

**MAUI PLANNING COMMISSION
REGULAR MINUTES
MAY 13, 2014**

A. CALL TO ORDER

The regular meeting of the Maui Planning Commission was called to order by Chairperson Ivan Lay at approximately 9:05 a.m., Tuesday, May 13, 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: Call to order. Today is May 13th, it's approximately a little after 9:00.

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: At this time, gonna open up to public testimony. If anyone wishes to testify, come up to the mic. You have three minutes to testify on any agenda item. If you wish to...you won't be able to testify again unless you have new information when the agenda item comes up. Does anyone wish to testify at this time? Seeing none, we're moving onto our first agenda item.

Mr. Spence: Good morning, Commissioners. Your first public hearing item is a proposed bill to amend a very small section of the Short-Term Rental Home Ordinance. It's kind of a...Joe Alueta will explain. This is just a little short amendment and I'll just say in the future we're gonna get the review of the whole big ordinance, but we just wanted to make this one little change.

C. PUBLIC HEARINGS (Action to be taken after each public hearing.)

- 1. MR. WILLIAM SPENCE, Planning Director, transmitting a proposed bill amending Section 19.65.080.D of the Short-Term Rental Home ordinance in the Maui County Code concerning Enforcement to be consistent with the Maui County Code Enforcement provisions in Section 19.530 and to ensure appropriate due process. (J. Alueta)**

Mr. Alueta: Good morning, Commissioners. I'm Joe Alueta. I'm the Administrative Planning...(inaudible)...As I've stated before for some of you new Commissioners, I pretty much handle any amendments to Title 19 as well as your own rules including SMA and your rules with Special Use Permits and all that. And there's two way in which the Maui County Code or Title 19 can be amended with regards to zoning. That is either by resolution coming by down from the Council or one initiated by the Administration. In this case, this proposed amendment is being done by the Director, by the Administration.

As indicated by the Director it's a relatively simple amendment. It just clarifies how a certain portion of the Short-Term Rental Bill will be operated. There currently is a provision as indicated on the Exhibit 1 with regards to enforcement in which the Department would be prohibited if someone is

previously operating or is alleged to be operating a short-term rental home, they would be prohibited from applying for five years from submitting an application. Right now it just says if they're operating we give them a...fine them or note that they are operating then that would be enough evidence. This allows for a process which is already established which is under 19.530 in the enforcement provision in which we would have to go through...you know, you go through a Notice of Warning, and if they continue and once we find out they are doing it, and through the evidence then you go through a violation process in which we issue a Notice of Violation. After that period, the person who receives a Notice of Violation can appeal that and go through a process. And it's basically due process for someone being accused of it rather than just saying, hey we think you're doing it, now you're banned for five years. This establishes or clarifies a due process under 19.530 in which everyone is entitled to have. And so that's pretty much what we're trying to do is just clarify. We think that's what the Council intended to be with, and that's pretty much how we would operate.

Again, in my report I did raise some concern that you know, from the Staff this could encourage people not to apply. I think that's highly unlikely for two reasons. One there is a limited number of short-term rental permits for those who wanna get established as a Short-Term Rental Permit will need to apply before that cap is reached. Secondly, I don't know how many of you are business owners, but if you establish a business, once you get going and you're all of a sudden forced down, meaning you would have to cancel reservations for people, you would lose a lot of clientele even if you did get a warning, you then shut down and then you came in and applied, you would have to cancel reservations. There would be a lot of pissed off people. The internet today is fast and furious. Once you establish a bad reputation, it is very hard to reestablish that. So I think that that would, that's another discouragement toward those who wanna illegal...just wait around and wait for them to get caught before they come in for a permit. Again, we're just wanted to clarify this. We felt that this is an important amendment in the sense that it clarifies and establishes due process for everyone, and hopefully you're supportive of it. If you have any questions, I'm...feel free to answer them as best I can.

a) Public Hearing

Chairperson Lay: Now we're gonna open up for public testimony. If anyone wish to testify on this agenda items, please step forward. You have three minutes. Identify yourself please.

Mr. Tom Croly: Aloha Commissioners. My name is tom Croly and I'm speaking today on behalf of the Maui Vacation Rental Association. Our input was cited in the staff report on this issue. We do support the changes that are being proposed and MVRA are pleased to say that all of our members have either been granted a Short-Term Rental or Bed and Breakfast Permit or have an application in process.

It's our goal that anyone wishing to make this use, I'll wait till the static goes away. Okay, all right, thank you. MVRA is pleased to report that all of our members have either been granted a permit or have an application in process and we hope that anyone who wishes to make this use in the County will first get a permit and also pay all their taxes and also fit seamlessly into the neighborhoods where they propose to make this use. But that's in a perfect world and we recognize that it's a balancing act.

We started from a place before we had the Bed and Breakfast Ordinance, and the Short-Term Rental Ordinance where no one had a permit. Now, I would say we probably, this is just my guess have about 30 percent of the folks making this use permitted in the County. Those who have received their permits are probably the most critical of those who haven't come forward to receive their permit because those who have gone through the process, well obviously they're paying higher taxes, they've gone through a regulatory process and they don't feel that it's fair if there's folks out there who are not. But it's very important to understand that there's kind of a tipping point here and I don't think that we've reached it yet. We still have too many people on the I haven't gotten my permit yet and I'm not sure how to do it or if I'm going to get my permit versus those who have been properly permitted. And our laws, all our laws really depend on voluntary compliance. The idea of the stick is necessary but if the public-at-large doesn't voluntarily comply with laws, it just don't work. And it's important that those who are sitting on the sidelines and they follow what's going on in terms of those trying to get their permits that they see that there is a path to getting it through. And soon you're gonna see some changes that are proposed in the Short-Term Rental Ordinance and the Bed and Breakfast Ordinance to try to make the process a little more streamlined and a little easier to get through. And I hope that this Commission can help facilitate all of this by providing the benefit of the doubt to the applicants who come before you. Those who would choose to operate without a permit are strongly discouraged when they see that those applicants who make it all the way through the end of this process which is oftentimes when they're before you are unable to get through. That leads to some of the folks saying I'd rather take my changes and sit on the sidelines.

Now I support and MVRA support shutting those folks down. But what I really want to happen, the end goal, is I want there to be that tipping point where everyone understand that if you want to do this, here's the process you go through and if you do things right, you'll get a permit. And if you're good, you know, operator and you don't cause problems in your neighborhood, you'll keep your permit. And there'll be those who step outta line and we're gonna have to pull some permits and those cases get ugly, but we will support that as well. Thank you.

Chairperson Lay: Commissioners, any questions for the testifier? Seeing none, thank you very much. Does anyone else wish to testify at this time on this agenda item? Seeing none, we're closing public testimony. Commissioners, do you have any questions? Commissioner Wakida?

Ms. Wakida: Yes, I have a question for Joe, thank you. On the part that's underlined in our packet, in the report, is it necessary to have a time frame so it says Notice of Violation and the violation is not overturned, is it important to have by days or something along that line? And then a follow up to that it says, in the following for a period of five years. Does there needs to be when that starts from? For example, five years starting from the Notice of Violation or five years from ...(inaudible)...is there need? Is there no need for those time?

Mr. Alueta: Well, a person would...if they get issued a Notice of Violation and they don't file an appeal, I think that we would take it from the date from the violation if no appeal is filed. If they have...they still could not operate. I mean, clearly they could not be operating without it. And if they wanted to appeal it, it would be at the final decision and we'd take the five years from that point. So I mean, that's basically...and the five years of not being able to apply for a permit comes from the Council. So that's why there's a time frame.

Ms. Wakida: Okay.

Chairperson Lay: Oh, Corp. Counsel?

Mr. Hopper: Just a suggestion. Joe, just as a suggestion maybe you could say, and the violation is not overturned and all appeal rights are exhausted or something along those lines because people generally have a time frame to appeal, and if they don't appeal then if their rights are exhausted then that's when you can say both the five-year ban begins and from the date that their appeals would have extinguished.

Mr. Alueta: Okay. I mean, if the Commission is comfortable with that, again this bill once we're done here it will be transmitted to Corporation Counsel, I believe either Mike or James or somebody will be drafting the final version so I can work with them if you're comfortable with that language.

Mr. Hopper: I think that clarity may help 'cause that was a good point. You would want to have the measuring stick and you know, from...if someone does file an appeal to BVA and then they lose to BVA, they have another 30 days to file an appeal from that decision and if they lose, if they don't do that or if that decision's overturned or is not overturned then you can start the five-year period from when all of those appeal rights are exhausted.

Mr. Alueta: Okay, but we don't need...I just don't wanna have another whole paragraph outlining the existing process. I would just rather have it say once you've exhausted your appeal process you start from after that.

Mr. Hopper: Yeah, I think that that's sufficient. Just don't wanna have to be back again to redefine the dates if there's confusion there. So understood.

Mr. Alueta: Okay.

Chairperson Lay: Commissioner Higashi?

Mr. Higashi: I have a question regarding the application process of permits. I notice that the application is quite thick. Is there any possibility of streamlining it so that it will make the process faster for people who are applying for permits?

Mr. Alueta: Specifically for STR Permit or for all permits?

Mr. Higashi: For anything.

Mr. Alueta: I mean, it's outside of the scope of what we're doing 'cause this deals with specifically to Short-Term Rental Permits and the enforcement of that. However, there is a what do you call a permit improvement team I guess you could say that is looking at all the processes not only for the Planning Department and their applications, but also Public Works and trying to streamline the application process for that.

Mr. Higashi: As an example, if I was to apply for a permit what is the approximate time that it will take for me to get the permit approved by the County?

Mr. Alueta: It all depends, like again, depending on what you're applying for. We have administrative permits that take two weeks to a week.

Mr. Higashi: Right.

Mr. Alueta: I mean, for like say a landscaping plan or anything else, but anything that requires this Commission or body's approval, you're looking at a minimum of four months because you do have the application coming in, there's the period in which we review for completeness and that's assuming that someone turns in a perfect application. To this date, the closest has been maybe, there's a few consulting firms that have come really close to submitting a perfect application. However, no offense to Joe and Mary Souza, as we like to say, the layperson does not always turn in a complete application, and that takes a long time to get all of the information through. And even when you are having a consultant prepare your documents, you may not have all the information relative to that permit meaning Public works or Department of Transportation may require a more enhanced traffic study. There may be requirements for sewer calculations or flows or water flows various departments has and that's why once you get the application, we will transmit it out to the various agencies. They will take anywhere between 30 and 45 days to review it. We then have an obligation to draft that report, make sure all the questions and concerns have been addressed by those agencies, again, DLNR may require an archaeological study that may delay project for six months because you have to hire an archaeologist. But like I say, if everything is perfect, chances are you'll be before Commission within four months, I mean at soonest because again, your Commission agenda is quite full. We have an obligation, the 45 days out to calendar an item. Once it's been complete, staff is ready with a report to come before you. And again, more and more people require more and more information. Our staff reports seem to be gotten bigger. I remember doing a eight-page Major SMA with maybe eight exhibits. Now they're about 35 pages I think sometimes, and about 40 exhibits. I mean, it all depends on how complex the project is. So sometimes when you try to make an application simpler it only makes things harder because you leave out the important details.

And so, but I guess as what we're trying to do is we're just trying to clarify. In this case, we're trying to clarify...make sure that everybody knows what the process is. If it's not clarified, and it's you know, if you're operating without a permit, you get banned for five years. Well, it's a lot more complicated than that, you know, and so sometimes simplicity comes around and bites you in the butt and it takes longer to actually do things. So that's why as we go through the Code, we're trying to make sure it's clear that everybody knows what the ground rules are. There's a process every which...for each permit and even for, like I say, even for getting...even having a violation, there's a process that you have to follow to ensure that everybody's rights are done. But we are trying Commissioner to streamline the process as best we can.

Mr. Higashi: Thank you.

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

Mr. Hedani: Joe, you're just asking for comments at this point?

Mr. Alueta: It's your recommendation to Council. So yes, this is gonna go...once we're done here,

it's gonna go to Council and this is a proposed bill to the Maui County Council from the Administration to amend 19.65, and again, it is in Ramseyer. We're basically underlining to clarify adding the section. Primarily the most important line is, "enforcement shall be pursuant to 19.530.030 of this title." That's the most important line in there because that basically says if we have an enforcement action, we go to a tried and true section of the Code that has all of the enforcement procedures and you just follow that. And when Council adopted this they weren't clear and so it made it appear as if they were trying to establish a separate enforcement process in Title 19 which from our aspects and from the attorney's aspects we didn't want to have that ambiguity in, so that's why we're clarifying that you go through 19.530 as far as your enforcement procedure.

Mr. Hedani: Okay, and that's primary purpose of this?

Mr. Alueta: That's the primary purpose.

Mr. Hedani: 'Cause I had a question that said, well if we're gonna review and approve it, then provide us with a copy of 19.530.30.

Mr. Alueta: Okay.

Mr. Hedani: But if that's the enforcement section, then that's fine. If you're comfortable with it, yeah. One of the items in that paragraph, you know, that says, "evidence of operation may include:", my suggestion was to include not only the guest testimony, rental agreements, receipts and other information deemed relevant by the Department, but testimony or complaints by neighbors that the Department might receive.

Mr. Alueta: Can you point to the section again, just...

Mr. Hedani: Right after the sentence that you looked at, the underscored.

Mr. Alueta: Oh, okay, thank you.

Mr. Hedani: Yeah, so that would just expand the evidence to include complaints coming from neighbors that say, hey this guy screwed up already for three years.

Mr. Alueta: I guess we had a other...that's why we had the catchall of, "or any other information deemed relevant by the Department."

Mr. Hedani: Okay.

Mr. Alueta: So if you...we can specify that, you know, testimony by neighbors.

Mr. Hedani: Or complaints.

Mr. Alueta: Oh, complaints by neighbor, okay.

Mr. Hedani: Contrary to Corp. Counsel's recommendation my concern was that it was kinda tilted

toward vacation rental applicants rather than the neighborhood if you look at the paragraph after that that's underscored and it says, "if the County issues a Notice of Violation for unpermitted short-term rental home operation, and the violation is not overturned," my preference would have been to strike, "and the violation is not overturned." Because if you take that out, it makes it crystal clear when the timing starts, yeah. If the violation is overturned then the violation doesn't exist, you know, from my perspective. If you go and the violation is not overturned and all appeals are exhausted then at that point, your enforcement guys are in never, never land. They don't know when the Notice of Violation starts or when the violation...notice of the five-year period starts or when the five-year period ends because it's indeterminate, you don't know when the appeal process is gonna be exhausted and you guys are gonna have an enforcement nightmare trying to figure out when to start the clock.

Chairperson Lay: Corp. Counsel wish to comment on that?

Mr. Hopper: If you start a ban while the appeal is still going on that would seem to be a bit odd because the person's appeal rights aren't exhausted yet. So I mean, I guess you could say the ban's in effect now meaning you can't apply, of course the person would have a Notice of Violation. So I guess their application would be, you know, it would be ineligible, but I mean if you wanted to start the date from the date of the Notice of Violation, but you could have, you could have an appeal process...I would say, if you got the NOV out there has the Department ever seen a permit issued while a Notice of Violation had already been issued for the property?

Mr. Alueta: No.

Mr. Hopper: Okay, so if an NOV issued, there's a probably a little risk that the ban is going to be an issue because the person's not going to be getting their permit at the time. So if you've got the Notice of Violation issued and then that starts your ban time for five years, and then the appeal rights are exhausted, and it takes two years to exhaust your appeal rights, it's a three-year band. So I mean, if you wanna start it from the date of the Notice of Violation you could do that if you wanna specify a different date. But then the bans are probably going to be a much smaller time period than five years substantively. So I mean, the Commission can pick a different date if it would like. I mean, this is up to the Council. The Council picked five years for their reasons I suppose and if they want to...Council wants to say a different time period they could do that too. So it depends on when you want the appeal, the five-year ban to begin. If you want it to begin from the date of the Notice of Violation, I suppose you could do that, but I think the whole purpose of this section here is to say that the ban wouldn't begin until the person has exhausted all of their appeal rights and it's not overturned. You don't know if something's not overturned until you've gone through the process to have the violation overturned. So until that process is exhausted, you're not going to know if it is overturned. So it's up to the Commission if you want to pick a different date, but you would probably need some more substantial revisions to the ordinance to say that the violation begins or the ban begins when the NOV is issued.

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

b) Action

Mr. Alueta: The Department is recommending approval of the proposed bill with the amendments. One, we would include as evidence, complaints by neighbors. And then secondly, we would work with Corporation Counsel to essentially add on the paragraph regarding violations at the section that says, "and the violations are not overturned and all appeals are exhausted". Something to that effect in which time the five-year ban would start from that. Just a comment on that real quick is that in the discussion between Commissioner Hedani and Corporation Counsel is that, if someone did appeal they would be...and they basically had no shot at winning, they would essentially be extending their period in which they could not file for an application. So they would...if they are...(inaudible)...guilty then they would be better off taking their medicine and just waiting the five-years out. Otherwise, they would have to...if they kept appealing and appealing and stretching that period out we wouldn't...while someone has a Notice of Violation as on appeal, we wouldn't process their application.

Mr. Hopper: I would...so you wouldn't...I mean, the thing is that I guess Commissioner Hedani is technically correct that if you have the NOV issued you're not banned from applying. It's just you've got very little chance of getting approved because the Department can probably recommend denial and the Commission would be advised that the person's got an active violation before them. But technically they could still apply.

Mr. Alueta: Right.

Mr. Hopper: Is that right?

Mr. Alueta: Yeah.

Mr. Hopper: I mean, if the Commission wants to say the ban begins from the date that Notice of Violation is issued, you could do that. So you're just...just clarity I think is important, frankly.

Chairperson Lay: Commissioners, motion?

Mr. Hedani: Move to approve as recommended by the Department.

Chairperson Lay: Motion by, motion by Commissioner Hedani, seconded by Commissioner Freitas. Any discussion on the motion? Seeing none, oh Commissioner Hedani?

Mr. Hedani: Joe, you know on your enforcement section, yeah, this is the last underscored paragraph. It begins with, "if the County issues a Notice of Violation," the comment that I had was I guess they'll be prohibited from applying for a permit for five years. But the comment that I had was can this...can that enforcement action be extended to the effect that any other properties operated by that operator of the short-term rental unit are also affected? In other words, put some real teeth into it that says if you're an operator of short-term rental homes and you're operating three for three different owners or five different owners, all of your operations are jeopardized if you allow an unpermitted person to operate under your name.

Mr. Alueta: Well, I guess this only deals with whether or not someone's operating prior to applying for the permit, not after, not after. So that's what this section is dealing with. This deals with...this provision was put in by the County Council to encourage people to come in and apply not dilly dally

like they did with the B&B Permits.

Chairperson Lay: Director?

Mr. Alueta: So that's, so that's kinda where it was coming from. And so this would prohibit anyone from applying for five years whether it be the property owner, the violating owner or the violating operator. So that, but if they were already granted a permit then this section would not apply to them.

Chairperson Lay: Director, wish to comment?

Mr. Spence: Within a, hopefully not too distant future we're going to be bringing to the Commission a review of the short-term rental code, that whole section, and we're gonna have proposed modifications to areas where there are more...where an owner has more than one short-term rental permit...(inaudible)...

Chairperson Lay: Corp. Counsel?

Mr. Hopper: I'll also note, I mean it does say you can't accept an application from the subject property from the violating owners or from the violating operators. So that would seem to include other properties that the same violating owner or the violating operator would be operating. It says that here, so...

Mr. Alueta: Right. But that's only for, again, for accepting of an application. It doesn't necessarily mean if they already have the permit granted. This was intended for people coming in-

Mr. Hopper: You've got other provisions that deal with rescinding applications and things like that which are in separate sections, that's correct.

Mr. Alueta: That is correct. Thank you.

Mr. Hedani: Are you comfortable with this as it's written, Joe?

Mr. Alueta: Yeah, I think the Administration is pretty comfortable with...it clarifies it, it doesn't...it just clarifies it and I think everybody wants to have clarity. We have a pretty good enforcement provision and the process is outlined and I think that's the intent is that let's have a clear process in which violators are noticed. I mean, again in the back of the planner's head is always that...are people gonna be encouraged to wait till they get a Notice of Warning before they apply? But I think you know from a business standpoint, one, they risk the fact that again, the caps are gonna be met, and two, the damage to their reputation on the thing, so I think the Administration from that aspect is ...

Chairperson Lay: Commissioner Freitas?

Mr. Freitas: Question for Joe. Joe, this is what do you call the enforcement portion is complaint oriented? You get a complaint, how do you intend to enforce this statute?

Mr. Alueta: We currently...we had an intern who just finished up and she scoured the web for ads as well as...there's AR B&B, there is also VRBO, there's other websites that have, where people are advertising. And she has, she did a good job of cross referencing, tracking down who's got a permit, who doesn't because everyone has to advertise with the permit number on their website. So she's been able to track down who's not doing that. Who's not advertising with the permit number. And a lot of them try to be...not show what their location is, but she's been really good about figuring out based on the pictures and the description of where the thing is being able to track it down using not only our Pictometry, but also our Google Earth to find exactly where the location is. And so it's...we are doing...we are starting our proactive enforcement of not only the B&B but also the STR Permits, and so maybe the Director wants to talk about that.

Chairperson Lay: Director?

Mr. Spence: One of the things that the County Council wanted to see when they passed the Short-Term Rental Home Bill that was in 2012. They wanted to see proactive enforcement and so actually in 2012 we started that. We've been short on manpower, but we actually started it back then and sent a report to the County Council on notifying owners that they needed a permit. So it wouldn't, didn't result quite the way we wanted to, but nevertheless we did start that and we...now that we're hiring a couple new inspectors, we'll continue to do that.

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

Mr. Hedani: A question for Joe. Was there a drop date, drop dead date by which they had to apply for permits? In other words, a grace period where you know have up to this date to make an application with the Department, get yourself legal, if you pass that date then we take the gloves off and you're fair game?

Mr. Alueta: To be fair and honest, I didn't draft the STR Bill, so it wasn't...and then also, a lot of the drafting was done realistically on the Council floor and so that's why I'm kinda going back and correcting some of the things and I think as the Director alluded to we are coming back with more revisions that will be, but I don't...honestly I don't know. I don't know when the initial drafting was done if there was some kind of drop dead date or a grace period.

Chairperson Lay: Corp. Counsel?

Mr. Hopper: My recollection there was something called a temporary permit for the first year that someone could obtain, but there was never a time frame where there was a so-called amnesty or grace period. It was always illegal to operate without, without a permit, but someone could have gotten a temporary permit within the first year. I don't think anybody did to be honest. I'm not sure if the Department has any record to that.

Mr. Hedani: So basically whenever the bill was passed it was effective?

Mr. Hopper: Right, that's correct. And then I mean, it was always based on other sections of the law and the fact it's not a listed permitted use not allowed...someone wasn't allowed to do with a permit, but for the first time that bill allowed someone to get permitted without having to get a Conditional Permit from the Council. They could either go to the Department directly or in some

cases had to come before you. So that became effective basically immediately. I think the Department wanted to get some rules in place for certain things, but as far as a grace period, I don't know of one certainly not recognized in the law other than the temporary permitting provisions that were available for people.

Mr. Hedani: I guess those are concerns we can address when the whole bill comes back.

Mr. Alueta: Right.

Chairperson Lay: Commissioners, any more discussion? Seeing none, can we get the Director to repeat the motion?

Mr. Spence: The motion is to recommend to the County Council approval as recommended by Staff.

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

Mr. Spence: That's five ayes.

Chairperson Lay: Motion carries.

Mr. Alueta: Thank you very much, Commission.

It was moved by Mr. Hedani, seconded by Mr. Freitas,

**VOTED: To Approve the Proposed Bill Amending Section 19.65.080.D of the Short-Term Rental Home Ordinance as Recommended by the Department.
(Assenting - W. Hedani, J. Freitas, J. Medeiros, P. Wakida, R. Higashi)
(Excused - K. Ball, S. Duvauchelle, M. Tsai)**

Mr. Spence: Commissioners, Public Hearing No. 2, Item C-2 on your agenda. Mr. Gregory Schneider of Genessee Capital requesting a two-year time extension on the SMA Permit to initiate construction at the Maui Lu. The Staff Planner this morning is Ms. Ann Cua.

2. MR. GREGORY W. SCHNEIDER of GENESSEE CAPITAL requesting a two (2) year time extension on the Special Management Use Permit condition to initiate construction of the Maui Lu Redevelopment Project and related improvements at 575 South Kihei Road, TMK: 3-9-001: 083, 086, and 120 (27.282 acres), Kihei, Island of Maui. (SM1 2003/0021) (A. Cua)

Ms. Ann Cua: Good morning, Commissioners. Haven't seen you in a while. Before I turn this over to the applicant I wanna update you on a couple of things since you got your report. Back in 2008, the Commission granted an SMA Permit for the redevelopment of the Maui Lu after a lengthy contested case hearing. And what happened was the Commission reopened the contested case hearing and reviewed the project again, and finally on July...by order dated July 22, 2008 which is attached to your report, they approved the project with a number of conditions. The Commission

added a number of conditions from what the hearing officer had proposed. And then in 2011, the Commission granted a three-year time extension to initiate construction until July 31, 2014 which brought us to a request by the applicant in 2014, back in February to extend the time period to start construction from July 31, 2014 for a period of two years to July 31, 2016.

Now the reason why we're here as a public hearing today is the Planning Commission Rules state that if there is a petition to intervene that was filed, the applicant needs to obtain a waiver of the public hearing from the intervenors. If they're not able to obtain a waiver of the public hearing then we have to do a public hearing for the time extension. In this particular case, they were not able to obtain a waiver from the intervenors and so therefore, we have to schedule a public hearing. Had they been able to and I think you've seen some SMA time extensions that have maybe been mentioned to you that if they have received a petition...I mean, excuse me a waiver of the public hearing then it does not need to come to you as a public hearing matter. So that's why we're here as a public hearing matter today. I wanted to just update you on that, and now I'd like to, oh no, now I wanna talk a little bit about letters.

My report states that we didn't receive any letters on this project and at the time when we wrote this report that was correct. However, since then we've distributed a number of letters to you so I just wanted to very briefly before I turn it over to the applicant talk about those very quickly. I guess late last night about 9:12 a letter came to me by email, a letter of support for the project from a Mr. Brett Fahnestock, I'm not sure, I don't know if I'm saying that correctly, but he is in support of the project. I distributed that to you this morning.

Also, there's a letter from South Pointe that the Department had received on April 28th, and basically the letter was from Brian Puckett, South Pointe Resident Manager. He was indicating that he, as an owner, and it says, "we, owners at South Pointe are writing to request an easement addendum." So it was about an easement through the Maui Lu property. What I discovered yesterday afternoon at around 4:30 was that...excuse me, let me step back a little bit. This letter was emailed to me. I printed it out. Sent it out to the Commission. You all received it by email and you received a hard copy. And so yesterday I found out that their board did not approve this letter to be distributed. So I asked them if they could please send me something that said that so I could come to you and let you know that basically we need to discard this letter. So this morning, I received by email a letter from Mr. Bill Dicks, Management Executive of Hawaii Management Company, who is the managing agent for the AOA at South Pointe basically saying that this letter was sent out erroneously as it was not a letter that was approved by the South Pointe Board of Directors. So Please consider that letter null and void. So although we have these two letters, they kinda cancel each other out. I just wanted to let you know that.

In addition, I received a letter on the 8th from a neighbor, Peter Gelsey. He is a neighbor of the Maui Lu complex and he lives in Kaonoulu Estates and he has some concerns about the height of the project as he feels it's gonna block his views. And then the final letter we received is from the KCA and basically they were reiterating a position that they made initially on this project objecting to a traffic signal at the intersection of Kaonoulu and South Kihei Road. After the applicant's presentation, when I go through my analysis, I'll update you on what the Department, the meeting the Department had with regard to this letter with the Department of Public Works. So with that, I'd like to turn it over to Jordan Hart and he'll take you through the project.

Mr. Jordan Hart: Morning Commissioners, my name is Jordan Hart from Chris Hart & Partners. I'm here with Raymond Cabebe, the applicant, Mr. Greg Schneider, Project Attorney Paul Mancini, Project Manager Michael Wright, and traffic engineer Phillip Rowell. I'm just gonna go through kinda the project history. I know that most of the Commissioners were not here when the project was originally approved with the exception of Commissioner Hedani.

So this is a SMA Permit time extension for the Maui Lu. The Maui Lu was originally built in the '60s. At the time it's currently in poor condition. A brief chronology, the Environmental Assessment was filed in 2003. The Final EA, Finding of No Significant Impact was accepted by the Maui Planning Commission in 2004. The SMA hearing for the SMA Permit was originally in 2005, and a Petition to Intervene was granted...intervention was granted by the Planning Commission in 2006. In 2008, the Commission ultimately approved the Special Management Area Use Permit, and in 2011, a three-year extension was approved.

The project is located in North Kihei on South Kihei Road to the west and Kaonoulu to the south. Alulike is to the east. State Land Use District is Urban. Community Plan designation is Hotel. The County Zoning is H-M, Hotel and H-1 Hotel. The project is 27.28 acres in size. There are currently 120 transient vacation rental units or hotel units on the primary property with 48 units on the makai side property. In 1982, there was a total of 218 units.

Here are some examples of the state of the project at the time it was purchased. These are some of the buildings that were, you know, in use actually and so those have since been demolished in the interim just because they were extremely unsafe.

This is the project site plan overlayed on the aerial photograph. South Kihei Road, Kaonoulu, Alulike. Here's the shoreline parcel and then the primary parcel. Some of the concessions and additions to the project made in the design and then ultimate review and approval process include a total of only 52 percent of the maximum density that's possible by zoning, community plan designation, traditional Hawaiianna architecture and theme. Complete removal of all units on the makai side parcel as Commissioner Hedani may recall. Comprehensive beach nourishment program including beach...dune stabilization and the addition of a lateral beach access path. So this lateral beach access path will add approximately 1,650 lineal feet of shoreline access to the contiguous access that goes from the north of the project site all the way to the Haycraft Park in Maalaea. New traffic signal at South Kihei Road and Kaonoulu. A new roundabout at Alulike and Kaonolulu. Curb, gutters and sidewalks around the entire project frontage including bike lanes on South Kihei Road and 12-foot landscape median with signalized pedestrian crossings and a median refuge so that pedestrians can cross one lane at a time. This also includes bus stops for north and south bound traffic fronting the County park to the south of the project site.

With regard to drainage, 100 percent of post development drainage will be retained on site including 40 percent of predevelopment or existing drainage. This would significantly improve the drainage condition at the corner of Kaonoulu and South Kihei Road which currently experiences consistent flooding. This is an example of the architectural theme of the project. It has an open, park like setting, and Hawaiian design characteristics. This is a rendering of the overall site plan, South Kihei Road, Kaonoulu, Alulike. Currently there are two...well, there's a total three hotel buildings on makai side parcel. One building will be reduced, a single-story structure and converted into a beach club. Two existing structures will be completely eliminated. Lateral shoreline access path

will be added here, traffic intersection here, bus stops here, a roundabout will be added here and curb, gutter and sidewalk will be added around the entire project boundary.

In addition to that there will be 12 public beach access parking stalls provided here for the County park that's here and as well as here. These are some typical elevations to give you an idea of the character and design of the project. This is the side elevation of the clubhouse. These are some of the hotel buildings that will contain units. This is a perspective aerial photograph of the makai side parcel and the ...(inaudible)...These two hotel structures will be completed. This structure will be converted to a one-story structure. This existing ironwood hedge that's on both sides of South Kihei Road will be completely eliminated. This will open up views to the ocean from South Kihei Road as well as the property. Lateral shoreline access will be added here. This is a photograph of the ironwood hedge and the makai side parcel. Again, this structure is gonna be reduced to one-story, this hedge will be completely eliminated opening up views for the public. This two hotel structures that you can generally see in white are gonna be completely removed. This is an elevation of the beach clubhouse. This is a zoomed in site plan and the hotel structures, club house structure, lateral shoreline access, location of the intersection, bus stops, pedestrian crossings will be in this area. This will be the primary, I'm sorry not the primary project entrance. Primary project entrance will be out to Kaonoulu.

This is the beach nourishment plan. It was approved by the State Department of Land and Natural Resources, Office of Conservation and Coastal lands. These are some photographs of the shoreline going north and south. This is looking north from the Vancouver Monument across the project site. This is looking south from the interior towards North Kihei. I'm sorry, north towards North Kihei. Also, north towards North Kihei. This structure will be reduced to one-story clubhouse. This is looking north from the County park towards the two existing hotel buildings. These hotel buildings will be removed and a lateral shoreline access will be added here.

This is just to focus on traffic improvements again. This is the proposed location of the roundabout at Alulike and Kaonoulu. This is a fully signalized intersection which will include bike lanes, pedestrian crossing. There'll also be bus stops as discussed and then basically the fully improved...basically the creation of a parkway on South Kihei Road similar to what you see in Wailea with a 12-foot wide landscaped median, signalized pedestrian crossing. There'll be a refuge in between the two lanes so that visitors and community members if they're trying to cross and it's high traffic they can go to...cross one lane, wait for a break, and cross the next lane. There will also be a increased left-turn pocket lane into the project entrance or I'm sorry, into the Kaonoulu Road.

This is a second of the streetscape on South Kihei. It's to identify the landscape architectural character as well as the architectural character and to show the complete streets components that are included in the project. You have multi-modal transportation, pedestrian, bicycles, vehicles as well as safe pedestrian crossings over South Kihei Road.

This identifies the drainage plan. Again, 100 percent of the post development drainage will be collected on site in addition to 40 percent of predevelopment drainage. Drainage will be collected in the low sites on the property in these locations and it should significantly...it will significantly improve flooding that's occurring at Kaonoulu and South Kihei Road.

These are some of the commitments the project has made already in the interim since original

approval. Two million dollars for affordable housing, \$658,000 to the State of Hawaii for shoreline easement, \$600,000 to the County of Maui for water meter fees. Contributions to be made in the future include a \$120,000 contributions to the YMCA, Maui Academy of Performing Arts, and Ko`ie`ie Fishpond Restoration Project.

The project is to request a two-year time extension for construction initiation. Our current deadline is July 31, 2014. Our time extension request was timely filed, and the purpose of the request is to complete construction financing and to complete the building permit and grading permit process.

Actions that have been completed. We've completed our easement agreement with State of Hawaii. We've gotten approval of our beach nourishment plan from Department of Land and Natural Resources, Office of Conservation and Coastal Lands. We filed a preliminary compliance report, we've completed our solid waste management plan, our environmental and hazards material abatement plan, and we filed for building and demolition...demolition and grading permits, demolition and foundation permits, I apologize. The next phase is mass grading, design and construction.

Again, to reiterate, we have the applicant, the project's attorney, our traffic engineer, and our project manager available to...if you have any questions that maybe arise.

a) Public Hearing

Chairperson Lay: Commissioners at this time, I'm gonna open up to public testimony. We have Charles Spence.

Mr. Charles Spence: Good morning, Commissioners. I am Charles Spence. I'm the owner of the Maui Sunseeker Resort which is adjacent to the Maui Lu directly to the north of the Maui Lu. In general we are supportive of this redevelopment. We think that it would...it's severely needed. As stated, you know the property is in severe disrepair and the development would be very welcome. We do have two concerns on regarding this. First off, give you just a little bit of history on this. As I understand it or as I understand what has happened in the past, the SMA Permit was issued in preparation for the Marriott to take over the property back in 2008 with the financial market ...(inaudible)...crisis they basically fell out of the deal. As I understand, I believe that the current owners is seeking an extension so that it creates value for this parcel of land for a perspective buyers. It's not something yet I believe the current owner is going to continue.

Our concern is that there seems to be a quirk in the...the way that the SMA Permit is issued regarding a building that is on the northmost part of the parcel that is right adjacent to my property as well as to South Pointe. There's a building that's probably about 20,000 square feet I guess that's abandoned. It's partially burned down. It is in severe disrepairs, falling apart. And as we understand it from the management of the Maui Lu that they cannot tear this building down because something in the law prevents them from doing because it starts the clock ticking with regard to how soon they have to start the construction. So that has put us in a very precarious position because this building is a safety and health hazard, severe safety and health hazard to the community. The building currently is completely abandoned. It's no where near the site of the main office. So it's constantly having problems with homeless that are moving into it. We have children going in to hang out and do suspicious activity within the building. The building is infested with all kinds of

insects as well as huge rat population which has now brought the feral cats. So all of that is created a massive problem for us, a neighbor.

We would be opposed for the extension if indeed it precludes the owner from being able to ...(inaudible)... and remove this abandoned building to the north. And that's one of our main concerns. It's also is of course an attraction for termites. It's just sitting there and is drawing a massive number of insects to the property.

Secondly, the other things that we would be opposed to is in the plan—

Ms. Takayama-Corden: Three minutes.

Mr. Spence: In the plan, there was no mention regarding the electrical wires.

Chairperson Lay: If you can please conclude?

Mr. Spence: Okay. As I understand there's electrical wires that are above ground along South Kihei Road. The plan was to have those electrical wires buried underground as part of their development, but it wasn't to take it from Wailana Place which is the next block over all the way over to Kaonoulu. It's actually to take it from my property to the end to across of the front of Maui Lu. We would like that to...the plan to include the under wire plan to go all the way to Wailana Place so that it doesn't further obstruct our view from the Maui Sunseeker.

Chairperson Lay: Thank you.

Mr. Spence: Thank you.

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

Mr. Freitas: Those wires are existing right now?

Mr. Spence: I'm sorry?

Mr. Freitas: Those wires are existing right now?

Mr. Spence: Those wires are existing right now, yes.

Mr. Freitas: Okay. So if the hotel don't get built those wires stay?

Mr. Spence: That's correct. Yeah, yeah. But if...the issue is again that if they do the construction, the wires would...they would have to put another pole in to take it down underground on my property to extend it across the Maui Lu.

Chairperson Lay: Commissioner Wakida?

Ms. Wakida: Did I understand you say that it was your opinion that the current owner wanted an extension because they are looking for a new buyer.

Mr. Spence: As I understand it, the property is on the market. It has been on the market for quite some time. And they are looking to extend this to have value for the property, so for the perspective buyer.

Ms. Wakida: Thank you.

Chairperson Lay: Commissioners, any more questions for the testifier? Seeing none, thank you very much. Does anyone else wish to testify? Step forward, identify yourself, and you got three minutes.

Mr. Kimokeo Kapuhulehua: I'm the President for Ko'ie'ie Loko I'a which the fishpond that's located directly on the left-hand side south of the Maui Lu development. I come before you first tell you that we've been in existence as a nonprofit since 1986. That gives us about 26 years on the beach that's right there. 2004, we formed a Hui Malama Loko I'a which is state organization that just recently a fish pond organizational meeting right on site at Kalepolepo and to continue to make sure that we have fishpond restoration throughout the State of Hawaii. Working with the State of Hawaii, DLNR Department, all the government agencies to streamline permits for the fish pond. I wanted to say that because right next to that we have three other fish ponds to what we call revitalizing...(inaudible)...revitalizing the culture. And so being that long we've been kind of the neighbors of the Maui Lu and Maui Lu developers do support couple of the points that we support. First of all they six points that they pointed out to you and six...the beach nourishment. If you look at that we 26 years on the beach. We can share with them what's happening to our shoreline in that particular area and what's happening to the sea life and what's happening, and so working with them since the time that being with them tells you that the developers and partners are very sensitive in making sure that our shoreline development gets going with that. So we support that...(inaudible)...to have.

The other one that's mainly important to us is the five points that they talk to you about drainage. You guys all aware of that Kaonoulu drainage area right there coming before Villa of Kenolio. The last storm we had there just wiped out all the cement blocks we had there and it continues to do that. So by them showing you the retention of the water they're gonna capture tells that a little bit of a way that we can preserve and perpetuate not having that water go down. You know, so I come before you to tell that their request for extension I ask you to approve that so we can have financing that they can go get or whatever to make sure that we can have that. I think you seen that on the point that how much was spent for beach nourishment. How much already been spent for all these other things and not just speaking because we're the beneficiary. We already was there before they came and looked towards us. So we're hear because of what we call the culture preservation and our land preservation and the ocean preservation. So with that, I wanna tell you that we support the extension can come before you this morning. Mahalo Commissioners.

Chairperson Lay: Commissioners, any questions for testifier? Seeing none, thank you very much.

Mr. Kapahulehua: Mahalo.

Chairperson Lay: Does anyone else wish to testify at this time? Seeing no one, public testimony is closed. Commissioners, any questions? Commissioner Wakida?

Ms. Wakida: Yeah, question for Jordan please. Do you have with you the figures on what the

setback is for the beach house?

Mr. Hart: I don't have it in the site plan. No, I don't.

Ms. Wakida: The reason I ask is because the plan that I have here was done in '04 and in the last 10 years there's been a lot of information that's come forward about erosion and so on. And so I wondered if you had revisited your setback to be sure you're never gonna, you not gonna be losing?

Mr. Hart: So, the property does have two existing boulder revetments that front this structure. And the State of Hawaii did issue a 55-year lease to the applicant and approve the beach nourishment plan for the beach fronting this structure. So the combination of those two things will protect that structure over a, over you know the 55-year projected time frame. The short answer to your question is that it doesn't meet the current shoreline setbacks, but it's an existing structure and it's going to be basically reduced and remain in its current location. And so by a combination of the beach nourishment plan and approval of the easement by DLNR and the lease of the land it's been approved to exist in place. But if we were proposing this as a new structure, we certainly wouldn't come here and propose a new structure like this to you. But because it's been existing there since the '60s and there are these mitigation measures in place and agreements that have been established with the State. This is a process to basically make it an approvable structure.

Chairperson Lay: Commissioner Higashi?

Mr. Higashi: Yes, I'm looking at Condition 2 map again. South Kihei Road where you're gonna have a traffic light. Has there been any study on doing an overhead walkway or an underground passage so that you can eliminate a traffic light in that area since this is kind of like a thoroughfare?

Mr. Hart: Well, currently that intersection is operating at a level of...excuse me, I could bring the traffic engineer up here to answer these questions. I think that would be more appropriate.

Mr. Higashi: Yeah.

Mr. Hart: Phillip Rowell.

Mr. Phillip Rowell: I'm Phillip Rowell, the traffic engineer. Maybe I can answer your question.

Mr. Higashi: I was just wondering from a safety standpoint because you're gonna have residents crossing South Kihei Road.

Mr. Rowell: The vehicle volume warrants are what trigger the need for the signal. In other words, there are warrants that are established by the Federal Highway Administration. One of those is the volume warrant. So the signal was not put in for the pedestrians, but it was put in for the vehicles that will be approaching on Kaonoulu Street.

Mr. Higashi: And an overhead walkway or an underground walkway has that been something that was feasible enough to be considered or not?

Mr. Rowell: We didn't even...well, we didn't look at it because the signal is going to be over there not, like I said, not because of pedestrians.

Mr. Higashi: Is that a possibility or no?

Mr. Rowell: I would an overpass, pedestrian overpass over South Kihei Road would not fly with residents. If you put in an overpass there are height restrictions for emergency vehicles, the Fire Department and obviously going underground, you're below sea level so there would be a drainage issue there.

Chairperson Lay: Commissioners, any more? Commissioner Wakida?

Ms. Wakida: This is not a traffic question so I would yield to somebody else that has one. This is a drainage question. Your presentation said that you will capture 100 percent of post development and 40 percent of predevelopment drainage. Why can't you capture 100 percent of both?

Mr. Hart: Well, currently what the Planning Commission had been in the practice of requiring is 100 percent of post development. And so the volume of water that's being retained is like really significant. Basically there are...40 percent of what's existing they're taking right off the top in addition to accommodating 100 percent of what will result from their development. Unfortunately we don't have our civil engineer here to discuss this.

Ms. Wakida: Well, I bring it up because well, we all know about the runoff problems that have happened in the past and I think Kimokeo referenced it too in his presentation about drainage and runoff and he's got a fish pond, three fish ponds right there. So it seems that there isn't any runoff from this development at all.

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Mr. Hart: That is going to be the case. In fact there is going to be...from the current condition there's gonna be a 40 percent reduction in that situation and 100 percent reduction of any change to the project. So the development of the project in the context of runoff will be completely unnoticed but because it will be completely retained on site. In addition to that what's going on now prior to the project development will be reduced by 40 percent. So it's a significant overall reduction of the existing condition. In addition to completely accommodating what will happen after the development of the project.

Chairperson Lay: Director?

Mr. Spence: And if I could just add something to that? What they're doing is is they're going above and beyond what's either required by the rules or you know, just in and above what is normally required by the Commission. The drainage issues in that area extend up the mountain side. It's nothing that this applicant can take care of. So I think when it floods down that area of South Kihei Road it's coming off of several thousand acres of water shed. It's nothing that any one development can or should be responsible for.

Ms. Wakida: Right, I understand that. I just wanted to be sure that the applicant takes care of their portion of it

Mr. Spence: so they're more than doing that.

Chairperson Lay: Commissioner Hedani?

Mr. Hedani: I was here during the presentation, you know, the original application for the SMA Permit and one of the things that impressed me about this particular developer was that if you look at the drawings that are presented there were two buildings with 12 units that were scheduled for the makai side of the highway. Because of our Commission's concerns over beach access, the public's ability to have lateral access along the shoreline because you couldn't get through there, they actually gave up 12 units on the makai side, totally wiped it out and I was impressed because to me that represents several million dollars worth of potential income that they're walking away from and in place of that they're providing open space, maintained in perpetuity for the public's use essentially which is pretty nifty. I've seen the torturous process they had to go through with the intervenors that took years, and years, and years to resolve and you know, I'm glad that they had the intestinal fortitude to go through all of that gyration in order to get to this particular point. I wish them well. I'm supportive of the extension. I know at the time we approved this project there were a lot of the carpenters that were on the benches that were looking for work and we were anxious to see something get started, and I think, you know, to some degree that condition still exists today.

Chairperson Lay: Commissioner Freitas?

Mr. Freitas: Yeah, I'd like to echo Commissioner Hedani's view on that giving up those two buildings because they were right on the beach and I looked at this and when I looked this draft, I said, to give us you know, these two buildings right on the beach is...(inaudible)...I've looked at it and I think I'll support this. I like their what do you call landscaping plan,...(inaudible)...development.

Chairperson Lay: Commissioner Wakida?

Ms. Wakida: Yes, a question for Ann please?

Ms. Cua: I was dying to come up here and talk to you guys.

Ms. Wakida: I know. I just want to address this concern that you got emailed. The Kaonoulu Estates do you know when that was put in approximately?

Ms. Cua: Oh, I'm not sure. Maybe the '80s.

Ms. Wakida: Oh, it's a fairly-

Ms. Cua: I don't know, '80s or early '90s maybe. Early '90s maybe. Late '80s, early '90s. I'm not really sure.

Ms. Wakida: Okay, because my question is when the Maui Lu went in for its original permit I would assume that the people in the neighborhood were informed of what they were planning to do at that time.

Ms. Cua: Yes, that's correct.

Ms. Wakida: And they were planning to put some four-story buildings in.

Ms. Cua: That's correct.

Ms. Wakida: And they were planning to put some four-story buildings in.

Ms. Cua: That's correct.

Ms. Wakida: So I'm just addressing this because it sounds like due diligence.

Ms. Cua: Yeah, I mean I spoke with this gentleman. When he called me he thought they were gonna do six-story buildings, so you know, I corrected him. But you know, the process is what it is when it ...you saw the history of how way back this goes and at the time, they had to do notification of...within 500 feet which definitely would have included the Kaonoulu project. I cannot say if that this gentleman that wrote this letter owned it at the time. I don't know that.

Chairperson Lay: I have a question for Jordan. Jordan, addressing the testifier earlier when he spoke about that building that burned down and them being not able to demo it. Do you have any feedback on that?

Mr. Hart: Basically generally. Because of the scale of the project and the duration of this approval and then basically trying to execute process, the initiation of construction is specifically tied to the conditions of approval and there's specific treatment on what's the initiation of construction whether it's demolition or foundation or grading and things like that. And so I think that there's...you know, the applicant doesn't wanna do anything to trigger the initiation of construction prior to being 100 percent ready because once you do that you're in your second phase and you're carrying on through to the end. So it's been very sensitive in that context and so the applicant and the project manager have been in consultation with the Planning Department about those types of things. I think that perhaps the applicant would like to...do you want to add anything about demo? We do have 13 demo permits filed right now and we are, you know, basically looking to proceed with the project and the demolition of those structures would be the first phase prior to grading the site.

Chairperson Lay: Commissioner Wakida?

Ms. Wakida: You said you're looking to proceed, but are you waiting for a new buyer?

Mr. Hart: Yeah, I'll the applicant discuss things like that. Go ahead, Greg Schneider.

Ms. Wakida: Thank you.

Mr. Gregory Schneider: Thank you for your time today. We are talking--

Chairperson Lay: Oh, please identify yourself? Thank you.

Mr. Schneider: Okay, Greg Schneider, the applicant, one of the partners on the Maui Lu. We have

been going back and forth with a few different situations. We've been looking at joint venture. We've been looking at a sale, and we've been looking at moving ahead ourselves. And right now, we've been very close with all three. We're very close in getting the financing. We have a Fortune 500 group that's very interested in doing the marketing and sales. And so because the property has taken all this time, you know, we've had a lot of different issues happen with partners and you know, example of this is we've had two individuals, Chris Hart and Martin Luna pass away on this project. We've been working on this for 12 years. And the partners that I'm involved with some wanted to sell out, some want to build, and some want a joint venture. So currently we're looking at all options and we feel that we're gonna do one of the three above and when it turns out we're gonna have a world class project, something that you know, you haven't just been able to experience for now in Maui and the reason I say that is because of the architectural design, the land, uniqueness of the land, and to bring back the old Hawaii spirit. So what I'm asking at this point just my basic two cents is that we're so close here that it's like a car, when you change something maybe you aren't quite supposed to, you change it and then you have other issues. So what we're looking for today is an extension with no conditions because we know that one thing can trigger another thing and go on and on. So I just hope that everybody can take this very serious that we've spent a lot of time. I've spent about a 100 trips over here. Partners have fed a lot of money and myself. Every year we're running negative on the property and we just wanna do the right project and we got it approved so close we're gonna make this happen. So whatever you can do to back us would be appreciated. Thank you so much.

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

b) Action

Ms. Cua: Can I just real quick I wanna just let you know what happened regarding the KCA letter about the traffic signal. We did meet with Public Works, you know they've indicated the traffic signal is still a requirement and so the...and it is a condition of the permit so the applicant is required actually to put that traffic signal in. I'm sure they'd be very happy to leave it out and save that money, but Public Works is not supportive of that and their traffic study actually called for it.

The other thing the letter talks about is the complete street principle. You know, in terms of just improved access there is a roundabout here, but I think a really big thing for this project is gonna be having sidewalks that everybody in the neighborhood can use. Safe conditions for people to get to the beach unlike the conditions today. So you know, we felt very comfortable moving forward with this project based on this KCA letter, but we just wanted to tell you that we didn't just take it and put it aside, you know, we actually looked into it and, we met with Public Works and that was the outcome.

You know, just a comment I wanted to mention about this project. When the Department first got this project reviewed and then brought it to the Commission both the Department and the Commission felt that you know, with the history of this project that pretty much I think everybody in this room can identify. You've been there. You felt this property the openness of it, it's just really nice that in this day and age, it's gonna have some of that same feeling. It's not gonna be built to the max. It's built to half of its potential. We really appreciate that. It's something we don't always see. The Commission when they reviewed the project acknowledged that before they approved

it. And so, you know, we too want the Department, I know the Commission wants this project to move forward and we're really excited that those two buildings are gonna be coming down, the shoreline.

When the Commission...when I took this project over from Joe Alueta, it was just supposed to be to finish it off. That's what I was told. And I was coming to the Commission in 2008 with a hearings officer's report that made a recommendation to you and the Commission said, what about this issue, what about that issue, I'm like well, that wasn't what the intervenors brought up. Well, the Commissioners I don't care, we wanna know about shoreline issues. So they completely opened it up. We had to do a whole new report. We had Thorne Abbott here, and as result they ended up with a bunch more conditions and they agreed to them. You know, to remove those two buildings, to do the beach nourishment, to do 40 percent more drainage retention and pretty much is required by law. So...and they've been just agreeing the whole time. And so, you know, I just say that because I just, I just feel really strongly about...I know what they've gone through because I've been there part of the way with them and we're just really excited to get this going.

So with that, the Department is recommending approval of the time extension to allow them two additional years to start construction.

Mr. Freitas: So move.

Mr. Hedani: Second.

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

Mr. Freitas: Yeah, briefly. One of the reasons why I am supporting this time extension if they have invested a lot of their money already. And I know they're not gonna walk away from it and I know the finance climate out there and I know money is tight and I feel with them and I think it's a good project.

Chairperson Lay: Commissioner Hedani?

Mr. Hedani: I echo Jack's comments. I think as displayed it's a very attractive project. It's not a maximized density project and they've gone above and beyond I think the requirements, you know, that we normally require of a developer to proceed with a project. And I really applaud their ability to stick with it all this time. I wish them well.

Chairperson Lay: Commissioner Medeiros?

Mr. Medeiros: There's a really big echo here 'cause I'm gonna echo both of them. I think this...the biggest problem with this project is they haven't started, okay. And if we don't extend it, it will never start. Okay, you know, I will support it because I want it to happen. I live in Kihei. I know that intersection gets flooded out. You take 40 percent of the water, you know, that's a big improvement. And you know, the water isn't coming from their property, it's coming from the other side of the road, you know, and they're gonna do that for the community. Sidewalks in Kihei, come on, we gotta get the sidewalks. I grew up...I didn't grow up...I grew up in Lahaina, but my grandma

lived over there so I spent a lot of time in Kihei and you know, in that whole area they're gonna put sidewalks all the way around. You know, not only do I want this to happen and excited, and I want it to start now, start tomorrow.

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

Ms. Wakida: Well, I'm grateful to the previous Commission that did our hard work for us and it looks like we've got a good project going in and I hope they get their financing underway.

Chairperson Lay: Commissioner Hedani?

Mr. Hedani: Yeah, Jason reminded me of something yeah. Back in 1968 we had our Key Club banquet at the Maui Lu Longhouse and I'd like the high school students to be able to have their Key Club banquet again in a facility like that. It was pretty memorable.

Chairperson Lay: Mine wasn't that long ago, but it was the Senior Luau. So there's a lot memories there. Commissioners, any more discussion on the motion? Seeing none, can we get the Director to repeat the motion?

Mr. Spence: The motion is to approve the time extension.

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

Mr. Spence: Five ayes.

Chairperson Lay: Motion carries. Congratulations.

It was moved by Mr. Freitas, seconded by Mr. Hedani, then

**VOTED: To Approve the Two-Year Time Extension of the Special Management Area Use Permit as Recommended by the Department.
(Assenting - J. Freitas, W. Hedani, J. Medeiros, P. Wakida, R. Higashi)
(Excused - K. Ball, S. Duvauchelle, M. Tsai)**

Chairperson Lay: And we're gonna take a 10-minute break, well let's make it 12 minutes, reconvene at 10:40 a.m.

The meeting was recessed at approximately 10:28 a.m., and reconvened at approximately 10:40 a.m.

Mr. Spence: Commissioners, we're on Agenda Item D-1 on your agenda for this morning. Ms. Lisa Pestana requesting a State Land Use Commission Special Use Permit.

D. UNFINISHED BUSINESS

- 1. 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 Piiholo Road, TMK: 2-4-013: 047, Makawao, Island of Maui. (SUP2 2013/00025) (K. Wollenhaupt) (Public hearing conducted and matter deferred at the February 11, 2014 meeting.)**

Mr. Spence: As you recall, there were some questions from last time and Mr....and the Commission said please come back. So we have with us this morning, Mr. Kurt Wollenhaupt and the applicant.

Mr. Wollenhaupt: Good morning, Members of the Maui Planning Commission. This item has been heard originally by all of the members except the our newest member Mr. Higashi. So I will do, is do a brief overview on why we're here again today. The request is by Lisa Pestana who is sitting to the left of me along with her husband and it's to obtain State Land Use Commission Special Use Permit to obtain a short-term rental home in the County Ag zoning District on a 5.4 acres of land located at 1939 Piiholo Road in Makawao. The Commission has looked at this again at their regular February 11, 2014 meeting agenda packet, recommendation were reprinted for all the Members especially for our newest member.

At that meeting there has been and there continues to be no testimony in opposition to this application. The public hearing was held on February 11, 2014 for this one dwelling with two bedrooms to be operated as a short-term rental. However, during the questioning process the Commission did note that there was a garage not to be used by the short-term rental. So then there were questions about what was occurring in the garage. The planner on call, me, did not go into that garage, however, the planner now has been in the garage and it is definitely a garage and there's photographic evidence of that on Exhibit 2, being used as the garage. It's my understanding from Lisa that the lady staying in the garage is a personal friend. That lady now is staying at the Pestana main residence which is nearby. So no one in that sense has been displaced from a place to live. Now that the garage is being used as such and that which is permitted, we are here today to hopefully wrap up this short-term rental, State Land Use Commission Special Use Permit for the operation of a short-term rental in the Ag District. I can answer any questions that you may have, but otherwise, I can...the recommendation would stand as original except it would just be extended a couple of months reflecting our new date that we're meeting.

Mr. Freitas: How far uphill are you?

Mr. Pestana: 3.8 miles.

Mr. Wollenhaupt: 3.8 miles from the church.

Chairperson Lay: Okay, at this time I'm gonna open up to public testimony. Does anyone wish to testify at this time? Please step forward, identify yourself and you have three minutes. Seeing no one, we're closing public testimony. Commissioners, questions, comments, concerns? Seeing none, let's get the Department's recommendation.

Mr. Wollenhaupt: The recommendation of the Department is to approve the State Land Use

Commission Special Use Permit. It would be valid until May 31, 2017. The other five conditions are standard conditions regarding insurance and compliance. Again, as I like to tell the Commission especially for our new Commissioner, this would be concurrent with a Short-Term Rental Permit also. That Short-Term Rental Permit has I think it's 24 additional conditions that can be approved by the Director and so sometimes Commissioners have concerns about well, what about all these other conditions? Those conditions will be in their other Short-Term Rental Permit. This permit only covers their use as a State Land Use Commission Special Use Permit.

Chairperson Lay: Commissioners?

Mr. Freitas: The ag activity that you have is just raising goats on that?

Mr. Pestana:(inaudible)...

Chairperson Lay: Commissioner Hedani?

Mr. Hedani: Move to approve as recommended.

Mr. Freitas: Second.

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

Mr. Hedani: I know there was a concern about habitation in the garage which has been resolved and I appreciate the fact that they accommodated the employee basically within their residence so there's no displacement.

Chairperson Lay: Anymore discussion on the motion? Commissioner Wakida?

Ms. Wakida: Just a comment. We questioned this applicant and application I think pretty thoroughly the last time they were here. So I'm satisfied that we can move on.

Chairperson Lay: Can we get the Director repeat the motion?

Mr. Spence: The motion is to approve the Special Use Permit as recommended by Staff.

Chairperson Lay: Call for the vote.

Mr. Spence: Four and the Chair votes aye. That's five ayes.

Chairperson Lay: Congratulations.

It was moved by Mr. Hedani, seconded by Mr. Freitas, then

**VOTED: To Approve the State Land Use Commission Special Use Permit as Recommended by the Department.
(Assenting - W. Hedani, J. Freitas, P. Wakida, R. Higashi, I. Lay)
(Excused - K. Ball, S. Duvauchelle, M. Tsai, J. Medeiros)**

Mr. Spence: Commissioners we're on Item E, Communications, Mr. Robert P. Holland requesting reconsideration/Notice of Motion to Rescind by letter dated April 6, 2014 of the Short-Term Rental Home Permit denial action by the Maui Planning Commission. Our Staff Planner also this morning is Mr. Kurt Wollenhaupt.

E. COMMUNICATIONS

- 1. MR. ROBERT P. HOLLAND requesting reconsideration/Notice of Motion to Rescind by letter dated April 6, 2014 of the Short-Term Rental Home Permit January 14, 2014 denial action by the Maui Planning Commission to operate the Tropical Gardens Vacation Rental Home, a three (3) bedroom short-term rental home located on 9,600 sq. ft. of land in the R-2 Residential District at 355 Kamano Place, TMK: 4-6-005: 034, Lahaina, Island of Maui. (STWM T2013/0012) (K. Wollenhaupt)**

Chairperson Lay: Kurt, before we start I was wondering if Corp. Counsel could just run through what we're gonna be doing on this exactly so make it a little easier and we have a basic understanding?

Mr. Hopper: I just wanted to clarify this is an issue of Parliamentary Procedure. This was not brought forward to you by the Department or a Member. This was something that was transmitted by the applicant. This would not be a reconsideration under the Planning Commission. That applies to cases where intervention is granted only. This is a consideration of a Motion to Rescind under Roberts Rules of Order which is generally something under your rules that you can consider. Because this was not something that was brought by a member, the first step in this process would be for a member one, member to give notice that they intend to bring a Motion to Rescind at a future meeting date. That's what your agenda says. That's the first step, otherwise, in general a two-thirds vote is required but because this was agendaed this way that would be the first step. The only obligation of the Commission for this meeting is to hold public testimony on this item, and then decide if one member would like to bring a Motion to Rescind at a future meeting date. This is not a meeting where you would actually do the rescision or take a vote on any action item where you'd need five members. It would simply be a member saying if they so choose, I'm going to bring a Motion to Rescind and give a future meeting date and then that's placed on a future meeting agenda for you to consider rescision as an action item.

But again, today your obligation is only to take public testimony, if would like to ask questions of the applicant, you can, but that is your only requirement is to take public testimony on this item and then decide if a member wishes to give notice or bring a Motion to Rescind. Again, the Motion to Rescind is under Roberts Rules of Order. Any member can bring it. It's not a Motion for Reconsideration. A Motion for Reconsideration has to be made at the same meeting under Roberts Rules of Order or under the rules, but only in cases where there is an intervention. That's when your contested case hearing rules kick in. So any member can make it, even somebody who voted on to deny the permit can say, I'm gonna give notice of my intent to bring a motion at a future meeting. Also note that if a member gives that notice today, they don't have to be seconded for it to be placed on a future meeting agenda. It would need to, the motion would need to be brought and seconded at that future meeting date, but not just have to be seconded today. So it's a bit

different of a process. You did go through this before with Mr. Hoenig on his first Special Use Permit request several years ago. So this is not unprecedented for the Commission. But this is under the Parliamentary Procedures in Roberts Rules of Order so it's a bit different.

Chairperson Lay: Kurt, do you have anything to say?

Mr. Kurt Wollenhaupt: Thank you. Thank you, Mr. Hopper for those clarifying comments. I think that helps to set the tone. I just have a very brief paragraph to read. This matter does arise from an application for a short-term rental home called the Tropical Garden Vacation by Mr. Robert P. Holland located in the R-2 Residential District at 355 Kamano Place in Lahaina. This was a request for a short-term rental home. This applicant was heard by the Maui Planning Commission a regularly scheduled meeting on January 14, 2014. At that meeting, the Commission denied the request. A copy of the original staff report and recommendation for the January 14 meeting has been included with the memorandum. Additionally, we were fortunate to have the minutes of that January 14 meeting also sent to the Commissioner for their review. Mr. Holland by letter dated April 6, 2014, and attached to the memorandum made a request for the Commission to review his application. Mr. Holland outlines his arguments in his letter. Indicating in his belief in his words that I quote, "new evidence is available. There is need to contact clear errors and some evidence was previously undiscovered." This is only from the applicant. Mr. Holland presented various exhibits in his letter along with a DVD of the Commission meeting of January 14, 2014. That is all that the Department has prepared for today. Therefore, I believe that public testimony is the next process.

Chairperson Lay: At this time, I'm gonna open up to public testimony. If anyone wishes to testify, please step forward, identify yourself and you have three minutes.

Mr. Robert Holland: Hello Commissioners, I'm Robert Holland.

Chairperson Lay: Please speak in the mic please? And repeat your name again for the record, please.

Mr. Holland: Commissioners, thank you for seeing me again. I wanna make some remarks about losing it and about hopefully with your help having it returned. We lost hope with the great recession in the mainland and really throughout the country. We lost hope with your denial. We lost hope with untruthfulness of our neighbors and you really lost hope as well because you've been misled. So I have a series of remarks and even a handout that Kurt can give you at a later time.

My request for reconsideration included a letter and I posed a question, what if you were told you could not do your job and this job involved booking and managing guests? Well, we've been doing this successfully for 30 years and we thought that isn't that what you'd look for in an applicant? Well, we did not tell you this, but it's become sadly our livelihood and it's a livelihood that's not just our livelihood. It's been reported that more than 9 million older Americans such as us can't pay their bills. So I have a question for you, I don't know if it's appropriate, but are you willing give up and share your home, not just your island with responsible visitors whose dream like my father's was 53 years ago to come here. Well, I'm willing to share my home as well as our island.

Our prices for a home in Kula are among the most reasonable in Lahaina. We offer a rate truly

appreciated by working class families who wish to visit our island and not have to pay hotel prices. Why would we run the risk of permit violations while at all times we live on site several feet from the home? It absolutely makes no sense.

Well, what went wrong at our prior hearing? I've been trying to connect the dots. Our situation was somewhat unusual. Anti-visitor sentiment was in full force. So visitors were called party hardy people. So does that mean that we should tell them they are no longer welcome on our island? Read the transcript, watch the DVD that I provided. You know, in thinking about it we spent so much time being nice instead of defending ourselves.

What really went on? Well, the Commission was misled by a person of influence. It involved a heartless campaign I believe against us by a neighbor who we asked for help and support previously that neighbor—

Chairperson Lay: Please conclude.

Mr. Holland: —dined at our home twice. We gladly gave him \$3,000 to rebuild a common fence.

Chairperson Lay: Excuse me, please conclude. You've been given your three minutes.

Mr. Holland: Pardon me?

Chairperson Lay: You've been given three minutes and you've reached your three-minute limit so please conclude.

Mr. Holland: Thank you, Commissioner. In 15 years, we've never been invited to his home. Well, a fuss was created, mass confusion was created for both the Department as well as the Commission leaving all of you very few options to maneuver. Our application was denied even, and this is really a strong point, even though the protesters were the actual noise makers and street parking violators. So it's an upside down world.

Chairperson Lay: Thank you very much. You said there is a handout that you'll be giving out to us also?

Mr. Holland: Pardon me?

Chairperson Lay: You said there was a handout also?

Mr. Holland: Well, yes. I do have my letter I can hand out. Commissioners is there any way I can make a few final comments that would include a request? It has to do with the process itself. It's not just me.

Chairperson Lay: If the Commissioners have any questions on what you've said so far. Commissioners, any questions for the testifier? Seeing none, thank you very much. Does anyone else wish to testify at this time? Seeing no one, we're closing public testimony. At this time, I'm going to ask if a member has a...would like to make a motion to rescind?

Mr. Hopper: That would be...it's actually notice of motion intent to make a Motion to Rescind at a future meeting date. That's how you would get this calendered on your agenda for action in the future and then at that future meeting date, you can proceed with the consideration of the motion. Right now, you're under Robert's Rules of Order and one member can decide if they want to make that motion and give notice to the board or the Commission now that they intend to do that at a future meeting date. If no one, gives that notice then there's not going to be a Motion to Rescind considered on this. It would still come before you again for adoption of the decision and order denying the, denying the permit.

Chairperson Lay: No motion. So moving on.

Mr. Spence: Thank you, Commissioners. Okay, we are Item F, Orientation Workshop No. 2. You have a number of items to go over. I'm not sure what all is queued up, but I see Simone, Long Range Division.

F. ORIENTATION WORKSHOP NO. 2

1. **County's Policy Against Sexual Harassment - Allan Delima**
2. **The Planning Framework - Kurt Wollenhaupt**
3. **Long Range Planning Division - Simone Bosco**
4. **Zoning - Candace Thackerson**
5. **Bed and Breakfasts and Short-Term Rental Homes Permitting - Gina Flammer**
6. **Environmental Assessments (EA) and Environmental Impact Statements (EIS) Chapter 343, HRS - Danny Dias**
7. **Flood Hazard Districts - Avelina Cabais**
8. **Sunshine Law - Linden Joesting**
9. **Ethics - Linden Joesting**
10. **Legal Issues - to be discussed at a future meeting.**

Planning Department Staff did a power point presentation regarding Items 1-9. A hard copy of the power point presentation is on file in the Department of Planning.

Ms. Linden Joesting, Deputy Corporation Counsel did a power point presentation regarding Ethics. A hard copy of her power point is on file in the Department of Planning.

Chairperson Lay: Next agenda item?

Mr. Spence: Commissioners, Item G on your agenda, Acceptance of the Action Minutes of April 22nd, the Regular Minutes of January 14th and February 11th.

G. ACCEPTANCE OF THE ACTION MINUTES OF THE APRIL 22, 2014 MEETING AND REGULAR MINUTES OF THE JANUARY 14, 2014 AND FEBRUARY 11, 2014 MEETINGS

Mr. Hedani: Move to approve.

Mr. Tsai: Second.

Chairperson Lay: Motion carried. All those in favor?

Commission Members: Aye.

Chairperson Lay: Those opposed? Acceptance of the Minutes.

It was moved by Mr. Hedani, seconded by Mr. Tsai, then

**VOTED: To Accept the Action Minutes of the April 22, 2014 Meeting and the Regular Minutes of the January 14, 2014 and February 11, 2014 Meetings.
(Assenting - W. Hedani, M. Tsai, J. Medeiros, P. Wakida, R. Higashi)
(Excused - K. Ball, S. Duvauchelle, J. Freitas)**

Mr. Spence: Item H, Director's Report. This is a request of a two-year time extension. This is the decision whether to waive or not to waive an extension of an SMA Permit for the Pacific Warehouse Project and Candace Thackerson is the Staff Planner.

H. 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 requests administratively:**
 - a) PACIFIC WAREHOUSE, INC. requesting a two (2)-year time extension on the period to initiate construction of the Kihei Town Center Expansion and Renovations at TMK: 3-9-003: 012, Kihei, Island of Maui. (SM1 2008/0014) (C. Thackerson)**

Ms. Candace Thackerson: All right, onto business after all of that workshop learning. This a Special Management Area Use Permit time extension request and this is to waive review of the request of two years for the Kihei Town Center expansion and renovation project. The original permit number is SM1 2008/0014. This would be the second time extension for this project. So the project knows and this was previously granted last time in 2012, the Commission voted to allow the Department to administratively issue a two-year time extension. I can say that the applicant has submitted their preliminary compliance report so they are making progress towards the end of their permit and they are here if you have any further specific questions for them. Also, all their drainage and infrastructure have been put in. So they have initiated construction at this time.

Chairperson Lay: At this time, I'm going to go to public testimony. Does anyone wish to testify on this agenda item? Seeing none, public testimony is closed. Commissioners, any questions? Commissioner Wakida?

Ms. Wakida: What is the applicant's plan in the near future as far as getting this project going?

Ms. Thackerson: I'll have them answer that for you.

Ms. Wakida: Thank you.

Ms. Gwen Hiraga: Good afternoon Commission Members. My name is Gwen Hiraga representing the applicant and with me is Robert Domingo from Foodland. He can explain, Robert will explain to you where we are. We are in building permit trying to secure the building permit approvals, but he can provide you an idea of what their construction timetable looks like once the permits are issued.

Mr. Robert Domingo: Hello, Robert Domingo from Foodland. We're currently completing our construction of our Kealani Village Center location which will open if it stops raining, next month hopefully. And once we get that project completed and the financial commitment done, our next project is to roll into the Kihei Town Center where we will be renovating the Foodland Supermarket there. So we hope to start construction within the next 10 to 12 months and then usually we typically run about a 10 to 12-month construction window.

Ms. Wakida: Well, that's good news for the Kihei people. So you've got your financing in order and you expect to start construction in the next...within the next year?

Mr. Domingo: That's our desire.

Ms. Wakida: Okay.

Chairperson Lay: Commissioners, any more questions? Commissioner Tsai?

Mr. Tsai: Yeah, the construction was done...(inaudible)...what's given to us here it's just simply involving expansion and so I assume you are gonna continue operating the store as...

Mr. Domingo: When we go under construction we will have to close the store because we will have to upgrade all the existing plumbing and you know, grease lines and stuff like that.

Mr. Tsai: Okay.

Chairperson Lay: Commissioner Medeiros?

Mr. Medeiros: Approximately how long would the store be closed?

Mr. Domingo: Our construction for when we renovate a store in totality is typically somewhere between 10 and 12 months.

Mr. Medeiros: And what will happen to the employees while...

Mr. Domingo: Oh, they'll...we will find other locations for them to work at during the renovation so nobody will be-

Mr. Medeiros: Displaced?

Mr. Domingo: Yeah, correct. We can always use more people.

Chairperson Lay: Commissioner Tsai?

Mr. Tsai: Also, do your...well this particular project as you know it's...it has immediate surrounding to other businesses and so forth. Is your construction gonna effect the parking or any of the nearby businesses where they would be, you know...

Mr. Domingo: With regards to the parking for the shopping center our construction should not impact the required parking. In fact we're currently over parked for the center. So we're relatively good. You know envision probably erecting some sort of a dust barrier or something to that effect just around the immediate perimeter if necessary. But the maintaining of the existing parking and egress and ingress points will remain.

Mr. Tsai: ...(inaudible)...more parking because they don't have access to Foodland now.

Mr. Domingo: Correct.

Mr. Tsai: Thank you.

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

Ms. Thackerson: The Department's recommendation is to allow the Director to administratively grant the two-year time extension request and waive review.

Mr. Medeiros: Move to accept the recommendation.

Mr. Tsai: Second.

Chairperson Lay: Motion by Commissioner Medeiros, seconded by Commissioner Tsai. Any discussion on the motion? Seeing none, can we get the Director to repeat the motion?

Mr. Spence: The motion is to waive review and let the Director administratively grant the extension.

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

Mr. Spence: That's five ayes.

Ms. Thackerson: Thank you.

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

**VOTED: To Waive Its Review of the Time Extension.
(Assenting - W. Medeiros, M. Tsai, W. Hedani, P. Wakida, R. Higashi)
(Excused - K. Ball, S. Duvauchelle, J. Freitas)**

Chairperson Lay: Moving on.

Mr. Spence: So Commissioners, No. 2 and 3 on the Director's Report, you have your SMA Minor and your SMA Exemption Report. All we're doing with that is acknowledging.

2. SMA Minor Permit Report (Appendix A)

3. SMA Exemption Report (Appendix B)

Chairperson Lay: Any questions?

Mr. Spence: Questions?

Chairperson Lay: Any questions on the SMA Minor projects, the report? Seeing none, can I get a-

Mr. Medeiros: So move.

Mr. Tsai: Second.

Chairperson Lay: Motion for acceptance. All those in favor?

Commission Members: Aye.

Chairperson Lay: Carried and accepted.

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

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

Mr. Spence: Future Planning Commission Agendas.

4. Discussion of Future Maui Planning Commission Agendas

a. May 27, 2014 meeting agenda items

Mr. Spence: Commissioners on May 27th, we're gonna have two public hearing items. This is for a Traveler's Hotel in Makena. That's the great big packet you received at one time. And then, Number 2, Mr. Dave Gomes, General Manager of Hawaiian Cement is requesting Land Use Commission Special Use Permit and a County Special Use Permit for a batching plant. I believe it's a batching plant. Anyway that will be before you. Unfinished Business, Isaac Hall. This is regarding the appeal of the issuance of a SMA Exemption for the resurfacing of the runway at Kahului Airport, and the Commission may take action at that meeting.

Ms. Wakida: They're just supposed to come back and report the results?

Mr. Spence: Yes, they've been having mediation meetings and they will report to us back.

K. NEXT REGULAR MEETING DATE: MAY 27, 2014

Mr. Spence: Next meeting date is May 27th.

Chairperson Lay: Commissioners, meeting's adjourned.

L. ADJOURNMENT

The meeting was adjourned at 3:00 p.m.

Submitted by,

CAROLYN J. TAKAYAMA-CORDEN
Secretary to Boards and Commissions

RECORD OF ATTENDANCE

Present

Jack Freitas (excused at 12:00 p.m.)
Wayne Hedani
Richard Higashi
Ivan Lay, Chair
Jason Medeiros
Penny Wakida
Max Tsai (in attendance at 11:00 a.m.)

Excused

Keone Ball
Sandy Duvauchelle

Others

William Spence, Director, Planning Department
Mike Hopper, Deputy Corporation Counsel, Department of the Corporation Counsel
David Goode Director, Department of Public Works (9:00 a.m. - 12:00 p.m.)