McLean: Thank you, Chair. For your April 9, 2013 meeting you have a memo dated March 22<sup>nd</sup> from Clayton Yoshida outlining the proposed agenda items including two public hearing items.

Chair Hiranaga: So these two new Commissioners they've been confirmed.

Ms. McLean: Yes.

Chair Hiranaga: If there's no further discussion and if there's no objection, this meeting is...Commissioner Wakida?

Ms. Wakida: Just one, I'm sorry, one question. We were given this CD, and as a Final EA, is this coming up? It's not on the next agenda. I guess my question is are we gonna get a hard copy or are we only gonna get a CD?

Ms. McLean: I'm not certain. We can do a follow up email to all the Commissioners and let you know, 'cause I'm not clear.

Ms. Wakida: It's not on the horizon, I mean, not in the near future?

Ms. McLean: It would not be on the April 9<sup>th</sup> meeting agenda, perhaps the second meeting in April, but we'll follow up within a day or so with the Commissioners via email to let you know.

Ms. Wakida: If we're gonna get a hard copy?

Ms. McLean: Whether you're gonna get a hard copy and we expect it to be scheduled.

Ms. Wakida: Thank you.

Ms. McLean: Sorry, I don't have that information for you.

Chair Hiranaga: As a final statement, current Members and new Members in the near future, and I'm hoping in the near future the various community plans will be coming forward, coming to you, so I wish you luck and I hope you all do a great job 'cause I think those are more important or a little bit more important than the Island Plan, but these individual community plans will be serious work for all of you. And if there's no objection this meeting is adjourned.

**F. NEXT REGULAR MEETING DATE: APRIL 9, 2013**

**G. ADJOURNMENT**

The meeting was adjourned at 11:15 a.m.

Submitted by,

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

**RECORD OF ATTENDANCE**

**Present**

Keone Ball  
Donna Domingo  
Jack Freitas  
Wayne Hedani  
Kent Hiranaga, Chairperson  
Ivan Lay, Vice-Chair  
Warren Shibuya  
Penny Wakida

**Excused**

Max Tsai

**Others**

Will Spence, Director, Planning Department (9:00 a.m.- 9:20 a.m.)  
Michele McLean, Deputy Director, Planning Department (9:20 a.m. - 11:15 a.m.)  
James Giroux, Deputy Corporation Counsel, Department of the Corporation Counsel  
Rowena Dagdag-Andaya, Department of Public Works

