

PURSUANT TO CHAPTERS 91 AND 92, PART I, HAWAII REVISED STATUTES, AS AMENDED; NOTICE IS HEREBY GIVEN OF A PUBLIC HEARING/MEETING OF THE MAUI COUNTY BOARD OF VARIANCES AND APPEALS (BVA)

Members: G. Clark Abbott (Chair), Chad Fukunaga (Vice-Chair), Patrick De Ponte, Teddy Espeleta, William Greig, Howard S. K. Kihune, Raymond Sung, Juanita Reyher-Colon, Max Kincaid Jr.

AGENDA

DATE: October 22, 2015

TIME: 1:30 p.m.

PLACE: Planning Department Conference Room, First Floor, Kalana Pakui Building, 250 South High Street, Wailuku, Hawaii

A. CALL TO ORDER

B. PUBLIC TESTIMONY - At the discretion of the Chair, public testimony may also be taken when each agenda item is discussed, except for contested cases under Chapter 91, HRS. Individuals who cannot be present when the agenda item is discussed may testify at the beginning of the meeting instead and will not be allowed to testify again when the agenda item is discussed unless new or additional information will be offered. Maximum time limits of at least three minutes may be established by the Board. More information on oral and written testimony can be found below.

C. PUBLIC HEARING

1. **NOHELANI UU of FRAMPTON & WARD representing CHARLES A. SPENCE of KAHONUA O KALE LLC owner of MAUI SUNSEEKER HOTEL** is applying for a variance from §19.14.030, Maui County Code (MCC), "Hotel District Accessory uses and buildings," to allow the use of a new café, which includes a 180 square foot kitchen, a 480 square foot café dining area with a small gift shop on one parcel, when MCC requires that all hotel and apartment-hotel buildings in which such accessory uses shall be permitted and allowed shall contain more than 20 rental units for property located at 551 South Kihei Road, Kihei, Hawaii TMK (2) 3-8-007:041 (BVAV 2015/0017) (M. Balberdi)

D. APPEAL OF NOTICE OF VIOLATION

1. **CALVERT G. CHIPCHASE AND CHRISTOPHER T. GOODIN OF CADES SCHUTTE LLLP representing D AND S VENTURES, LLC** Appeal of the Planning Director's Notice of Violation (NOV 2014/0013) for the zipline activity within the County's Agricultural District without a Special Use permit pursuant to MCC §19.30A.060(H) for property located at 2065 Kauhikoa Road, Haiku, Maui, Hawaii; TMK (2) 2-7-012:086 (BVAA 2015/0002); (M. Balberdi)

a. Thirty day status report regarding filing of permit application.

2. **PETITION TO INTERVENE FILED ON OCTOBER 13, 2015, BY ANTHONY L. RANKEN AND SAMUEL P. SHNIDER** representing **PETER ROHRER** in **D AND S VENTURES, LLC** Appeal of the Planning Director's Notice of Violation (NOV 2014/0013) for the zipline activity within the County's Agricultural District without a Special Use permit pursuant to MCC §19.30A.060(H) for property located at 2065 Kauhikoa Road, Haiku, Maui, Hawaii; TMK (2) 2-7-012:086 (BVAA 2015/0002); (M. Balberdi)
- E. ADOPTION OF FINDINGS OF FACT, CONCLUSIONS OF LAW, DECISION AND ORDER (D&O)
1. Having voted on February 26, 2015 to approve the variance for Molokai High School Science Facility (BVAV 2015/0004), the Board will consider and may adopt the draft Findings of Fact, Conclusions of Law and Decision and Order.
- F. APPROVAL OF THE AUGUST 27, 2015 MEETING MINUTES
- G. NEXT MEETING DATE: NOVEMBER 12, 2015
- H. ADJOURNMENT

AGENDA ITEMS ARE SUBJECT TO CANCELLATION.

AN EXECUTIVE SESSION MAY BE CALLED IN ORDER FOR THE BOARD TO CONSULT WITH ITS ATTORNEY ON QUESTIONS AND ISSUES PERTAINING TO THE BOARD'S POWERS, DUTIES, PRIVILEGES, IMMUNITIES AND LIABILITIES, PURSUANT TO SEC. 92-5 (a)(4), HRS.

DOCUMENTS ARE ON FILE WITH THE DEPARTMENT OF PLANNING. THE ADDRESS OF THE BOARD IS C/O DEPARTMENT OF PLANNING, ONE MAIN PLAZA, 2200 MAIN STREET, SUITE 315, WAILUKU, MAUI, HAWAII 96793.

ANY PETITION TO INTERVENE AS A FORMAL PARTY IN THE PROCEEDINGS BEFORE THE BOARD MUST CONFORM TO RULE 12-801-18, RULES OF PRACTICE AND PROCEDURE FOR THE BOARD OF VARIANCES AND APPEALS, AND BE FILED WITH THE BOARD AND SERVED UPON THE APPLICANT WITHIN A REASONABLE TIME BEFORE THE MEETING IN WHICH THE SUBJECT MATTER OF THE INTERVENTION IS TO BE HEARD. THE ADDRESS OF THE BOARD IS NOTED ABOVE.

ORAL OR WRITTEN TESTIMONY WILL BE RECEIVED ON ANY AGENDA ITEM SUBJECT TO THE PROVISIONS OF CHAPTER 92, HAWAII REVISED STATUTES AND THE BOARD'S RULES OF PRACTICE AND PROCEDURE, EXCEPT FOR CONTESTED CASES UNDER CHAPTER 91, HRS, AS NOTED ABOVE.

WRITTEN TESTIMONY AND FAXES SHOULD BE RECEIVED AT LEAST TWO (2) BUSINESS DAYS BEFORE THE MEETING TO ENSURE DISTRIBUTION TO THE BOARD. FIFTEEN (15) COPIES OF WRITTEN TESTIMONY ARE REQUESTED IF TESTIMONY IS PRESENTED IMMEDIATELY PRIOR TO OR AT THE MEETING.

THOSE PERSONS REQUESTING SPECIAL ACCOMMODATIONS DUE TO DISABILITIES, PLEASE CALL THE DEPARTMENT OF PLANNING AT 270-7735 (MAUI) OR 1-800-272-0117 (MOLOKAI) OR 1-800-272-0125 (LANAI) OR NOTIFY THE DEPARTMENT OF PLANNING IN WRITING AT ONE MAIN PLAZA, 2200 MAIN STREET, SUITE 315, WAILUKU, MAUI, HAWAII 96793 OR BY FAX NUMBER 270-7634 AT LEAST SIX (6) BUSINESS DAYS BEFORE THE SCHEDULED MEETING.

PLEASE NOTE: If any member of the Board is unable to attend the scheduled meeting, please contact the Department of Planning at least one day prior to the meeting date. Thank you for your cooperation.
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