

**REGULAR MINUTES  
FEBRUARY 11, 2014**

**A. CALL TO ORDER**

The regular meeting of the Maui Planning Commission was called to order by Chairperson Ivan Lay at approximately 9:02 a.m., Tuesday, February 11, 2014, 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.)

Chairperson Lay: Good morning everybody. Today is February 11<sup>th</sup>, and the Planning Commission is now in order.

**B. PUBLIC TESTIMONY** - At the discretion of the Chair, public testimony may also be taken when each agenda item is discussed, except for contested cases under Chapter 91, HRS. Individuals who cannot be present when the agenda item is discussed may testify at the beginning of the meeting instead and will not be allowed to testify again when the agenda item is discussed unless new or additional information will be offered.

Chairperson Lay: The Commission will now take testimony for those individuals who cannot be present at the meeting when this agenda item is taken up by the Commission. If you wish to testify you can do so now, but this will not allow you to testify when the agenda item comes before the Commission unless you have some new and additional information. You'll be allowed a maximum of three minutes to present your testimony. Does anyone wish to testify at this time? Seeing none, public testimony is closed.

Commissioners, what we're gonna do today is we're gonna hope onto Item D, go a little forward. And this is the proposed order submitted Peter Horovitz and Kristine of Merchant Horovitz against the Rock & Brew.

**D. ADOPTION OF WRITTEN DECISION AND ORDERS ON ACTIONS TAKEN AT THE DECEMBER 10, 2013 MAUI PLANNING COMMISSION MEETING**

1. **Proposed Order submitted on January 9, 2014 by PETER A. HOROVITZ and KRISTINE TSUKIYAMA of MERCHANT HOROVITZ, LLLC, attorneys for Applicant ROCK & BREWS PAIA, LLC granting Applicant ROCK & BREWS PAIA, LLC'S Motion to consolidate the following appeals:**

a. **ISAAC HALL, attorney for MAUI TOMORROW FOUNDATION, INC., LANCE HOLTER, the LUNA PLACE ROAD ASSOCIATION, TERI LARRONDE, and MICHAEL NEWBRO submitting an appeal dated July 19, 2013 of the SMA Minor Permit and Country Town Business (CTB) approval issued by the Planning Director for renovations and refurbishment to an existing building and the Mercantile building (Rock and Brews) at 120 Hana Highway, TMK: 2-6-005: 033, Paia, Island of Maui. (SM2 2013/0069) (SMX 2012/0414) (CTB 2013/0003) (APPL 2013/0005) (E. Wade)**

The Commission and public were notified of this appeal through the August 13, 2013 Maui Planning Commission agenda.

- b. ISAAC HALL, attorney for MAUI TOMORROW FOUNDATION, INC., LANCE HOLTER, THE LUNA PLACE ROAD ASSOCIATION, TERI LARRONDE, and MICHAEL NEWBRO submitting an appeal dated October 17, 2013 of the amended SMA Minor Permit and an amended Country Town Business (CTB) Approval issued by the Planning Director for Renovations and refurbishment to an existing building and the Mercantile building at 120 Hana Highway, TMK: 2-6-005: 033, Paia, Island of Maui. (APPL 2013/0010) (SM2 2013/0069) (SMX 2012/0414) (CTB 2013/0003) (APPL 2013/0010) (E. Wade)

The Commission and the public were notified of this appeal through the November 12, 2013 Maui Planning Commission agenda.

The Commission may take action to adopt the proposed Order as the Commissions's Order, adopt the proposed Order as the Commission's Order with modifications or take some other action.

2. Proposed Findings of Fact, Conclusions of Law, Decision and Order submitted by PETER A. HOROVITZ and KRISTINE TSUKIYAMA of MERCHANT HOROVITZ LLLC, attorneys for Applicant ROCK & BREWS PAIA granting ROCK & BREWS PAIA, LLC's Motion to Dismiss or in the Alternative for Summary Judgement regarding the following consolidated appeal:

- a. ISAAC HALL, attorney for MAUI TOMORROW FOUNDATION, INC., LANCE HOLTER, the LUNA PLACE ROAD ASSOCIATION, TERI LARRONDE, and MICHAEL NEWBRO submitting an appeal dated July 19, 2013 of the SMA Minor Permit and Country Town Business (CTB) approval issued by the Planning Director for renovations and refurbishment to an existing building and the Mercantile building (Rock and Brews) at 120 Hana Highway, TMK: 2-6-005: 033, Paia, Island of Maui. (SM2 2013/0069) (SMX 2012/0414) (CTB 2013/0003) (APPL 2013/0005) (E. Wade)

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**the Mercantile building at 120 Hana Highway, TMK: 2-6-005: 033, Paia, Island of Maui. (APPL 2013/0010) (SM2 2013/0069) (SMX 2012/0414) (CTB 2013/0003) (APPL 2013/0010) (E. Wade)**

**The Commission and the public were notified of this appeal through the November 12, 2013 Maui Planning Commission agenda.**

Mr. Peter Horovitz: Good morning, Commissioners or Chairman, Members of the Commission. My name is Peter Horovitz. I'm the attorney for Rock & Brew. We submitted yesterday, Mr. Hall and myself and I think the County concurs, we're reaching or close to reaching a settlement on this matter and what we would ask today is no action be taken on our proposed findings and order and that the whole matter simply be deferred to the next calendar. Our hope is to have concluded our paperwork by then and dismiss. So again, the request today is simply to take no action and to defer the whole matter to the next calendar.

Chairperson Lay: Commissioners, any questions or comments? Commissioner Shibuya?

Vice-Chair Shibuya: I wanna thank attorney Isaac Hall. I think you've come a long way in terms of understanding some of the issues and I really appreciate...and without hearing it, I can see the differences between what was written and what is probably gonna be a compromise. I'm complimenting you, sir.

Mr. Isaac Hall: Thank you.

Chairperson Lay: Commissioners, any more comments? Commissioner Hedani?

Mr. Hedani: Move to defer.

Mr. Medeiros: Second.

Chairperson Lay: Motion by Commissioner Hedani to defer, seconded by Commissioner Medeiros. Any comments on our motion? If not, lets vote...oh, repeat that motion.

Mr. Spence: This is to defer the proposal.

Chairperson Lay: Call for the vote. All those in favor?

Mr. Spence: That's six ayes.

Chairperson Lay: Motion carries.

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

**VOTED: To Defer Items D-1 and D-2 as Requested by the Parties Involved.  
(Assenting - W. Hedani, J. Medeiros, K. Ball, M. Tsai, P. Wakida,  
W. Shibuya)  
(Excused - J. Freitas, S. Duvauchelle)**

Chairperson Lay: Okay, now moving back to Item C.

Mr. Spence: Okay, Commissioners, your first public hearing item this morning is Mr. William Aila, Jr., Director of Department of Land and Natural Resources requesting a County Special Use Permit for the Central Maui Regional Park Project.

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

- 1. MR. WILLIAM AILA, JR., Director, STATE DEPARTMENT OF LAND AND NATURAL RESOURCES requesting a County Special Use Permit for the Central Maui Regional Park Project to construct a public park with related improvements on 65 acres of land located in the County Agricultural District west of Mile Marker 3 on Kuihelani Highway, TMK: 3-8-007: 101, Kahului, Island of Maui. (CUP 2013/0005) (P. Fasi)**

**Matter has been rescheduled to the March 25, 2014 Maui Planning Commission due to notification error by the Applicant. This matter will be renoticed. No action will be taken at the February 11, 2014 meeting.**

Mr. Spence: And I don't see Paul Fasi. Oh, it got rescheduled. Okay, never mind. That was the quickest public hearing in the history...

Okay, the second one, Mr. Tommy Nakamoto on behalf of Maui Full Gospel Korean Church requesting a County Special Use Permit. Ms. Candace Thackerson.

- 2. MR. TOMMY NAKAMOTO on behalf of the MAUI FULL GOSPEL KOREAN CHURCH requesting a County Special Use Permit to operate the Maui Full Gospel Church including the construction of an approximately thirty-one (31) stall parking lot with landscaping on approximately 11,250 square feet of land in the R-3 Residential District located at 382 and 390 Kanaloa Avenue, TMK: 3-8-025: 008 and 009, Kahului, Island of Maui. (CUP 2009/0004) (SMX 2009/0366) (C. Thackerson)**

Ms. Candace Thackerson: Aloha, Commissioners. We have Maui Full Gospel Korean Church requesting a County Special Use Permit to operate the Maui Full Gospel Church including the construction of an approximately 31-stall parking lot with landscaping on approximately 11,250 square feet of land in the R-3 Residential District located at 382 and 390 Kanaloa Avenue and this is in Kahului. So I've prepared a short presentation on behalf of the applicant so I'll go through that and then you're welcome, the applicant is welcome to talk as well. Can someone hit the lights, please?

As I stated before, here we have the address of the property. It's actually an existing church and the parking lot next door has currently been graveled but they have a SMA Permit in with the County right now to concrete the parking lot and add the appropriate landscaping. And due to the monetary amount that will be probably be an administrative approval and it will not be an SM1.

It zoned State...well it's State Land Use Urban, it's the Wailuku-Kahului Community Plan Single-Family, and County Zoning R-3, Residential and it is located within the SMA.

Here's a location map. You can see that it's the two parcels right there on Kanaloa Avenue. We're here before you today because the County Special Use Permit is required to operate a church within a residential district and here I have listed the criteria for the permit and the compliance required. I won't read through it.

So it is consistent with the State Urban District which says that Urban Districts shall include activities or uses as provided by ordinances or regulations of the County within which the Urban District is situated. This is zoned Residential District and the following are declared special uses and approval of the appropriate planning commission shall be obtained. The first one listed is churches together with accessory buildings.

Before I go any farther I'd like to please give a brief history of the project and application because as you can tell the permit is dated 2009. So I'd just like to give a little bit of history of why it's taken so long to get before this body. In 1990, the Maui Planning Commission granted approval of the Church permit. And they granted them one year to operate the church within the Residential District. In '91, the Planning Commission gave them a three-year time extension. In '94, they were granted a five-year time extension. And then in '99, when they came before this body, they only got a one-year time extension because the church grown. The members had grown in size and there were some concerns about cars parking on the street and so the Maui Planning Commission added a condition onto their time extension asking them to seek off-street parking to take care of that before they came back for any further time extension. The applicant did fail to file for a time extension by the due date, and they also changed their leadership at that time. So the applicant wasn't really aware of all the permitting processes that happened which we get so often with churches and preschools and things like that. So this is why it's a new CUP Permit instead of continuing on the '90 number.

So in 2003, the applicant purchased the property next door and decided, oh we'll put the parking lot on there. So in 2009, the applicant applied for a new CUP to operate the church and the SMX Permit to build and construct the parking lot. Now parking lots within the Residential District must be accessory to a principle use on the same lot. So they were actually not allowed to build a parking lot on the lot next door because they had to consolidate the two lots. So the Planning Department wrote them back a letter giving them to choices. They could obtain a CP and go to Council for the parking lot, and then get an off-site parking permit to use it for the church on the opposite lot, and then get a new CUP Church and obtain an SMA approval or they could consolidate the two lots, revise their CUP to include the parking lot and church under the same permit and then get an SMA. So the applicant chose to move forward with No. 2, being the easier of the two options, well, we thought.

So in 2010, the applicant received a SMA Permit to demo the existing structure on the neighboring parcel. I processed that permit. It was a small kind of dilapidated building and they ended up demoing that to...and this is all needed to be done in order to get the lot consolidation. During that time a land surveyor discovered that the CMU wall located at the back of Parcel 008 which is the church lot is partially encroaching on Keopuolani Regional Park owned by the County of Maui and managed by Parks and Recreation. So in 2012, the applicant together with Parks and Rec

appeared before County Council. They had to go to Council to get permission for the wall to encroach I think it's about 190 square feet total onto the park area. And this was built a long, long time ago and as I read through the minutes from the County Council I think they even admitted that it was just a bunch of people went out there and built the CMU wall a long time ago and they maybe were off by 10 feet out, and nobody realized it until now.

So on June 14, 2010, the Economic Development, Agriculture and Recreation Committee authorized issuance of the encroachment agreement and license to Maui Full Gospel Korean Church. Here's a picture of the encroachment. Right here...(inaudible-not speaking into microphone)...it's the ever so slightly, that back wall is just little bit crooked and encroaching into the park area. So they had to get permission from the County to have a license agreement, insurance and things like that.

Once that was done, the applicant revised their CUP application to now reflect both activities so I could route it out for agency review. On December 12, 2013, the Department of Public Works, Development Services Administration granted final approval of the lot consolidation. This took a little while because the church had to file an agreement and license with the State Land Court and then they still had that outstanding after-the-fact building permit for the wall. So they had to make sure they got lot consolidation finished, finalized, everything recorded with the State Land Court before they could clear and close their permit and I did include in my exhibits that the permit is closed. So here we are, February 11, 2014, and CUP 2009/0004 is here before you and the SMX to build the parking lot is still pending because they technically can't get approval for that, until they get approval for this first. The use has to...the SMX can't be approved until church use is approved.

So now we're at a description of the project. This is an existing church requesting a CUP to continue operation of their church services. This includes a church hall, vestibule, copy room, nursery for the members children, office, and storage. Their services and prayer sessions are listed there, Sundays 10:00 a.m. to 1:30 p.m. and they see approximately 30 to 45 members. Wednesday, Friday, Sunday 7:00 p.m. to 8:30 and that's a prayer service. And then Tuesday, Saturday 5:00 a.m. to 6:00 a.m. is also a prayer service.

Right now it's an existing gravel parking lot, but it is the proposed site of a 31-stall accessory parking lot with appropriate landscaping and that is filed under SMX 2009/0366. The parking would be utilized during the same church service hours described and they currently have five stalls located on the church property, so they'll have a total of 36. Here's an aerial view and this is where you can see the church property right here and then the...that's gravel. Here's the site plan. I saw your motion Commissioner Shibuya to go back, yeah, so that's an aerial view of it right there. So this is their proposed site plan. Once again, everything on the left-hand side is existing. So this is the proposed plan with the landscaping and you can see it's just a basic parking lot.

This is their grading and drainage plan and they applicant has submitted a preliminary drainage report where they will be capturing all pre and post development runoff as prepared by Stacy Otomo. This has been routed out for agency review and there was no comments about the drainage plan.

Included some pictures of the site so you can see it here. This is the church. And you can see the parking lot in the back. The church has since been told to remove the buses and they have. That

actually requires a CP to store buses on the site.

This was reviewed by 11 agencies and five came back with comments. Public Works came back about the after-the-fact building permits still being outstanding which has since been closed and I included an exhibit of that. The Department of Water requested some irrigation calculations for the proposed landscaping lot which I requested of the church and that will be done prior to the SMA approval. Police had some concerns about traffic in the area. Although they did comment that to date there are no recorded accidents or incidents on either parcel, but police did have some several comments. Rowena was saying that she has a rebuttal back to that, Public Works? Yeah, so if there's more questions about the police report and how that interacts I'm sure she'd be happy to answer those for you. Wastewater wanted the applicant to call out where the manhole and property cleanouts are which are actually listed on the grading and drainage plan so I rerouted that back to Wastewater and highlighted it for them. State DOH put their standard comment about a noise permit being required during construction of the parking lot.

In summary, considering the uses of the land surrounding the subject parcel and the need to the community the proposed use of a church within a Residential District is considered reasonable and not unusual for the area. Moreover the church has been operating for over 20 years at the subject location and to date has received no recorded complaints from the neighboring community. The Department recommends approval of CUP 2009/0004 for a period of 10 years. I figured it took them five years to get here, until February 28, 2024 subject to the 10 conditions listed in the Department's recommendation prepared for the Maui Planning Commission's regularly scheduled meeting of February 11, 2014.

The applicant is here if you have any specific questions for them. Thank you.

Chairperson Lay: Does the applicant wish to say anything at this time? At this time, we're gonna open up to public testimony.

**a) Public Hearing**

Chairperson Lay: Does anyone wish to testify? Seeing no one, we're closing public testimony. Commissioners, any questions? Commissioner Medeiros?

Mr. Medeiros: The recommendation is for 10 years. Are we limited to 10 years?

Ms. Thackerson: No.

Mr. Medeiros: They've been there for 20. Could I change it 20?

Mr. Spence: You can certainly make the recommendation.

Mr. Medeiros: I'd like to make a motion—

Chairperson Lay: Well, let's wait, let's wait before we go to comments. Commissioner Ball?

Mr. Ball: I'd like to hear from Public Works as far as that police comment?

Chairperson Lay: Rowena?

Ms. Dagdag-Andaya: Okay, thank you Commissioner Ball. So we took a look at the Police Department's recommendation and what they recommended was a left-turn marking be placed on Kanaloa Avenue entering the Maui Full Gospel Church and opening the unraised asphalt median for the motorists intending to execute a left-turn onto Kanaloa Avenue from the Church. So that means that if you were on one lane, and you're trying to execute a left turn, they'd want some markings on the road to allow for that to happen. Now if we were to do that then we would have to ask it be done for the entire length of Kanaloa Avenue down to Kahului Beach Road which to us, I mean wouldn't be the applicant's responsibility. I mean, it would probably be our responsibility.

In addition to that, Kanaloa Avenue is a Federally aided...a road that receives Federal aid. We recently did construction work on Kanaloa Avenue which included the striping. So we had all of, all of this be taken into consideration when the State reviewed the project and none of that had come up about any conflicts in executing a left-hand turn. We also took a look at the Maui County Code and also the Uniform Vehicle Code as well as the traffic, HRS 291C which Lieutenant Dadez makes mention in his comments on Officer Casio's report. And you know, we kinda disagreed on that. We had some guidance a few years ago on a similar project where there was a double...what we call a double, double yellow and we were told at that time that you could execute a left-hand turn. The only thing you can't do is pass. It's not intended for passing. In this case here, and we did...when we did the striping a couple years ago, you know the intent wasn't to make it restrictive or to restrict any left-turn movements. We did this because so that the lanes wouldn't be so wide. If we just had a single double yellow line there that would create an even wider travel lane which we didn't think it was safe, so that's why we did that configuration there. But just to sum it all up, we, we feel that you can still execute that left-hand turn based on the Code, County Code and also research with the HRS.

Chairperson Lay: Commissioner Ball?

Mr. Ball: Follow up on that. So I guess the Code doesn't allow for a break in that yellow also?

Ms. Dagdag-Andaya: That's correct. The break...so when you see that break...a lot of people think of it as meaning that you can make a left-turn there, but by the MUTCD and the HRS, the dash broken double yellow indicates something called the presence of reversible lanes. However, you know, if you...it's not...it's intended to execute a left turn. So that's another thing that we had taken a look at too. I asked Staff, well what if we did break the lanes? They're like no, that's not meant to be used to indicate a left-hand turn. And even if we were to do that, we'd still have to do it for the entire...we'd have to--

Mr. Ball: Each driveway.

Ms. Dagdag-Andaya: --each driveway would have that issue.

Chairperson Lay: Commissioners, any more questions or comments? Commissioner Wakida?

Ms. Wakida: I have a question for the Director first. Does a parking lot of this nature have the



same requirements as far as landscaping and trees as a commercial parking lot?

Mr. Spence: Yeah, it would. I know they still gotta plant the trees ...(inaudible)...

Ms. Wakida: Okay. Yeah, I would like to ask Candace if I could have just a little more information on the landscaping for the parking lot?

Ms. Thackerson: Yes. The landscape permit will be submitted with the SMX. Those are both subject to the church getting their use permit. That's why we're here first. As you can see they'll be required by Maui County Code to do one shade tree per every five stalls, a two-foot wide sideyard setback with hedging, everywhere parking immediately abuts a property line as well as a four-foot wide front yard setback with hedging material. And because they're neighboring a residential lot, they'll have to put like a wall or something on top of that, on the property line.

Ms. Wakida: Good. Thank you.

Ms. Thackerson: You're welcome.

Chairperson Lay: Commissioner Shibuya?

Vice-Chair Shibuya: Then coming back to the stripe, solid yellow strip down the center of Kanaloa Avenue. So then I just wanted to be very clear here that we're not making a special determination on the use of making left-hand turns. The permissibility of using left-hand turns on this solid double, yellow stripe thing. It applies not only to the church members, it applies to all of the residents. I just wanna make sure that the record does reflect that.

Chairperson Lay: Commissioner Wakida?

Ms. Wakida: Candace, I see by the plans there'll be some lighting in the parking lot?

Ms. Thackerson: Yes, yes there will.

Ms. Wakida: Is there anything in, I didn't see anything in the project specific conditions about downward lighting. Oh, no, I've...

Ms. Thackerson: It's No. 8, yeah.

Ms. Wakida: No. 8, yeah, I finally found it. Thank you.

Ms. Thackerson: It's also required by our Code, so yeah.

Mr. Spence: I would note that is redundant with our Code. So you're...you know, it already required by County law.

Ms. Wakida: So don't keep bringing it up?

Mr. Spence: Well, we may not include this in future recommendations. So the Commission is

aware that, you know, it's already required by law.

Ms. Wakida: Thank you.

Chairperson Lay: Commissioner Ball?

Mr. Ball: The permit that was open under Exhibit 15, was that the one referenced that is now closed?

Ms. Thackerson: Yeah, I think...turn the page--

Mr. Ball: Just this one line on the top?

Ms. Thackerson: Yeah, I don't have a copy of their permit. I think it says closed and that's the after-the-fact CMU wall in the back. That's for that permit.

Mr. Ball: Under fence, yeah.

Ms. Thackerson: Yeah.

Chairperson Lay: Commissioner Shibuya?

Vice-Chair Shibuya: ...(inaudible)...Candace, on Exhibit 11 if you will note that the true north not to scale image, I think you need to reverse it.

Ms. Thackerson: Thank you.

Vice-Chair Shibuya: Thank you.

Chairperson Lay: Good catch. Commissioners, any more questions or comments? Commissioner Hedani?

Mr. Hedani: Candace is the crosswalk an elevated crosswalk?

Ms. Thackerson: I think Rowena will be...Public Works will be able to answer that.

Chairperson Lay: Public Works?

Ms. Dagdag-Andaya: Yes, that's a raised crosswalk.

Mr. Hedani: Thank you.

Chairperson Lay: Any more questions or comments, Commissioners? Seeing none, can we get the Department's Recommendation?

**b) Action**

Ms. Thackerson: In consideration of the foregoing the Planning Department recommends that the Maui Planning Commission adopt the Planning Department's Staff report and recommendation report prepared for the February 11, 2014 meeting and authorize the Director of Planning to transmit said findings of fact, conclusions of law, decision and order on behalf of the Maui Planning Commission. And as I read earlier, the Department is recommending 10 years subject to the 10 conditions.

Chairperson Lay: Commissioner Medeiros?

Mr. Medeiros: I'd like to make a motion to extend that to 20 years.

Mr. Hedani: Second.

Chairperson Lay: Motion is—

Mr. Spence: I trust that's a motion to approve as recommended by Staff with the addition of extending it to 20 years?

Mr. Medeiros: Yes.

Mr. Spence: Is that okay with the second?

Chairperson Lay: Any comments on the motion? Commissioner Hedani?

Mr. Hedani: Just a request basically. When I take a look at the photographs of the church the existing gravel condition is very harsh when you look at it. I think it will be improved once the parking lot is put in and the landscaping is put in and the hedge is put in front of the parking lot. I was wondering if the applicant would consider extending the landscaping to cover the section in front of their church as well. Kinda like a street tree requirement, I don't know if there's a street tree requirement for the subdivision in that area.

Chairperson Lay: A condition or a recommendation on that?

Mr. Hedani: Just a recommendation.

Chairperson Lay: Thank you. Commissioner Medeiros?

Mr. Medeiros: And the reason I made the motion to extend it 10 more years is because they've been there for 20 years, no complaints. So obviously they're good neighbors. Now, for me to ask them to come back in 10 years, why? You know, why? They good neighbors, you know. I'm sure that if there was a need by the community, you know, if they grow and left turns are not in the best interest of their fellowship they would tell their fellowship don't make any left turns you might get hurt. You know, I mean it's a church. Let's do this.

Chairperson Lay: Commissioners, any more comments? Commissioner Hedani?

Mr. Hedani: I think the concern about left turns is not that significant in this particular case because

there is an elevated crosswalk in that vicinity which means traffic has to slow down as they're approaching the area so it will be relatively safe.

Chairperson Lay: Commissioners? Can we get the Department to repeat the motion?

Mr. Spence: The motion is to approve as recommended by Staff and to extend the time extension to 20 years instead of 10.

Chairperson Lay: Call for the vote. All those in favor?

Mr. Spence: That's six ayes.

Chairperson Lay: Motion carries. Congratulations.

Ms. Thackerson: Thank you.

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

**VOTED: To Approve the County Special Use Permit as Recommended by the Department with a 20-Year Time Period.  
(Assenting - J. Medeiros, W. Hedani, K. Ball, M. Tsai, P. Wakida, W. Shibuya)  
(Excused - J. Freitas, S. Duvauchelle)**

Chairperson Lay: Our next agenda item?

Mr. Spence: So Commissioners your third public hearing item is Lisa, Ms. Lisa Pestana, you can correct my pronunciation, requesting a State Land Use Commission Special Permit to operate a the Maui Olinda Forest Reserve Short-Term Rental Home, Piihola Road, and Mr. Kurt Wollenhaupt is our Staff Planner.

**3. MS. LISA PESTANA requesting a State Land Use Commission Special Use Permit in order to operate the Maui Olinda Forest Reserve Short-Term Rental Home (STRH) in the State Agricultural District on approximately 5.4 acres of land located at 1939 Piihola Road, TMK: 2-4-013: 047, Makawao, Island of Maui. (SUP2 2013/00025) (K. Wollenhaupt)**

Mr. Kurt Wollenhaupt: Good morning, Members of the Maui Planning Commission. Today continues the series of requests for approval of a short-term rental home permit in the State Ag District. The Commissioners are well aware of the requirements that come with these permits. Today's matter arises from an application for a State Land Use Commission Special Use Permit filed on September 6, 2013 by the applicant, Lisa Pestana. Ms. Netra Halperin will be doing a power point presentation to explain this project.

As the Director indicated, this property is known as the Maui Olinda Forest Retreat located at 1939 Piihola Road in Makawao, Maui in the State Ag District. That being the case since it is in the State Ag District, this Short-Term Rental Permit is subject to two regulations. The first being the

Short-Term Rental Home Permit Ordinance that was communicated out via mail that the applicants had put an application in and there were no and have been no communications in opposition to this either at the time of the application or at the time of the notice of the public hearing.

In addition, the Short-Term Rental Home Permit can be approved via the Administration subject to approval by this body of the State Land Use Commission Special Use Permit. I just wanted to remind the members again that should you approve it today, there are 23 additional conditions that are put onto the house through the Short-Term Rental Home Permit process that covers issues of safety, occupancy, fire extinguishers and things like that. Therefore that being the case, the reason that we're here today is to consider this project under the rubric of HRS 205 that being whether or not the use of a short-term rental would be considered unusual but reasonable within this State Agricultural District. The Department then therefore has developed a process by which it works with the Zoning and Administration Division to determine whether or not a farm plan has been implemented properly and the degree to which agriculture is being done on this property.

The subject parcel is 5.4-acre butterfly shaped hillside lot with a narrow isthmus that's noted in the photographs. The upper wing is planted with eucalyptus timber and the trees are periodically harvested and will be taken to a local mill once the timber operation is underway. The lower portion is divided into a grazing area. The farm plan was approved on September 5, 2013, and is highlighted in the ag section of this report. Interestingly enough if you look at the Land Use Commission's agricultural studies, the major existing uses for this property should be grazing and forest and that's in fact what the applicant is doing on the 4.2 acres out of a total of 5.4 acres for approximately 60 percent of the property.

As the Commission has asked in the past, there are no permitted STRHs or B&B operations within 500 feet of this rather remote property up Piiholo Road. As of the date of this report there are only four permitted short-term rental homes within the Makawao-Pukalani-Kula Community Plan out of a total maximum of 40.

I won't go into each of the five criteria, but the State Land Use Commission criteria had been met and are explained in detail on Pages 9 and 10 of the Staff Report. Therefore, the applicant's consultant, Netra Halperin along with Lisa Pestana and Mr. Pestana have a short power point presentation they'd like to present. Thank you.

Ms. Netra Halperin: Good morning, Commissioners. First of all this property, the Pestana Family, Brian Pestana has been on Maui for many generations. So I just wanted to give him a chance to talk about that.

Mr. Brian Pestana: Anyway good morning, my name is Brian Pestana and we've been up there in Makawao since my great, great grandfather sailed over from Portugal as a whaler, loved it here in the islands, he sailed the whole family over, and since then we've raised our kids on Oahu, moved over here about 10 years ago and my goal was to bring my, bring my family home. So we've come across this property up there and it's a beautiful piece of property, raised our children up there for the last 10 years. And our ultimate goal is to be able to have some property to pass onto my children where in the past, the past generations was not able to do that. Our ultimate goal is to keep the...you know, make this property so it's income producing where we can at least hold onto the property for future Pestana generations.

Ms. Halperin: Thank you. And as Mr. Wollenhaupt said, as you can see from the overhead, it's very...it's forested on the left side and there's just the little, the little yellow at the top is where the house is. But you can see it's pretty much forested, those eucalyptus trees and it does make beautiful timber. This is a grain of eucalyptus it compares to hardwoods such as white oak and redwood. It's makes beautiful flooring, it makes nice patio furniture and the Pestana's have made an agreement with King's Lumber up in Kula and he...there's customers who there ready to buy it when they harvest it and mill it to sell to them.

As Mr. Wollenhaupt mentioned they also are doing goats. They previously were doing Alpaca, but that was a difficulty. They'll talk about that in a minute about goats. And as he said, it's classified as B. It's Olinda loam and it says, which is used for pasture, woodland and water supply. So it's being used for what is generally considered the correct usage for the area. And it's other, it's not, it's not prime so it's usable but they...it needs irrigation or commercial production or management. You have to do stuff to make things grow. And then all, this a letter from Clearview Christian Girls School. They did get Alpaca and they ended up giving the Alpaca to the girls school and then now they have goats that's from Dr. Alan Kaufman talking about the goats. So if you wanna talk about the Alpaca and the goats?

Mr. Pestana: Anyway about eight years ago after buying the property we wanted to raise animals on it just to be able to raise our kids in a farm environment. We looked at raising buffalo but that was not gonna work with my wife 'cause I work on Oahu Monday through Friday, Monday through Thursday sometimes and come home on the weekend. She said what happens if the buffalos get out? I told her call the kids. Anyway, so we decided to bring in Alpacas, it's a new...it's a thriving industry in California or in the United States and the animals they sell between ten and fifteen thousand. There's some Alpacas who sold for more than eight, nine hundred thousand an animal. And they're mainly a...for the demand for the animals is not for their meat but for their wool. And their wool sells between four and eight dollars an ounce versus sheep is fifty cents an ounce. And so we thought it would be a good...try bring it in here to the islands it might be...'cause everybody's got, you know, Upcountry everybody's got land up there and you know, you don't need a lotta land for these animals. They're very, very low maintenance, but it's very hard to sell a \$15,000 animal that you know, you show it to all the local people and they tell me, look like one long neck billy goat, how come so expensive? One of them said, how she taste? I told 'em too expensive to eat. And so anyway we tried it, we sold, we sold couple of animals, but it just...you know, the cost of maintaining the animals and feeding them was not, was not profitable so we decided to sell, I mean sell 'em, but donate them to the church and they're doing a great job with them.

So we decided to go into what, what's more common here is raising goats. And so that's presently, they're lots of fun, easy to maintain and lots of buyers here. So that's presently what the market what we're thriving for. We just started. We just started that within the last year. So we're working with Dr. Kaufman on a weaning process. So he starts them and then after, you know, few months we bring 'em onto our property and then usually sell them anywhere from eight months to a year. So we're just now getting close to selling the small herd that we have. Now that we're used to the cost and the maintenance and they're very hardly machines and we're gonna sell these animals and then start a bigger herd next year.

Ms. Halperin: Okay, that's it. Thank you. Do you have any questions?

Chairperson Lay: At this time I'm gonna open up to public testimony.

**a) Public Hearing**

Chairperson Lay: Does anyone wish to testify at this time? Seeing no one, we're gonna close public testimony. Commissioners, do you have any questions? Commissioner Wakida?

Ms. Wakida: Yes, I have a question for the owner. And then this is a question I ask everybody that comes in for a short-term rental. Why did you decide not to rent your property long-term?

Mr. Pestana: Upcountry there's so many homes up there where they have ohana homes on there and we were trying to—we did that and we just can't get the return. The rents Upcountry is so low and my mortgage is up there is \$3,500 a month and the most we can get is between fifteen to eighteen hundred a month. It just brought in too much of a negative and doing with the short-term rental we can, you know, the demand for rentals in a home for a family...and we really cater our rental unit to families, you know, and we have everything where people wanna come and bring their children, the beds, we got cribs, we got wheelchairs and so it's really...it's just a higher return, you know.

Chairperson Lay: You're gonna have to come to the mic? Identify yourself too?

Ms. Lisa Pestana: Oh, I'm sorry, I'm Lisa.

Ms. Wakida: No, he answered my question, that's fine.

Chairperson Lay: Okay, Commissioners any more questions or comments? Commissioner Hedani?

Mr. Hedani: Just a little bit of a concern on the goats. You have adequate fencing to make sure that none of them escape and end up in Haleakala?

Mr. Pestana: Yes, the whole property, lower property is all fenced in.

Mr. Hedani: Thank you.

Chairperson Lay: Commissioner Shibuya?

Vice-Chair Shibuya: Just curious on the date for Dr. Kaufman's letter, when was that received or written? Just curious.

Mr. Pestana: Yeah, I would say approximately September.

Chairperson Lay: Commissioner Shibuya?

Vice-Chair Shibuya: Do you have septic or a cesspool?

Mr. Pestana: Cesspool.

Vice-Chair Shibuya: And does that have enough capacity for tenants?

Mr. Pestana: Yes it does.

Chairperson Lay: Commissioner Wakida?

Ms. Wakida: You don't live on the property I take it?

Mr. Pestana: No.

Ms. Wakida: And where do you live?

Mr. Pestana: In Makawao.

Chairperson Lay: Commissioner Shibuya?

Vice-Chair Shibuya: I'm always asking this question because I'm concerned once you commercialize a home, the standard of care increases because you now have guests, customers who are not familiar with the surroundings and there might be some serious pilikia. Where's the nearest fire hydrant and the size of the hydrant?

Mr. Pestana: We have a fire hydrant on the upper part from our property about 500 yards and down below, I would say about a 1,000 yards down below.

Vice-Chair Shibuya: And the size about, what size, inch and a half, two-inch, three-inch?

Mr. Pestana: I would think it...this is not the large...I'm not too familiar though...yes, at least that.

Vice-Chair Shibuya: It's a standpipe, right?

Mr. Pestana: Yeah.

Vice-Chair Shibuya: Okay, thank you.

Chairperson Lay: Commissioner Wakida?

Ms. Wakida: I have a question about your goats.

Mr. Pestana: Yes.

Ms. Wakida: You will be renting..you wish to rent out your property. Who will take care of the goats?

Mr. Pestana: We have a care person on the property.



Ms. Wakida: That lives on the property?

Mr. Pestana: Yes.

Ms. Wakida: Is there another dwelling on the property? I didn't notice in the plan. Maybe you could point out.

Ms. Halperin: It's on the side.

Chairperson Lay: Please step up to the mic.

Ms. Halperin: Please go to Page 16 of the staff report. It's like...right here right? That's where that apartment is? So it's on the right-hand side of the building. If you could look at the bottom where the building is a little bit bigger and then...so yeah, it's actually at the bottom if you're...(inaudible)...the page. Actually if you have page normal, its on the very top of the building.

Ms. Wakida: What page are you looking at? The garage it says here--

Chairperson Lay: Is this an exhibit?

Ms. Wakida: --it says here garage?

Ms. Halperin: Yes.

Vice-Chair Shibuya: You have it on the projector?

Chairperson Lay: Is it Exhibit 4 we're looking at?

Ms. Halperin: So Page 18, and if you put it correctly so it has the word, "floor plan" at the top, it's on the right-hand side.

Ms. Wakida: But that...in my, in my copy it says, "garage".

Ms. Halperin: It's been, it's been adapted.

Ms. Wakida: It's...

Mr. Pestana: We enclosed it. We enclosed the garage.

Ms. Wakida: Is that up to snuff with the Planning Director? Is that part of the...

Mr. Spence: I would defer to...

Mr. Wollenhaupt: Let's see according to a letter in their application directed to the Building Inspector's Office from a Melvin J. Fielding, registered architect, the proposed dwelling being submitted for short-term rental was built in compliance to the current Maui Building, Plumbing, and Electrical Code. So we use that in determining compliance at the time that it was built. That's the

standard that we go by.

Mr. Spence: I'm not sure the question asked.

Ms. Wakida: Well, no the question I'm asking is there...I mean, there's obviously another living unit in this structure and I'm wondering if it's permitted?

Mr. Spence: I haven't personally checked ...(inaudible)... Mr. Wollenhaupt ...(inaudible)...

Mr. Wollenhaupt: And I don't know that I was necessarily...I didn't know that anyone necessarily lived their permanently to be honest with you. So that might merit some further review.

Chairperson Lay: Commissioner Shibuya?

Vice-Chair Shibuya: Yeah, I'm concerned because now you have another living area that's not really designated and designed for human habitation because it was actually designed for a garage. So now you have your electrical, you have your plumbing, and then you get a smoke alarm system there too?

Mr. Pestana: Yes.

Ms. Halperin: Yes, there is.

Vice-Chair Shibuya: So you do have a kitchen in there too?

Chairperson Lay: Commissioners? Commissioner Wakida?

Ms. Wakida: I'll reserve my comment for later.

Chairperson Lay: Commissioner Shibuya?

Vice-Chair Shibuya: I think there's more information that we really should know and you know, it's not a reflection on Kurt, it's just that if the garage door was closed at the time that he visited and we all assume that the garage when it's closed like that it's used for storage or you have another vehicle in there. I'd really like to defer this until we have more information.

Chairperson Lay: Commissioner Wakida?

Ms. Wakida: I agree. I think maybe the applicant needs to take a look at that and then see if there's any permits that need to be completed and then come back to us.

Chairperson Lay: Commissioners, any more comments? Commissioner Hedani?

Mr. Hedani: Kurt, when the architect provided a statement regarding the acceptability of the house did that include the enclosed garage?

Mr. Wollenhaupt: Well, it would have been that...that architect statement is done when it's one of

the means by which the Department can be assured that the house was built according to the Code at the time the house was built. Now there are other ways of doing that. They can go to get miscellaneous inspections from the County where the house have met all the requirements at the time it was built. So what may have happened after that time wouldn't necessarily be reflected in that letter. Then there's a second part that we have...is that we require a short-term home inspection form and that was done by Tom Lewis and it was signed and they go out and the ASHI inspector inspects the entire property. Now they did indicate there is a check here on garages and out buildings that the overhead garage door was equipped with an automatic garage door opener. He certified that the inspection information contained in this form was accurate. Now, I didn't ask specifically because I wasn't aware that you know, there might be somebody in there. So I would have to do more research about whether Mr. Lewis opened the door, whether he went into the property, if he knew, that would require additional research. Those are two methods. The architect says it was built okay back then in 19 or back in 2000, whenever it was built.

Mr. Pestana: I believe it was 1970.

Mr. Wollenhaupt: '71. The home safety inspection is that it's safe for occupancy for the short-term guests. So it might merit a telephone call to him and ask if he looked into the garage.

Chairperson Lay: Commissioner Shibuya?

Vice-Chair Shibuya: Another public safety issue is that the parking areas are they graveled covered or grasscrete?

Mr. Pestana: Gravel covered.

Vice-Chair Shibuya: Gravel covered. So the customers when they park their car it's easy for them to walk to the house without slipping because it's sloped. It's a sloped area is it not?

Mr. Pestana: Yeah, it's all level. Where the graveled area is it's all level. And there's a, there is a walkway that comes right to the parking area.

Vice-Chair Shibuya: Thank you.

Chairperson Lay: Commissioner Hedani?

Mr. Hedani: Mr. Pestana?

Mr. Pestana: Yes.

Mr. Hedani: The enclosed garage like my garage, I have a laundry room attached to the garage, I have a shower attached to the laundry room. In the case of this, does the...the person there is there accommodations for him?

Mr. Pestana: Yes.

Mr. Hedani: So there's a shower and head and they have a toilet?

Mr. Pestana: There is, yes there is a shower and a head.

Mr. Hedani: Okay.

Chairperson Lay: Commissioner Shibuya?

Vice-Chair Shibuya: Another one, security lights. Let's say the customer parks the car at night, is it readily, easily accessible without any accidents?

Mr. Pestana: Yes, we have motion lights on the house with large flood lights. Also, on the walkway going right to the parking, I mean to the parking area it's as a...it's on a timer because there's night lights for the walkway and in the trees up above, some bamboo trees and some other type of plantings there's large lights up there. They're real bright but it lights it up, lights it up very, very well.

Vice-Chair Shibuya: Yes, okay. Thank you.

Chairperson Lay: Commissioners? Commissioner Wakida?

Ms. Wakida: I'd like to make a motion to defer this request in order to allow the Department and Kurt to gather more information on the, the rest of the building, the garage and if there needs to be additional inspections or permits that it gives the applicant an opportunity to do that.

Mr. Medeiros: Second.

Chairperson Lay: Motion by Commissioner Wakida, seconded by Commissioner Medeiros. Any discussion on the motion? Commissioner Medeiros?

Mr. Medeiros: I actually like your application, okay.

Mr. Pestana: Thank you.

Mr. Medeiros: However, there are questions that need to be answered.

Mr. Pestana: I agree.

Mr. Medeiros: Go back, get the information that we need to make the proper decision, you know, and we'll look at it. What you've done so far is, you know, pretty damn good as far as I'm concerned, okay.

Mr. Pestana: Thank you.

Mr. Medeiros: Just get us the information. Find out if it's legal for the two uses and everything like that and then come back.

Mr. Pestana: Okay, appreciate it.

Chairperson Lay: Commissioner Hedani?

Mr. Hedani: Generally speaking I just wanted to say that I'm in favor of this particular application. I think the idea that there is a caretaker living on the property actually comforts me a little bit to know that there's somebody there can handle any complaints that come up or you know, handle any problems that the guests come up with and is on site all the time to take care of the animals that are in the area. One of the concerns that I always have is that short-term rentals and B&Bs displace long-term housing. They displace...they create a problem for affordable housing basically and in this particular case in the caretaker's residence although it's a converted garage subject to getting whatever approvals they have to get or permits that they have to get or whatever they need to secure, I think it's a positive thing from my perspective.

Chairperson Lay: Commissioners, any more discussion? Commissioner Hedani?

Mr. Hedani: If the motion to defer doesn't carry, I would recommend approving it subject to, you know securing the required permits for the garage.

Mr. Medeiros: Yeah, I'm okay with...but I seconded it. Are you okay his amendment?

Mr. Ball: Well, you gotta vote on the first one first.

Chairperson Lay: Commissioner Wakida?

Ms. Wakida: I'd like to ask the Director how that works then if this is approved with conditions, how does that, how do you follow through on that?

Mr. Spence: What we could do in this case is say...put a condition on it to get whatever other permits are needed within a year and/or before the time extension on the Special Use Permit that, you know, you have some flexibility with and then, you know, before it comes back before you for a time extension or if I'm, you know, going to be issuing the time extension I can say, you know, let's see your building permit or whatever. So you could approve it with that condition and then if they don't obtain whatever permits are needed then you know, we can bring it back before you or we can deny the renewal or something like that. There's quite an incentive to comply.

Chairperson Lay: Commissioner Wakida?

Ms. Wakida: So if I choose to withdraw my motion then I just ask to withdraw and ask the seconder the same thing?

Mr. Spence: Yes.

Ms. Wakida: Okay.

Mr. Medeiros: And then let him make his motion with the condition.

Ms. Wakida: Okay.

Chairperson Lay: Do you wish to make that motion?

Ms. Wakida: I do, but I would make the motion for two years instead of, let's see it's currently three years, I would prefer to approval for two years so it gives 'em those two years to get the permits or whatever they need for this second occupant.

Chairperson Lay: Okay, if you like, I'd like to get the Department's recommendation on that and collaborating with your additional motion on that. Then we can hear...go through the whole thing. Get the Department's motion on this and then you can add in that.

Mr. Spence: It seems to me the Department...(inaudible)...presented the recommendation again.

Ms. Wakida: That's true. My apologies.

Chairperson Lay: And first if we can clarify that that motion was withdrawn along with...

Ms. Wakida: Yes, it was and I jumped the gun anyway.

Mr. Medeiros: I withdraw my second.

Chairperson Lay: Okay.

Mr. Spence: Okay. So if the Commission wishes to make a motion for approval and make it for two years instead of three and we can add a condition that says that all other permits must be obtained within those two years subject to approval by the Planning Department or something like that, you know, we can accommodate that.

Chairperson Lay: So we have a motion. Now do we have a second?

Mr. Medeiros: I thought we was going wait for the recommendation?

Chairperson Lay: Okay, Kurt, okay, excuse me Kurt?

Mr. Wollenhaupt: Well, I guess the recommendation as amended by Staff would be that the Land Use Commission Special Use Permit shall be valid until February 28, 2016 subject to extension by the Maui Planning Director. The six standard conditions would then follow. There would be an additional Condition No. 7 that would read something...that to the satisfaction of the Department of Planning and to the Department of Public Works all building permit regarding the occupancy of a guest cottage in the garage shall be obtained and finalized by the expiration date of the State Land Use Commission Special Use Permit.

Mr. Spence: Kurt, perhaps we could just say all required permits for the conversion of the garage. That way it leaves it open to, you know, because we can't have a kitchen, two kitchens within a house. You can only have one. You know, we'll just say all required permits. We can work with that.

Chairperson Lay: Commissioner Wakida?

Ms. Wakida: Yes, okay I will...I make a motion to approve as recommended by Mr. Wollenhaupt.

Mr. Medeiros: Second.

Chairperson Lay: Motion by Commissioner Wakida, seconded by Commissioner Medeiros. Any discussion on the motion? Commissioner Hedani?

Mr. Hedani: I think, you know, I think instead of maybe permits we should say, the property should be inspected to ensure that it's in compliance with Code. Just a thought. You know, if I did a renovation of garage, it's kinda hard to go back and request a building permit for it after-the-fact.

Mr. Spence: But that certainly can be done, but if...you know, and that's what would be required is the after-the-fact permit if permits are required. But an inspection would...even back off of that a little bit more and say, I mean if it's already in compliance then there's ...(inaudible)... One way or another we can work this out.

Chairperson Lay: Commissioner Shibuya?

Vice-Chair Shibuya: In this particular case, I guess I'm a stickler with public safety especially in commercial operations. So I'm gonna be voting against it because I really want it to be straightened out prior to the admittance for the collection of fees or monies from a commercial type enterprise. It must be up to snuff before I can allow this kind of enterprise to exist.

Chairperson Lay: Commissioner Ball?

Mr. Ball: I guess we should clarify that then 'cause I thought that was the motion that we're approving it subject to the permitting of or maybe permitting of this ohana unit within the garage?

Chairperson Lay: Director?

Mr. Spence: My understanding of the motion is for approval for two years and during which time if they need additional permits they need to get it within that two years.

Mr. Ball: So they're able to operate then?

Mr. Spence: That's the way it reads to me.

Mr. Ball: Prior to? I thought it was the other way so...

Mr. Tsai: Yeah, that's what I thought too.

Mr. Ball: I'll be with Warren on that.

Chairperson Lay: Any more discussion on the motion?

Chairperson Lay: Seeing none, can we repeat the motion?

Mr. Spence: Okay. The motion is to approve the Land Use Commission Special Use Permit for a period of two years. During...and they would be allowed to operate during that time but within that two-year period there'll be an additional condition that they must obtain any after-the-fact permits, any required permits.

Chairperson Lay: Commissioner Wakida?

Ms. Wakida: And that would also require an inspection soon, right?

Mr. Spence: Yes, it would.

Chairperson Lay: Any more discussion? If not...oh, Commissioner Medeiros?

Mr. Medeiros: Just a question. Say they went out after the permit and they were denied the permit, you know, during the two years, would that effectively close them down or would they get to operate two years? If they're denied the permit...then it doesn't matter whether they have two years to get the permit or not, you know, they were denied.

Mr. Spence: Right. If this permit were denied it doesn't matter is what you're saying?

Mr. Wollenhaupt: Oh, I think what he's saying is that should during the next two years they, the applicant will be unable to get a building or a final permit for the habitation of the structure of the garage they would then have to take it back to a garage. If they were to do that then the entire property would be in conformance and then this permit could stand. If they were unwilling to do that, then that would cause a breach of certainly the understanding that this Commission is coming to today and they were to say the person is going to stay in that no matter what then this permit would be breached and the Director could revoke it.

Chairperson Lay: Commissioner Ball?

Mr. Ball: I'll be voting with Warren on this because I don't think it sets a good precedence for us to permit something with an unpermitted, potentially an unpermitted use in there and I don't think we've done it in the past from what I can remember but most of the time we ask is everything permitted and the answer is either yes or no. And if it's a yes and we approve it. If it's no, then we deny. So I was originally thought that it was...they were gonna do it and then they get the use, but with this current condition that...it's a no for me.

Chairperson Lay: Commissioner Tsai?

Mr. Tsai: I'm in agreement with both Commissioner Shibuya and Commissioner Ball in regarding this and I think...I don't wanna set that precedence approving something that's not permitted and I don't have a problem with it if it had more of a contingency motion versus where they can operate doing the two years while they're trying to get the permit. I don't think that's the right precedence we're setting so I'm gonna vote against it too.



Chairperson Lay: Kurt?

Mr. Wollenhaupt: Oh, I was just wondering if one alternative would be that the item would be, would be deferred until such time as the applicant very expeditiously gets this situation therefore this item if it goes into denial that pushes it into a decision and order so a deferral would allow them to continue this on to a meeting at their earliest available date they can get this situation cleared up.

Chairperson Lay: Director?

Mr. Spence: Yes, so right now the motion is for approval with conditions. If that motion fails, then we can discuss other motions including possible deferral or possible denial.

Chairperson Lay: Commissioner Wakida?

Ms. Wakida: In listening to Kurt's comment, I certainly don't think we wanna incur another whole bureaucratic bunch of hoops to jump through. If this...if by deferring it will accomplish the same thing and if we...if the motion is denied then...is that what you're saying Kurt, then it puts it into another category and they have to do another whole bunch of...

Mr. Wollenhaupt: Motion is denied then what happens is the a decision and order will have to be written by myself at the time that the official minutes are done and then it would accepted by this body. Then applicant would have the ability to appeal that to the court if they want. But the denial would then as I understand it, require a whole another new, brand new application to commence again.

Ms. Wakida: I see.

Chairperson Lay: Commissioner Ball?

Mr. Ball: But the motion is not to deny. The motion is approve.

Mr. Wollenhaupt: Oh, that's right.

Mr. Ball: If it fails then we have a motion to defer or deny or approve again.

Chairperson Lay: Commissioner Hedani?

Mr. Hedani: What I was thinking of what to...relative to this, what I was thinking was to approve subject to. In other words, they would not be able to operate as a short-term rental until such time as they inspections took place, everything was approved, it was stamped and blessed with holy water and then they could move forward at that point.

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

Chairperson Lay: Okay, Commissioner Wakida?

Ms. Wakida: I wanna ask the Planning Director's opinion. Would it be more expeditious to

withdraw the motion at this point? I agree with Mr. Hedani's interpretation. That they don't operate until they get all their permits in order, but maybe it would be more prudent to just defer the whole matter?

Chairperson Lay: Director?

Chairperson Lay: That's certainly the choice of the Commission. I mean we can either vote on the current motion or just let that motion fail. I suppose you could withdraw and just do it again...

Mr. Ball: We're voting--

Chairperson Lay: We can add in Commissioner Hedani's...as far as everything being completed before they actually get the permit for this.

Mr. Hedani: I'm confused. I don't know what the motion is at this point.

Mr. Ball: Let's vote.

Vice-Chair Shibuya: Call for the question.

Chairperson Lay: Let's call for the vote. All those in favor? All those opposed?

Mr. Spence: That's four opposed. Motion fails.

**It was moved by Ms. Wakida, seconded by Mr. Medeiros, and**

**The Motion to Approve the Land Use Commission Special Use Permit as Recommended by the Department with the Additional Condition that the Applicant Must Obtain Any Required Permits, FAILED.  
(Assenting - W. Wakida, J. Medeiros)  
(Dissenting - K. Ball, M. Tsai, W. Hedani, W. Shibuya)  
(Excused - J. Freitas, S. Duvauchelle)**

Chairperson Lay: Okay, any new motions on the floor? Commissioner Shibuya, oh let's go with Commissioner Ball.

Mr. Ball: Motion to defer.

Vice-Chair Shibuya: Second.

Chairperson Lay: Motion by Commissioner Ball, and seconded by Commissioner Shibuya. Any discussion on the motion?

Mr. Giroux: Because this is a public hearing, I guess the only issue is that if it's deferred for an uncertain amount of time the issue of renoticing might come up which is quite expensive. So we might wanna have that discussion.

Chairperson Lay: Kurt?

Mr. Wollenhaupt: Well, with regards to the expense, I think it's somewhat modest because this is a SUP2 so they only have to notice their immediately adjacent neighbors of which I think there are less than 10. So that probably is not a significant burden to send out 10 certified letters.

Chairperson Lay: Commissioner Shibuya?

Vice-Chair Shibuya: What's the time limit Kurt in terms of deferral?

Mr. Wollenhaupt: I don't know if there is. I guess we'll have to ask our Corporation Counsel. I've never heard of a time limit for deferral.

Vice-Chair Shibuya: Yeah, I'm concerned that, you know, this carriage that we have, if we defer it it might turn into a pumpkin before we even realize it. I don't want it to turn into a pumpkin.

Mr. Wollenhaupt: I think you can defer it to a date certain saying that say three months would be sufficient time for them to come into compliance, get everything done, finished and sealed.

Mr. Ball: We need some guidance from...

Chairperson Lay: Corp. Counsel wish to discuss...

Mr. Giroux: Well, after discussing with the Planning Director since we did close the public hearing then maybe we'll just be following the Sunshine Law notice once it's put back onto the agenda for deliberation.

Chairperson Lay: Any more discussion? Director wish to repeat the motion?

Mr. Spence: The motion is to defer until, you know, we clear up whatever permitting requirements are.

Mr. Pestana: And what is the time frame?

Mr. Spence: As soon as—

Mr. Pestana: I mean, I'm gonna get right on it.

Mr. Spence: Okay, and it would be until...till we're clear if permits are needed and for, until you obtain any permits.

Mr. Pestana: And once we do that, do we need to have another hearing or what's the next step?

Mr. Spence: It would be placed back on the Planning Commission's agenda.

Mr. Pestana: Okay.

Mr. Spence: So you're not being denied.

Mr. Pestana: Yes.

Mr. Spence: I mean, if-

Mr. Pestana: I appreciate that, thank you.

Mr. Spence: -you're not being denied. You're just waiting until this issue is cleared up.

Mr. Pestana: Okay.

Mr. Spence: And then we can proceed.

Mr. Pestana: That's more than fair.

Chairperson Lay: Okay, let's call for the vote. All those in favor?

Mr. Spence: That's six ayes.

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

**VOTED: To Defer the Matter Until Applicant can Confirm all Necessary Permits/Clearances have been Received.  
(Assenting - K. Ball, W. Shibuya, J. Medeiros, M. Tsai, W. Hedani, P. Wakida)  
(Excused - J. Freitas, S. Duvauchelle)**

Chairperson Lay: At this time, let's take a 10-minute, make it a 12-minute break and reconvene at 10:30.

A recess was called at 10:12 a.m., and the meeting was reconvened at 10:30 a.m.

Chairperson Lay: Our next agenda item?

Mr. Spence: Okay, Commissioners your fourth public hearing item is Troy and Dianna Nielsen requesting a Bed and Breakfast Permit in Maui Meadows and Staff Planner is also Mr. Kurt Wollenhaupt.

- 4. TROY and DIANNA NIELSEN requesting a Bed and Breakfast Home Permit in order to operate the South Maui Hideaway Bed and Breakfast (B&B) in the County Rural District on approximately 23,261 square feet of land located at 442 Kupulau Drive, TMK: 2-1-014: 021, Kihei, Island of Maui. (BBKM T2013/0002) (K. Wollenhaupt)**

**This bed and breakfast home application is being referred to the Maui Planning Commission for review and action because the property is located**

**within 500 ft. of a previously permitted bed and breakfast home operation.**

Mr. Kurt Wollenhaupt. Good morning again Members of the Maui Planning Commission. The second item for today regarding short-term rentals is a request by Troy and Dianna Nielsen to operate their bed and breakfast home in the...noted as the South Maui Hideaway, a three-bedroom bed and breakfast home in the State Rural District in an area called Maui Meadows at 442 Kupulau Drive in Kihei. The applicant is requesting this Bed and Breakfast Permit to operate the three-bedroom operation in their main dwelling. The owners then will live in the two-bedroom accessory dwelling. The location map and site plan are shown in the staff report as are photographs. And the reason that we're here today is because there is at least one already approved bed and breakfast within 500 feet. In fact, as the Members probably have noted there are actually three bed and breakfasts located within the 500-foot radius and that's noted on Page 16. That's in Exhibit 1. So if you wanted to turn to that. The three bed and breakfast that had previously been approved are known as Dreams Come True, Maui Meadows 2, and Pineapple Inn. There are, however, no short-term rentals within 500 feet.

To give the Members some idea of the dispersion of short-term rentals if you turn to Page 32 and 33 which is Exhibit 7 and 8, those pages outline specifically the three bed and breakfasts on Page 32 that are located within the 500-foot radius and also on Page 33, you see all of Maui Meadows and the green squares are note all of the bed and breakfasts. So at this time there's about 10 bed and breakfasts approved in Maui Meadows and there are five short-term rentals, five being the maximum number. So that's the reason that we're here today for this Commission to review this application against certain criterion.

The first criterion in the Code is the number and the distance of the subject parcel to other permitted bed and breakfast homes. There are three in this area. However, while this does represent a cluster of B&B homes that's not unprecedented and the Department does not believe that this demonstrates a significant impediment to maintaining the residential character of this neighborhood especially because bed and breakfast homes require the applicant to be on site. The applicant has had a very good history of renting out the current accessory dwelling on a long-term basis with no complaints and it's my understanding in talking with Mr. Nielsen that he intends to rent out the main three-bedroom dwelling to one group at a time.

Some important issues are that this Commission has repeatedly asked the applicant to go to neighbors if they object. There has been no objections. No objections at the time of the original noticing, no objections at the time of the public hearing. But the applicant has actually gone one step further. They've proactively gone to virtually all of their neighbors and that was in the handout that was sent to you under separate cover with a map securing not a petition but actually individual letters indicating the support from virtually every single neighbor immediately adjacent to this property. So that in of itself the Department welcomes and has been rather unprecedented.

The second criteria is that the number and substance of protests for the B&B home application. There have been no protest letters. There have been no phone calls regarding this application.

The third criteria is existing or past complaints about rental operations. The Police Department indicated there has been no complaints regarding the operations. However it was reported that the applicant did report seeing a peeping tom in the neighborhood. But that, that has nothing to do...it

has nothing to do with this application.

The next criteria is existing or past compliance with government requirements. The applicant has been very, very open to all the inspections and I did go into every, I did go into every room here so I don't anticipate that there's anything I didn't see on this property.

That being the case, as of the date of this report there's 23 permitted bed and breakfast in the entire Kihei Community Plan region out of the total cap of 100. The notice of the application and noticing were done in accordance with the requirements for the Bed and Breakfast Ordinance. All neighbors within 500 feet were given the original application notice and this public hearing notice. The home has met all the requirements regarding the 28 point checklist for the short-term rental home permit. And the owners would like to talk to the Commissioners about any questions they may have. Troy and Dianna are in the audience today.

Chairperson Lay: Does the applicant wish to say anything at this time?

Mr. Troy Nielsen: Yes, I'm Troy Nielsen and I just had a couple things I wrote down. Not really good at public speaking but just to let you guys know a little background. We raised all of our children in this home and our last one got married June 15. She's 21 and they all moved out. And so it's me and my wife in this big home and we go from the bedroom to the kitchen through the living room. And we have this cottage that we've built to retire in some day. We didn't expect this to happen, but it a perfect time for us to make this transition. And I'm a contractor so works been pretty slow. We've been hit, you know, from the economy and all, so we're hoping that this here B&B can help out so that we can maintain our life there. And we've been in Hawaii for 23 years in Maui. I raised half on Oahu and half on California. And my wife's been a housewife our whole married lives. She was also thinking of something, God forbid should happen to me she'd be able to run a bed and breakfast but not a contracting company. And it would be hard for her to get other employment never having worked and being 51-years-old. So we're thinking all of these things really point to us wanting to do this bad and it being really helpful to us. And we have rented out our...the cottage that I built for like 14 years now. And the last people moved out I believe in November because their daughter got too big for the place and they needed a place with a yard and stuff so they moved out into Maui Meadows into a bigger home. So we have left empty with the hopes that we can reside in it and start advertising our B&B. We've done no advertising. I'm three-quarters of the way through a website trying to design it, and we're hoping that you guys give your okay for us to get a permit today. Any questions?

**a) Public Hearing**

Chairperson Lay: Thank you. At this time, I'm going to open up to a public testimony. Does anyone wish to testify at this time? Step up to the mic. And give us your name and you have minutes.

Mr. Tom Croly: Aloha Commission. I'm Tom Croly. And I'm one of the nearest neighbors of Troy's property. I'm just one property removed from his and I'm also part of the reason why we're here today because I was granted a Bed and Breakfast Permit some four years ago and Troy's property is within 500 feet of mine. That's, that's what brings him to have to get approval from this Commission. And I'm gonna tell you the same thing that I told you when the neighbor who's on the

other side of him had to come before the Commission again because of my, existence of my bed and breakfast. If I was creating any kind of an impact on my neighborhood then that should be addressed with me. That maybe my permit should be revoked or whatever, but it shouldn't inhibit my neighbor from having the opportunity to have a bed and breakfast at his house. I'm confident that with the rules that are in the ordinance and the conditions that he will have on his permit that we'll see no impact. The impact that I hope to see is that through the additional income his property will look nicer as is required in order to compete in this end of things. So I have full support of granting his permit and I appreciate your time today.

Chairperson Lay: Commissioners, any questions for the testifier? Commissioner Wakida?

Ms. Wakida: Excuse me, thank you, Tom. Is there a cap on the number of bed and breakfasts in Maui Meadows?

Mr. Croly: No, there's not.

Ms. Wakida: Thank you.

Chairperson Lay: Commissioner Hedani?

Mr. Hedani: Tom, I know that you are heavily involved in the passage of the bed and breakfast as well as the short-term rental ordinances through the County. The question that I have is that, you know, there is a cap on short-term rentals I think at five for Maui Meadows. During that discussion was there a specific separation or...between a B&B and short-term rental as far as the Council was concerned in terms of the restriction?

Mr. Croly: The Council did discuss whether B&Bs and STRs should be considered as one pool if you will. And they decided, no, these are separate things with a bed and breakfast with the owner living on, on the premise there's less of a potential of a loss of housing and that kind of thing. So they kept them as separate, separate entities if you will.

Mr. Hedani: So there was a, there was a distinction and when they set the cap at five for short-term rentals that was specific, only for short-term rentals?

Mr. Croly: That's correct, and I'll give you a little bit of the history of that cap, if you will. The cap of five in Maui Meadows actually was not derived from the Council while it was approved by the Council. It was derived kind of in a negotiation between the Maui Vacation Rental Association who was promoting you know, the ordinance and the neighborhood association in Maui Meadows who was kind of standing in front of it and said we don't want this and as a compromise they said, we'll accept a few of them, five was the number they chose. The Maui Vacation Rental Association said we can live with that and that's how that came about. The Council didn't pull that number from the air. It was brought to them as a compromise.

Mr. Hedani: I see. Thank you.

Chairperson Lay: Commissioners, any more questions for the testifier? Seeing none...oh, Commissioner Medeiros?

Mr. Medeiros: I have a question for the owner.

Chairperson Lay: Okay, at this time I'm gonna close public testimony. Anyone else wish to testify? No? Okay at this time I'll close public testimony. Go ahead, Commissioner Medeiros.

Mr. Medeiros: You actually went to all of your neighbors?

Mr. Neilsen: Yes. Troy Nielsen, yes I did.

Mr. Medeiros: Damn, that's all I got to say about that one.

Mr. Neilsen: I actually have one neighbor that called when we got here and she's the neighbor that lives directly next door to me and she said that she's on her way down, and she's on her way down to testify on my behalf and she hopes she gets here in time, but doesn't look like it.

Mr. Medeiros: For anybody from Maui Meadows to know their neighbors to go to their houses to talk story, brah, you got my vote.

Mr. Neilsen: I even got, I even got one yesterday a little too late to give you guys. This is the guy that lives next door, on the same property but in her cottage.

Mr. Medeiros: Good neighbor. I'd like to make a motion.

Chairperson Lay: Anymore questions from the Commission? Commissioner Tsai?

Mr. Tsai: I'm gonna ask a Penny question here. Have you considered, well long-term rental for your main property, main house?

Mr. Neilsen: Troy Nielsen again. Yes, we have. With our mortgage situation we'd have to charge more than the property's worth for a three-bedroom home to be able to make our mortgage and ...(inaudible)... and so it would cause every month to be iffy and we're hoping to be able to stay there for the rest of our lives and not go rent somewhere. So we're hoping ...(inaudible)...

Chairperson Lay: Commissioner Shibuya?

Vice-Chair Shibuya: Are you a resident of Maui Meadows Community Association.

Mr. Neilsen: No, I'm not. Troy Nielsen, no I'm not.

Vice-Chair Shibuya: Any reason why not?

Mr. Neilsen: Troy Nielsen. Never thought about it.

Vice-Chair Shibuya: Commissioner Shibuya?

Vice-Chair Shibuya: Here's my standard question. Where's the nearest fire hydrant?



Mr. Neilsen: The nearest fire hydrant is located about–Troy Neilsen–about 100 feet away, if that. There's one house between me and the fire hydrant. If you look at my house, No. 12, then there's No. 11, and then where's there's No. 9, right on the outside corner is a fire hydrant and a full size one.

Vice-Chair Shibuya: Yeah, yeah, very good.

Chairperson Lay: Commissioners, any more questions? Seeing none, can we get the Department's recommendation?

**b) Action**

Mr. Wollenhaupt: The application for the bed and breakfast home does comply with Maui County Code Title 19.64.030 for all the restrictions and standards for today's February 11, 2014 meeting as Docket No. BBKM T2013/0002, the Maui Planning Department does recommend approval that this permit will be valid until February 29, 2017 subject to further time extensions by the Director and subject to the 17 standard conditions regarding inspections, fire, renewal, compliance, number of bedrooms to be operating for today's February 11, 2014 meeting.

Chairperson Lay: Commissioner Wakida?

Ms. Wakida: Just a question on the F of the Bed and Breakfast Home Permit. It says a total of number of guests will be limited up to two adult guests and up to two minor guests per bedroom. So that's four people per bedroom?

Mr. Wollenhaupt: That's a distinction between the bed and breakfast and short-term. The short-term says two human beings per bedroom, but the bed and breakfast has always allowed the two minors plus the two adults so that's always been a standard difference.

Ms. Wakida: Yeah. I just hadn't noticed it before. Thank you.

Chairperson Lay: Commissioner Shibuya?

Vice-Chair Shibuya: Move to accept the recommendations of the Staff.

Mr. Tsai: Second.

Mr. Medeiros: Second.

Chairperson Lay: Motion by Commissioner Shibuya, seconded by Commissioner Tsai. Any discussion on the motion? Commissioner Medeiros?

Mr. Medeiros: Yeah, I seconded the motion. Mostly because this guy...well, two reasons actually. This guy is actually a good neighbor and he knows his neighbors and he went to their houses. And the second reason is this guys actually had the courage to tell all of Maui his wife's age. I gotta vote yes for this guy.

Chairperson Lay: I thought that was rather brave myself. Commissioners, any more discussion on the motion? If not, can we have the Director repeat the motion?

Mr. Spence: The motion is to approve as recommended by Staff.

Chairperson Lay: Call for the vote. All those in favor?

Mr. Spence: That's six ayes.

Chairperson Lay: Motion carries, congratulations.

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

**VOTED: To Approve the Bed and Breakfast Permit as Recommended by the Department.**  
**(Assenting - W. Shibuya, M. Tsai, J. Medeiros, K. Ball, W. Hedani, P. Wakida)**  
**(Excused - J. Freitas, S. Duvauchelle)**

Chairperson Lay: Our next agenda item?

Mr. Spence: Okay, Commissioners, you've already acted on Item D. Onto Item E, Acceptance of Action Minutes and Regular Minutes.

**E. ACCEPTANCE OF ACTION MINUTES OF THE JANUARY 28, 2014 MEETING AND REGULAR MINUTES OF THE NOVEMBER 12, 2013 AND DECEMBER 10, 2013 MEETINGS**

Chairperson Lay: Can I have a motion to accept the Action Minutes?

Mr. Tsai: So move.

Chairperson Lay: Second?

Mr. Medeiros: Second.

Chairperson Lay: All those in favor say, aye.

Commission Members: Aye.

Chairperson Lay: Those opposed? Motion carried.

**Action Minutes**

**It was moved by Mr. Tsai, seconded by Mr. Medeiros, then**

**VOTED: To Accept the Action Minutes of the January 28, 2014 Meeting  
(Assenting - M. Tsai, J. Medeiros, K. Ball, W. Hedani, P. Wakida,  
W. Shibuya)  
(Excused - J. Freitas, S. Duvauchelle)**

Mr. Spence: Regular minutes?

Chairperson Lay: Motion on the regular minutes?

Mr. Medeiros: Move to approve.

Mr. Hedani: Second.

Chairperson Lay: I got a motion to approve, seconded by Commissioner Hedani. All those in favor say, aye.

Commission Members: Aye.

Chairperson Lay: Those opposed? Motion carries.

### **Regular Minutes**

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

**VOTED: To Accept the Regular Minutes of the November 12, 2013 and  
December 10, 2013 Meetings  
(Assenting - J. Medeiros, W. Hedani, K. Ball, M. Tsai, P. Wakida,  
W. Shibuya)  
(Excused - J. Freitas, S. Duvauchelle)**

Mr. Spence: Moving right along. Commissioners, Item on the Director's Report, Item 1 and 2, you've received your handouts. Any questions on those?

### **F. DIRECTOR'S REPORT**

- 1. SMA Minor Permit Report (Appendix A)**
- 2. SMA Exemptions Report (Appendix B)**

Chairperson Lay: Commissioner Shibuya?

Vice-Chair Shibuya: Yes, I've been asking for some information and hopefully I'll get this maybe by the next meeting before my term is up. I would like to know on SMX 2013/0465. That's on Page 11 of 17 and this is on the MECO, Kihei BESS demo project, Kihei, HNU Solar LLC, Planner Paul Fasi. I have a second one that I'm curious about, SMX 2014/0016, MECO Maalaea Wells, Replace wells and improvements, Maalaea, Maui Electric Company. I'm asking these questions because I'm curious nothing to have any objection.

Chairperson Lay: And your questions on the...

Vice-Chair Shibuya: I just wanna know a little bit more about the project.

Mr. Spence: Okay, can we email that information to you?

Vice-Chair Shibuya: Absolutely.

Mr. Spence: You want it from the Commission?

Vice-Chair Shibuya: Email is fine.

Mr. Spence: Okay, and what was the second one, 2014...

Vice-Chair Shibuya: 2014/0016, yeah.

Mr. Spence: Okay.

Chairperson Lay: Okay, can we get a motion of acceptance of our SMA?

Mr. Medeiros: So move.

Mr. Ball: Second.

Chairperson Lay: Motion by Commissioner Medeiros, seconded by Commissioner Ball. All those in favor?

Commission Members: Aye.

Chairperson Lay: All those opposed? Acceptance acknowledged.

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

**VOTED: To Accept the SMA Minor and SMA Exemption Reports as Circulated.  
(Assenting - J. Medeiros, K. Ball, M. Tsai, W. Hedani, P. Wakida,  
W. Shibuya)  
(Excused - J. Freitas, S. Duvauchelle)**

**3. Discussion of Future Maui Planning Commission Agendas**

**a. February 25, 2014 meeting agenda items**

Mr. Spence: Okay, Future Commission Agenda Items, February 25<sup>th</sup> meeting you're gonna have two public hearings. The first one is the Vice-President of ...(inaudible)...development for SMA Permit for Piilani Suites Hotel in Wailea. The second one is Mr. Edward ...(inaudible)... and the Shops of Wailea requesting approval for a grocery store at...near the Shops of Wailea. Then Items

one, Mr. Scott Crawford Chair of the Hana Advisory Committee transmitting recommendations for a short-term rental, item 2 also for transmitting their recommendations for a Special Use Permit in order to operate a short-term rental in Hana, and then the third item, we're gonna have a proposed settlement for you with Mr. Frederick Honig involving three Notices of Violation.

Chairperson Lay: Commissioners, do you have any other discussion for today? Commissioner Wakida?

Ms. Wakida: Just a question. When are we deferring the Isaac Hall's matter to?

Mr. Spence: I think when the parties are ready.

Ms. Wakida: Oh, okay.

Chairperson Lay: Anything else Commissioners? And with that we have a motion to close?

Mr. Medeiros: Move to adjourn.

Chairperson Lay: Thank you very much everyone.

**G. NEXT REGULAR MEETING DATE: FEBRUARY 25, 2014**

**H. ADJOURNMENT**

The meeting was adjourned at 10:52 a.m.

Submitted by,

CAROLYN J. TAKAYAMA-CORDEN  
Secretary to Boards and Commissions

**RECORD OF ATTENDANCE**

**Present**

Keone Ball  
Wayne Hedani  
Ivan Lay, Chair  
Jason Medeiros  
Warren Shibuya, Vice-Chair  
Max Tsai  
Penny Wakida

**Excused**

Sandy Duvauchelle  
Jack Freitas

**Others**

William Spence, Director, Planning Department  
James Giroux, Deputy Corporation Counsel, Department of the Corporation Counsel  
Rowena Dagdag-Andaya, Director, Department of Public Works