

**MAUI PLANNING COMMISSION
REGULAR MINUTES
JULY 26, 2016**

A. CALL TO ORDER

The regular meeting of the Maui Planning Commission was called to order by Chairperson Max Tsai at approximately 9:04 a.m., Tuesday, July 26, 2016, Planning Conference Room, First Floor, Kalana Pakui Building, 250 South High Street, Wailuku, Maui.

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

Chair Tsai: Good morning everyone, today's July 26, 2016. The Maui Planning Commission is called to order. I'd like to introduce the Commissioners present. Myself, Chair Max Tsai. We have Commissioner Wayne Hedani, Commissioner Steve Castro, Commissioner Richard Higashi, Commissioner Larry Hudson, Commissioner Keaka Robinson, and Commissioner Lawrence Carnicelli.

I also want to take note of the passing our Vice-Chair Jason Medeiros, and ask everyone to take a moment of silence.

The Commission observed a moment of silence for Vice-Chairperson Jason Medeiros who passed away on July 22, 2016.

Chair Tsai: Thank you. I just want to make a note that we're gonna miss you Jason. He's a good man, a great man. I was fortunate to see him on Wednesday before his passing in the hospital and I will always remember his last words to me as I was walking away and he says, love you brah. So you'll be dearly missed Jason. Anyone else too want to say something at this point? Commissioner Hedani?

Mr. Hedani: Wow, this is a quite a shock. I didn't know that Jason passed away until this morning. The thing I remember about Jason is that he always spoke from his heart and you could always count on him to look after the local folks. The people that lived in the area around anything that was considered. He was a straight shooter and he spoke from the heart and I will truly miss him.

Chair Tsai: Commissioner Castro?

Mr. Castro: I've known Jason for a very long time so long that he's my wife's classmate. He's like you said, a very straight shooter and every time I'd get a call from his where's his coffee and he spent so much time at Starbuck's that I was beginning to think he had shares in there, but he spoke from the heart and told it like it is without trying to create offense. He listened very diligently and then acted. It's gonna be really missed. He was great with children, to many of the kids it's Uncle Jason. So he's definitely going to be missed.

Chair Tsai: Commissioner Higashi?

Mr. Higashi: I'd like to say that I remember Jason as a person who really fought for the working people and was always pushing for affordable housing for those who needed it. He had a very unique sense of humor but was always very frank about issues that came up.

Chair Tsai: Commissioner Hudson?

Mr. Hudson: I echo the words of Mr. Higashi. I found him to be humble, pragmatic and very humorous. Having the pleasure of sitting next to him he was able to slip a joke in every now and then that I will definitely miss.

Chair Tsai: Director?

Mr. Spence: I learned Friday and I was just very sorry to learn of Jason's passing. I so appreciated him being on this Commission asking really honest questions, to being really pragmatic point of view. You know and he called it like it was and I know I'm gonna miss him. I wanna send out the condolences for everyone from the Planning Department. He's gonna be a hard man to replace. And I'm sorry I have to leave. I have another meeting to attend.

Chair Tsai: Thank you, Director. Thank you everyone for your heartfelt words and I'll miss our Vice-Chair Jason Medeiros. Okay, we're gonna dearly miss Jason.

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.

Chair Tsai: So at this point I'm gonna open the floor for public testimony. Anyone wish to testify at this point please come forward if you can't stay for the meeting agenda to come up this is the time for you testify. You can either do it now or you can wait for the agenda item to come up but you can't do both. Seeing none, public testimony is now closed. We have our first agenda item.

Mr. Yoshida: Good morning Mr. Chair and Members of the Commission. My name is Clayton Yoshida. I'm the Administrator of the Current Planning Division of the Planning Department. I'm subbing for Director Will Spence and Deputy Director Michele Chouteau-McLean who have a meeting with the Mayor, but one of them will be joining you as soon as possible. I guess the Deputy Public Works Director Rowena Dagdag-Andaya is feeling under the weather today but we are privileged to have the Public Works Director David Goode and his expertise.

So I guess under the new layout the first public hearing item is a request from Marc Taron of Arquitectura, LLC on behalf of Ed and Susan Marszal for a Special Management Area Use Permit for the demolition and then construction of a 8,391 square foot single-family dwelling, pool, and related improvements in the R-3 Residential District at 465 Front Street, TMK: 4-6-002: 016, Lahaina, Island of Maui. The Staff Planner is Keith Scott.

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

- 1. MR. MARC TARON of ARQUITECTURA LLC. on behalf of ED and SUSAN MARSZAL requesting a Special Management Area Use Permit for the demolition and construction of a 8,391 sq. ft. single family dwelling, pool, and related improvements in the R-3 Residential District at 465 Front Street, TMK: 4-6-002: 016, Lahaina, Island of Maui, (SM1 2015/0002) (K. Scott)**

Mr. Keith Scott: Good morning Members of the Commission. The action under consideration is a Special Management Area Use Permit for the construction of a replacement single-family residence and ohana at 465 Front Street in Lahaina. The proposed project was presented to the Urban Design Review Board on June 7, 2016 and the board recommended approval as submitted. The project is located in the State Urban Land Use District and the Maui Island Plan Urban Growth Boundary. The West Maui Community Plan designation is single-family residential and the property is zoned R-3, Residential. The project is within the Special Management Area and the National Historic Landmark District.

At the time your report was published there had been no testimony with respect to the project. Since then the Department received one letter requesting that the exterior design of the home be appropriate to the historic nature of the Front Street neighborhood. A copy of the letter I believe was on your table this morning. The letter has been responded to by the applicant and acknowledged by the testify and he states the plans look like it will be a beautiful home and more appropriate than many built on Front Street in the last several years.

At this juncture Marc Taron of Arquitectura will make a presentation of the project on behalf of the applicant.

Mr. Marc Taron: Hi, good morning Members of the Commission, I'd like to thank you for your time and consideration to see this proposed project. It is a single-family home in Lahaina on Front Street.

Chair Tsai: I'm sorry, can you please re-identify yourself please?

Mr. Taron: My name is Marc Taron with Arquitectura.

Chair Tsai: Thanks.

Mr. Taron: Shall I sit down or stand? Does it matter? Okay, so the Marszal residence, the project team, the clients are Ed and Susan Marszal and Christopher Watson is the project manager. Castaway Construction will be the contractors on this. Myself and Dennis Harmon are the project architects. Stacy Otomo, the civil engineer, Joe Corpuz, structural, Carolyn Pace, interior design, and Zach Hanchel is the landscape architect.

So it is in Lahaina on Front Street for 465 Front Street right next to 505. It is the Urban District for the State Land Use, single-family West Maui Community Plan, R-3 for Maui County Zoning

and it is in the Special Management Area.

The gross square footage...it's a single residence, single-family residence with a ohana and a pool, two-stories. It will be about gross 8,400 square feet that's about 900 square foot of garage, 1,000 with lanai, so about 6,500 enclosed living.

It's designed to complement Lahaina plantation style. The landscape would be indigenous with drought tolerant species and it...they are trying to utilize high efficiency appliances, low flow fixtures and passive energy techniques.

These photos show the subject lot, one from Front Street and one from the beach. The house has already been demoed. The previously existing house has been demoed so now it is vacant. To the north is Lahaina Shores and the neighbor directly to the south that's their house right there, 459. Now across the street at 472 there's a two-story house and an alleyway that leads to 450.

So this is the site plan and it's a little hard to see but on the right side is Front Street. We have a dual driveway and dual garage and you enter, you enter pedestrian entryway through the middle through a gate into a courtyard. Should I walk through the plan for you guys or not really? Okay so you go through the entry doors. There's the living room, a kitchen, dining, then to the left is the master suite with a master bedroom, bathroom and outdoor shower. To the right of the main entry or to the north is the guest...a laundry room, a guest bedroom and an ohana. This is the floor plan just a little bit larger, same plan. On the second floor is basically two master bedrooms, one on the north side, one on the south with their bathrooms in the middle and lanais facing the ocean. And you can see from the slide that Front Street is to the right on this side. The two-story massing is more towards the ocean where off of Front Street it's all one-story massing that's to soften the, soften the appearance from Front Street. This is the west and east elevation. So you can see the split roof, plantation style design. On the east and west...I mean, on the north and south rather the north the top elevation is the north elevation. South is the bottom elevation. And on the north elevation you can see a raised area with the fence or a guardrail there. We have to raise that area. That's where all the air-conditioning equipment is and the trash enclosure. We have to raise that above the base flood elevation. This is a little bit easier to see. I apologize for those drawings. On the upper rendering is the ocean side or the west façade. The bottom rendering is from the street, from Front Street and you can see on that lower rendering the one-story massing and on the west is the two-story massing with covered lanais. So these are the north and south elevations. The landscape plan, again using indigenous species, drought tolerant. Here are some of the plants are being proposed. And then this slide actually was supposed to be a little short video fly around but I can't get the play button to work so. So that is it for this part of the presentation.

I have a materials board here. I'll go across the top clockwise. The garage door, the garage door is to be a opaque glass and aluminum door. The driveway is proposed to be the lava pavers with grass in between. This slide shows the copper light sconces on the outside and copper leader heads and gutter would be in the same, same flavor. We're using a lot of blue rock on the base and the columns and the site walls. That's what this picture is. This just

shows some landscaping. And then travertine on the lanai and some of the columns and the pool. And I have somewhere here a roof tile. It right in front of the desk. This would be a flat concrete tile, charcoal brown blend. That concludes my presentation.

Chair Tsai: Thank you.

a) Public Hearing

Chair Tsai: At this point we're going to open the floor for public testimony. Anyone wish to testify on this agenda item please come forward? Identify yourself, you have three minutes. Seeing none, public testimony is now closed. Questions from the Commissioners? Commissioner Carnicelli?

Mr. Carnicelli: I have a couple questions it may be...Keith this might be more for you. My first question is in regards to there was a house a couple years ago that I believe it's five lots to the south of this that was built and the recommendation from the Department and the adoption of this commission was that the house had to have view corridors from Front Street to the ocean on both sides of the house. You had to be able to see the ocean. I believe the setback was 15 feet on either side of the house. Why was that same...what was that not that same I guess restriction not imposed on this one that was adopted to that same one five lots to the south?

Mr. Scott: This particular lot when the house that had been demolished was there, between the house and the landscaping that was there, there was no view corridor at all. So we didn't feel it was necessary to add that although it could be something that you could require which would be a redesign of the building.

Mr. Carnicelli: If I could? Also another restriction of it was they were not allowed to have a garage. They had to have a pass through carport without is again just looking for consistency in the neighborhood why are we not gonna have this guy do it?

Mr. Scott: The plantation style typically has...if there's a garage on the property it is separate from the dwelling itself. While these garages are attached to the dwelling they are designed in such a way that they appear to be completely separate so it is more in keeping with the plantation style to have a garage in this style rather than a carport which is a more modern structure.

Mr. Carnicelli: I guess my other question and this is is if I'm recalling is you said it's within the State Historic District, correct?

Mr. Scott: Yes.

Mr. Carnicelli: I believe it's also within the Lahaina Historic District is it not?

Mr. Scott: I believe so.

Mr. Carnicelli: Okay, do we have approvals as far as the Lahaina Historic District? Have we gotten approvals that way?

Mr. Scott: Yes.

Mr. Carnicelli: We did, okay, and that's part of the package here? I guess I didn't find it anywhere.

Mr. Scott: I'm not sure. Sorry.

Mr. Carnicelli: Okay. One last question is is the pool within the setback?

Mr. Scott: No.

Mr. Carnicelli: Okay, the pool is—

Mr. Scott: All of the structures are outside the setback.

Mr. Carnicelli: Okay, but the pool's within the setback? I'm sorry, it's outside the setback?

Mr. Scott: Correct.

Mr. Carnicelli: That's all.

Mr. Mark Taron: If I might add, these slides right here shows...(inaudible-not speaking in to a mic)...

Mr. Carnicelli: I do have one last question, I'm sorry, but go ahead.

Chair Tsai: Commissioner Carnicelli?

Mr. Carnicelli: One last and just for clarity's sake part of what we're coming in for is a demo permit but the demolitions already happened, correct?

Mr. Scott: The demolition has already happened. They did get a demolition permit.

Mr. Carnicelli: So this is a beg for forgiveness not an ask for permission on the demolition?

Mr. Scott: I would say yes.

Mr. Carnicelli: Okay, thank you.

Chair Tsai: Commissioner Robinson?

Mr. Robinson: Hi, Keith if you could help me out. I'm not as versed as my fellow commissioner

here is. What's the classification of plantation style because I've never seen a plantation home look as beautiful as that? I'm serious.

Mr. Scott: In general elements such as wide overhangs, a hip roof that is split and it's slant, the way it...typically there will be, it will be light colored, very often wooden siding.

Mr. Robinson: I'm sorry it's pretty vague. So I guess the reason why is I think it's a nice home and my concern is consistency like you said, it's not this house shouldn't do this, it's we're saying that they're allowed to bypass certain things because they're a plantation style home but almost every home has a overhang, almost every home has wood or sidings of it. So I guess what I'm getting at and we want uniformity, right? That's what we always strive for. That's what the community...that's what the Planning Commission wants and zoning, right? So uniformity means make sure people gets their permits, make sure people follow the same rules as their neighbors, right, and make sure it's all done in a timely manner. So they've already demolished the home without permits, correct?

Mr. Scott: Without a permit from the commission although it did receive the correct building permit for demolition and did get approval from the State Historic Preservation Division.

Mr. Robinson: So they don't need a permit from us prior to demolition is what you're saying in a SMA?

Mr. Scott: Not necessarily.

Mr. Robinson: Okay, so then they're in compliance then they're not noncompliant?

Mr. Scott: Yes.

Mr. Robinson: Okay, that's good. That's a good point. Okay. So I'm not as...we're going to you because you're the planner is there a grandfathered clause in there if a home takes away the views of the ocean can therefore in perpetuity forever somebody else can do the same thing if the house is demolished.

Mr. Scott: It's at your discretion. There's no grandfathering per se. But when there has been complete obliteration if you will of the view corridor it's not as critical as when there is a view corridor already that you don't wanna have obscured.

Mr. Robinson: Okay, thank you.

Chair Tsai: Commissioner Hedani?

Mr. Hedani: Yes, Mark can you walk me through the setback calculations that you went through for this project?

Mr. Taron: So the side yard setbacks are six feet, and those are the same setback, I mean the

previously existing house was built to those setbacks.

Mr. Hedani: Can you be more specific? The setback on the ocean side, I understand back in the '60s we had a 40-foot setback for structures.

Mr. Taron: Correct.

Mr. Hedani: We have up to a 150 feet setbacks in other areas that's more current code. How does this comply?

Mr. Taron: I mean so I can't recall the exact method.

Mr. Scott: Perhaps I can answer that question for you because the applicant did a calculation and we did a calculation and we actually had some of the structure move mauka in order to clear the setback. The setback is calculated in one of two ways. It's either by a lot depth setback which was essentially a quarter of the average lot depth for properties that are over a 160 feet deep and this one is. And the other calculation that we need to do is to take the annual erosion hazard rate and apply that to a formula and we come up with a setback. In this case if I remember correctly the setback was done by the annual erosion hazard rate and it came back to and I forget the exact amount but some, 50 something feet back from the certified shoreline.

Mr. Hedani: The plans that I see show 40 feet is that in compliance with that calculation?

Mr. Scott: The building...all of the structures including the pool do meet the requirement of being outside the shoreline setback.

Mr. Hedani: Thank you.

Chair Tsai: As a follow up, Keith so what is the setback right now?

Mr. Scott: I'll have to look at my notes and see. I don't know what offhand.

Chair Tsai: Commissioner Higashi?

Mr. Higashi: I have a question regarding your Exhibit 11. According to your exhibit it seemed like this property is in the Zone VE area flood. Is it because it was separate from all the rest of the property that it extends into that particular area. Exhibit 11.

Mr. Scott: Ask your question again please? Ask your question again please?

Mr. Higashi: Yes, is there a reason why that particular...(inaudible)...property extends into that flood...that zone VE area as compared to the other adjoining properties that are on either side or is that just a drawing error?

Mr. Scott: Actually the property immediately to the south does have part of it out in the VE area.

A lot of these shoreline properties actually have a property line that extends out beyond where the shoreline, where the certified shoreline is and it's very often that is within the VE area. So it's not unusual.

Mr. Higashi: Is there a designation as to how far that private property extends into the beachfront as far as public access on the beach?

Mr. Scott: Actually the fact that...it is. That the property line extends beyond the certified shoreline has no impact at upon the public nature of the beach itself. It is considered to be within the State jurisdiction and it is public...it has public access and is required to maintain public access.

Mr. Higashi: Yes, and the reason why I asked was because in one of your photos you had somebody's beach outfit on the sand itself and it seemed like it was into the private property area so that's why I asked the question and it's open.

Mr. Scott: Yes it is.

Mr. Higashi: Okay.

Mr. Scott: And will remain so.

Mr. Higashi: Okay, ...(inaudible)...it didn't match with the photo that they had.

Mr. Scott: No, we don't know whose equipment that was. It could be just someone from the public not necessarily from the property.

Mr. Taron: Are you asking me whose equipment that as in front of the...in that photo?

Mr. Higashi: Yeah.

Mr. Taron: That was just somebody enjoying the beach. It had nothing to do with the project.

Mr. Higashi: Okay.

Chair Tsai: Commissioner Robinson?

Mr. Robinson: Hi, can you please describe to us the type of drainage you have that's going towards the ocean and 'cause I see that that's part of the landscaping.

Mr. Taron: Sure, so I mean all, actually all—

Chair Tsai: Please identify yourself for the record, Mark.

Mr. Mark Taron: Hi Mark Taron. So all runoff water will actually be contained on site. We have

a drainage retention basin just west of the pool. Currently actually there is sheet runoff going to the neighbor's properties and onto the street and so this is actually an improvement in that all runoff water will be contained on site.

Mr. Robinson: Mark, you have some place where it shows that? You have some data for that?

Mr. Taron: We have a grading plan, yes, but I did not bring that with me. I can provide that.

Chair Tsai: Commissioner Hedani?

Mr. Hedani: Yes Mark, is there a government beach reserve on the makai side of this property?

Mr. Taron: I'm not sure what you mean by government beach reserve. I mean, I know there's beach on the west side of the property that's public property. Are you asking me if there's like a national preserve? I'm not aware of a national preserve no.

Mr. Hedani: Okay, let me give you an example. In the case of Olowalu the peninsula of Olowalu the government owns the first 100 feet of property from the edge of the vegetation line a 100 feet in. It doesn't belong to the person that owns that private property. It belongs to the public.

Mr. Taron: Okay.

Mr. Hedani: It's called a government beach reserve. In the case of Olowalu they actually constructed houses on top of the public property on the government beach reserve. We also have cases in Napili towards Kapalua where there are areas with designated government beach reserves and I think the purpose of those reserves was to preserve lateral access for the public along the entire peninsula in case of Olowalu which has been compromised now and in the case of Napili along the shoreline of Napili which you can never walk on the shoreline in Napili. So the question that I have is does the title report for this particular property show any kind of a designation of a government beach reserve in that area?

Mr. Taron: I'm not aware of any government beach reserve in the area, no.

Mr. Hedani: Okay, thank you.

Mr. Taron: Sure.

Chair Tsai: Commissioner Higashi?

Mr. Higashi: This for Keith. Looking at that particular neighborhood where is identified as the public beach access to the beach?

Mr. Taron: Mark Taron here. The public access is just to the north of the property between the property of Lahaina Shores.

Mr. Higashi: And is that designated and posted so that the public will know that get to there.

Mr. Taron: Yes it is. It's a paved walkway with a chainlink fence on both sides.

Mr. Higashi: And what about available parking? 'Cause that particular Lahaina road is kinda narrow.

Mr. Taron: Not too much parking I mean whoever would like to use that has either gotta walk to the beach access or park alongside on Front Street where they can...actually there is at the corner of Shaw and Front Street there is that public parking that people can use.

Mr. Higashi: How far is the distance?

Mr. Taron: I would say maybe a 1,000 feet.

Mr. Higashi: Thousand feet. That's the closest?

Mr. Taron: Public parking, yes.

Mr. Higashi: Okay, thank you.

Chair Tsai: Commissioner Robinson?

Mr. Robinson: Mark, I'm going to go back to the drainage because this is SMA and this is what I'm concerned about. Passed Urban Review and Design, you know we're not gonna talk about the building even though it look very nice. If the drainage is gonna be held within the landscaping what is the depth since you're next to the beach of the water, how big is that stuff, that stuff is kind of important for us to see and you have somewhere of some drainage reports from Stacy Otomo.

Mr. Taron: Yes, I do have the drainage reports and drainage design. That was all part of my SMA submittal where we had to submit those things. I did not bring them with me today. I wasn't aware that that would come...be an issue.

Mr. Scott: There is a drainage report that we have in file.

Mr. Robinson: You didn't think that was important to bring to the commission since it's a SMA permit and we have drainage and where the water's gonna go? No?

Mr. Scott: We did provide a grading plan. We can provide the other. I apologize if you...

Mr. Robinson: I'm just saying you know there's a lot of water, it's a big property, it was a lot of grass now it's become a lot of building, a lot of rooftop space.

Mr. Scott: Right.

Mr. Robinson: Plus paved. So there's a lot of water that needs to be contained, needs to be, you know, kept from the ocean. It says here 52 feet and you have your 50-foot setback. We have the pool which is already going to there so I'd like...and the depth of the ocean is right there. It's already going into the flood zone that's stretched out that's on top of this this paper that's XE which means it's within a 12-inch area of where water and waves could happen. So I think without a drainage report I don't think, you know, we can make cognizant decision without that. That's just my opinion. Thank you.

Chair Tsai: Commissioner Hedani?

Mr. Hedani: I guess this question is for Mark. Mark, the photographs that you circulated are those just examples of the type of facilities that's gonna be in the structure or is that representative of the structure itself?

Mr. Taron: A little bit of both. I mean it represents the materials mostly.

Mr. Hedani: So it's like sample board for materials?

Mr. Taron: Correct.

Mr. Hedani: Question that I have is in regards outdoor lighting. We have an outdoor lighting ordinance for the County of Maui that requires that all lighting be downlit and I saw in the examples that you showed uplit lighting for landscaping as well as the structure itself. Do you know if in your opinion does the structure comply with the County's outdoor lighting ordinance?

Mr. Taron: The structure does comply. Actually I just included that photograph to show the landscaping. I didn't think about the lighting, but all the lighting is downward facing.

Chair Tsai: Any other? Commissioner Hedani?

Mr. Hedani: Keith, this is the lightest SMA application I've ever seen. And you say there's an SMA package that was submitted?

Mr. Scott: Yes.

Mr. Hedani: And that hasn't been circulated to the Commission before?

Mr. Scott: I don't believe we circulate the entire application to the Commission for many projects at all. We do do a report that includes a lot of the elements that we receive, but not the entire application was not included, no.

Mr. Hedani: Okay is there any reason why the Commission shouldn't have access to that?

Mr. Scott: You can certainly have access to that. If it's the direction to include that in future reports, we'll do that.

Chair Tsai: Commissioner Hedani?

Mr. Hedani: It's just curious to me like I'm in the middle of preparing an EIS for this Commission that's gonna cost \$800,000 and for the Commission not to receive it just baffles me. I mean it just baffles me.

Mr. Scott: An EIS is different from an SMA application. An EIS has a lot of very in-depth studies that are done.

Mr. Hedani: Okay, let me ask the question in a different then. Was an EIS required for this project?

Mr. Scott: No.

Mr. Hedani: Is it exempt?

Mr. Scott: Yes.

Mr. Hedani: Okay.

Chair Tsai: Commissioner Carnicelli?

Mr. Carnicelli: Again, I'm gonna go back to setbacks and so I apologize I'm probably gonna ask a question that you may not know the answer to, but since the setback is actually a moving target, you know you take erosion rates and you know you go from there. Do you know and/or recall whether it's Mark or Keith or either one of you what the erosion rate for this particular beach is?

Mr. Scott: I do not know that offhand.

Mr. Taron: Neither do I, no.

Mr. Carnicelli: Okay, thanks.

Chair Tsai: Commissioner Hedani?

Mr. Hedani: Mark, the Commission has a lot of problems that have been brought to the Commission based on erosion and that's why you're getting a lot of questions because it's oceanfront property. The estimate is that over the next 100 years sea levels will rise by about three feet, actually it's more like a meter is the lowest estimate that I've seen. It can go from three feet and anywhere up to you can guess, you know, 12 feet in the future. The structure is going to last about 40 or 50 years is my guess at a minimum. It's an attractive structure. It's

gonna be well constructed. Have you taken sea level rise into account and future erosion rates in the area relative to the design?

Mr. Taron: There is a base flood elevation for this area is nine feet and we place the slab at ten feet one foot above base flood elevation. As far as taking into account future erosion rates, no we did not do that, but we did everything in compliance to what is the current erosion rates and it was all engineered by Otomo Engineering, I mean the drainage report as well and I apologize for not bringing a drainage report, but we certainly have all that information.

Mr. Hedani: From your standpoint...I'm sorry follow up question Chair?

Chair Tsai: Yes.

Mr. Hedani: From your standpoint if severe erosion occurs and if you look at Napili, you look at other areas, Kahana where structures are falling into the ocean, if severe erosion occurs in the future it's your opinion that the structure in your particular case is gonna be safe?

Mr. Taron: The structure actually we're undergoing what's called a raft foundation design and I don't mean raft because it floats. A raft foundation this is kind of new to me but instead of having a foundation, a footing around the perimeter of the home and the slab being four inches thick basically due to the soil conditions and the erosion that you're talking about erosion rate, we're having to design the whole foot...the whole slab as a footing basically like 18 inches thick I believe. So I mean it would be safe. I don't know...it may not be desirable if the water comes up but again the base flood elevation is nine feet. That's in anticipation of 100-year flood storm waters I guess and we're one foot above that.

Mr. Hedani: Okay, the flooding that we're talking about is not coming from mauka to makai, the flooding is gonna come from the makai in the structure itself.

Mr. Taron: Okay.

Mr. Hedani: I don't know...you know it complies with whatever codes exist today for the protection of...and this is something that's gonna come back to the Commission again when you're at the point where the structure is threatened but part of the comment that I would have is in the design of the structure itself you should consider doing preventative structures to protect the structure in the future so you don't have to come back to us when you're about to fall into the ocean because you have a vegetation line that's sufficiently far out right now you can incorporate into the design protection such as slated revetments, et cetera into the foundation so that worse comes to worse 50 years from now your structure will still be safe.

Mr. Taron: Okay, noted.

Chair Tsai: As a follow up Mark, I'm looking...I mean regarding the setback and all, I'm not too familiar with this area oceanfront and so forth what's facing. How much...Exhibit 6 you have basically showing vegetation, I assume that's a part of landscaping out fronting the ocean side,

makai side. How much of the beach are we talking about in front of that for public access?

Mr. Taron: Are you asking me how much beach is in front of that? I mean what we're showing here on Exhibit 6 this vegetation is all mauka of the existing naupaka that's there. It's not encroaching into the beach at all. I'm trying to find the photo.

You can see where the beach ends right there and the black fences substantially beyond that and we're developing up to that black fence even.

Chair Tsai: How wide do you estimate the naupaka growth?

Mr. Taron: Pardon me?

Chair Tsai: How wide do you estimate the width of the naupaka currently?

Mr. Taron: Maybe 12 feet.

Chair Tsai: Thank you. Commissioner Robinson?

Mr. Robinson: Mark, will you please go to the aerial photograph where it shows your property and the hotel?

Mr. Taron: The aerial.

Mr. Robinson: The one you said you was going to try make it a video. Now that's not a actual that's a rendering?

Mr. Taron: Correct.

Mr. Robinson: Mark, I'm looking at this photo is it safe to say that the hotel is closer to the ocean than you are?

Mr. Taron: Definitely.

Mr. Robinson: And with your new building and your pool the hotel will still be closer?

Mr. Taron: Correct.

Mr. Robinson: Thank you.

Chair Tsai: Commissioner Higashi?

Mr. Higashi: I wanna go back to the public access. I'm concerned that you mentioned 1,000 feet from the public parking lot on Shaw Street that's about three football fields, 1,000 feet.

Mr. Taron: Perhaps I'm off on my estimation. I mean, Shaw Street is pretty much right there at the left side of the slide and so—

Mr. Higashi: Right.

Mr. Taron: And so, I mean Shaw Street is right there and the public parking is right off of Shaw Street so I might be off on my 1,000 feet.

Mr. Higashi: So looking at your property between the hotel and your property. Is there a possibility of putting a three feet or four feet I don't know what the walkway is for public access? Is that possible to construct?

Mr. Taron: Can you repeat the question please? Can you repeat the question please?

Mr. Higashi: Yes, your property between the hotel is it possible to put a public right of way in that area so that it's closer to the public parking getting to the beach access?

Mr. Taron: You mean to widen, to widen the public access to widen is that what you're asking?

Mr. Higashi: Yes.

Mr. Taron: It would be very difficult to do so because at his time we have raised as I've showed in one of slides. Well, you can see it somewhat on this upper slide here to the left is Front Street to the right is the ocean. There's a raised area just from the property line to the house. It's a raised walkway to...so that all the equipment like the air-conditioning equipment can be above the base flood elevation and so it would be very difficult to widen that path, yes.

Mr. Higashi: So my next question is so where is the access now from the hotel going south along the neighborhood past your property? 'Cause I don't see any public access.

Mr. Taron: The hotel, if you're leaving the Lahaina Shores, if you're leaving the hotel you would either walk to the street or you walk to the ocean east or west. There is no...they even have a chainlink fence on their property line going east to west. So really the beach access it's got the chainlink fence on either side.

Mr. Higashi: So there's no public access?

Mr. Scott: No, I think what he's saying is that there is a...the public access corridor between Lahaina Shores and this property before—

Mr. Higashi: There is a corridor?

Mr. Scott: Yes.

Mr. Higashi: Oh okay, thank you.

Mr. Taron: Thanks.

Chair Tsai: I think our Director of Public Works would like to say a few words.

Mr. Goode: Thank you, Chair. Good morning Commissioners, David Goode, Department of Public Works. Sorry Rowena couldn't make it today she got ill. I'm only available till 10:00 and so I'd like to address a couple items. Commissioner Robinson talked about drainage, the only note I see related to drainage, and drainage really is separate than flooding like the zones for like tsunami and whatnot. The comment I see in the staff report it says...sorry, let me just read it. It's basically one sentence. It's in the impacts. Infrastructure and public facilities and services, the last sentence says, existing storm runoff from the site will be intercepted by drains located in the landscape areas and conveyed to an onsite subsurface drainage retention basin located beyond the 52-foot shoreline setback. So it sounds like they're catching existing. I don't know if that means total after and what...after development? I didn't know if existing meant the old structure or in its current state, undeveloped. So maybe Mark could address that. But any final drainage plans would be reviewed by our Department for compliance with our drainage ordinances.

And the last comment I have is on the proposed conditions, project specific Condition No. 10, this is relating to best management practices, ensuring water quality and marine resources are protected. It sounds like it's generally related to construction activities. The last sentence says, BMP plans prepared and reviewed by the Planning Department and the Department of Environmental Management, I think that should be the Department of Public Works. DEM doesn't have a staff to do BMP review. So I'd just like to make that note for the record and I'm available for any questions, Chair then I'm sorry I do have to leave.

Chair Tsai: No problem. Thank you, Director. Commissioner Hedani?

Mr. Hedani: Dave for R-3 Residential I've never seen a case where you have two driveway accessing off of a public street. Is this an exception or is this a permitted condition?

Mr. Goode: Commissioner Hedani that's...it's permitted and we would review that through our driveway permit process. Larger properties that they have you know a lot of access along a road can have more than one. We have requirements for how far their driveway must be from the edges of the property line as well as how close they can be to each other. So we have a standard detail and we would reference that in their driveway permit application.

Mr. Taron: I can address that as well. Mark Taron here. I did present...originally we had a single driveway from the center of the property but it really made it for an impossible to navigate into those two garages on the north and the south side even with a little Smart car. So I discussed it with Burt Ratte in Engineering and drew up the dual driveway design and reviewed it with him and it has been approved by Burt.

Chair Tsai: Commissioner Hedani?

Mr. Hedani: Is the structure being planned for a future transient vacation rental?

Mr. Taron: No, not at all.

Mr. Hedani: So it's not...it's not set up to be separated into two pieces?

Mr. Taron: Not at all. Not at all.

Chair Tsai: Commissioner Carnicelli?

Mr. Carnicelli: Since we got 60 seconds with you left Director, quick question. Are you aware if this is in the Lahaina Historic District or not?

Mr. Goode: We don't administer the Historic District, the Planning Department does.

Mr. Carnicelli: I just didn't know if you might know that. And I guess the other question is when you're saying, you know you go to the...I'm going back to the drainage again. As I look at the elevations of this and I look at, you know, is basically they're maximizing every square inch of what they could build on. There is a courtyard but even that's got pavers on it. So I mean, as far as percentage of vegetation that can absorb this is that...I mean, I'm assuming then that this something your department reviews and you know, and makes accommodation for, yes?

Mr. Goode: Yes it does. That's something we review. We would look at preexisting condition and what's proposed and what the changes are and so the engineer, Mr. Otomo I think represent as their civil engineer would write up a report that looks the differences in hard surfaces, calculations based on the size of the lot, rainfall expected, where it's gonna go and present that to us. And it would be reviewed by our staff here in Development Services Administration and also Engineering Division.

Mr. Carnicelli: And so if I could follow up with that, then...I mean as I again as I'm looking at this if it's going to be dealt with onsite is that going to be below the structure then? I mean as again, as I'm looking at this if it's going to be dealt with onsite is that gonna be below the structure then? Is that where they're gonna have to put this 'cause I mean I can't see any other place that they're gonna be able to put it is for it to drain onsite for it to be retained onsite is what it says.

Mr. Goode: Right.

Mr. Carnicelli: It's going to have be you know below the house? Is that where they put it?

Mr. Goode: Typically water is stored under structures or in basin. So the staff report indicated it would be onsite subsurface. So I take that to mean pipes that are specially designed to accommodate that.

Mr. Carnicelli: Do we consider leaching at all in that particular instant?

Mr. Goode: Yes, depending on how it's designed it's usual we would see pipe be perforated, wrapped in some kind of cloth and placed on a gravel bed. Again, depending design it could be hard pipe without perforation. But you know, having it filter in might be appropriate depending on the project.

Mr. Carnicelli: Thank you. Sorry it took you over.

Mr. Goode: That's all right. I'm only meeting with my staff they can meet a couple minutes.

Chair Tsai: Thank you David. Thanks for being here.

Mr. Goode: Okay, thank you.

Chair Tsai: I have a follow up regarding the layout too. Can you pull up that picture, the video you can't show us? So I assume that's all within scale?

Mr. Taron: Correct.

Chair Tsai: Well, to me it doesn't match at all to your Exhibit 5 which shows you got of 40 feet I assume, you know for setback and I assume that's all vegetation but the scale of how much landscaping in the front doesn't seem to match that picture at all to me. Am I missing something? In this picture you have a huge amount of grassy area in the front, but if I were to just looking at Exhibit 5 which I assume that's you know, the landscaping or 6 proportionally width to the house, the width of the lot. It just doesn't seem to match at all.

Mr. Taron: Everything is, everything should be to scale. However it does appear that there is some more grassed area in that rendering than what shows on the site plan. The site plan or the civil sheet, the grading plan, it does not show the actual shoreline and beach area. It just shows property lines and where top of bank is. To answer your question I would say it does appear to be a little bit more grassed area on the slide than on the C1 sheet, Exhibit 5.

Chair Tsai: And I just wanna confirm what Commissioner Robinson already asked you so the house is further back from the ocean as compared to Lahaina Shores?

Mr. Taron: Correct.

Chair Tsai: It's Lahaina Shores?

Mr. Taron: Correct.

Chair Tsai: Commissioner Robinson?

Mr. Robinson: Hi Mark. And I apologize 'cause I'm having a challenge seeing some of these

designs. I know you have it so if you could just help out on the answers. Is the elevation from the Front Street Road, your driveway, does your driveway go down, does it go straight, does it slightly go up?

Mr. Taron: Elevation at Front Street is about five, maybe five and a half feet depending on which side of the property you're at and then the garage it's about two feet above that, yes.

Mr. Robinson: Your garage goes up?

Mr. Taron: Correct.

Mr. Robinson: And then is your home then level to where it will go straight across and then where the beach side of the property would then be a drop off where we see the steps is that fair to assume?

Mr. Taron: The garage, the pad elevation of the garage is about seven and a half feet. The pad elevation of the house is at ten feet. So you still step up from the garage to the house two and a half feet.

Mr. Robinson: Two and a half feet. And what is the center height of your high point of your home?

Mr. Taron: We are perhaps...I'm not exactly sure, but I would say about 29 feet.

Mr. Robinson: and is that taking into account the center of your property and the –

Mr. Taron: Yeah—

Mr. Robinson: --but it's less than 35 is what you're saying. Your guys are—

Mr. Taron: Correct, I mean, I'm not correct when I say 29. The house itself is about 29 I believe but it falls—

Mr. Robinson: With the grade it might be 32 but you're...(inaudible)...35.

Mr. Taron: With the base flood elevation we are given a few more feet above the 30-foot existing grade. So we do fall underneath that by about a foot I believe.

Mr. Robinson: Thank you.

Chair Tsai: Commissioner Carnicelli?

Mr. Carnicelli: Again, I don't know if this is for Mark or Keith. When is and when was and when is the last time that the shoreline was certified?

Mr. Scott: It's been relatively recent. I'll try and find it for you and give you an exact date.

Mr. Carnicelli: Okay, so it's not five years ago?

Mr. Scott: No, no, no, no. No, it's at least within the last 18 months but—

Mr. Carnicelli: But they expire, right?

Mr. Scott: They expire in 12 months but the way that we do is it's gotta...it has to have been done within 12 months of the time that the application was submitted. So it falls well within that.

Mr. Carnicelli: Okay, thank you.

Mr. Scott: And by the way, the question was asked what is the annual erosion hazard rate at this location? And it appears to be .54 feet, .54.

Mr. Carnicelli: Per year?

Mr. Scott: Yes.

Chair Tsai: Commissioner Hedani?

Mr. Hedani: This question is for Mark. There are two different designs that are displayed in the exhibits that you have. Exhibit 3 shows a pool with a round frontage and Exhibit 5 has a pool that is square basically. Which is the design that you're proposing?

Mr. Taron: Yeah, this is Mark Taron. The client just within the last 30 days opted for the rounded pool. The rounded pool and the square, the straight line pool, the lines are so close it's... I mean the both fall outside the setback area. There's almost no distinguishable difference if you lay one footprint over the other. Just one has a very gradual curve as opposed to the straight line.

Chair Tsai: Commissioner Hedani?

Mr. Hedani: I'm a little confused. If you look at your Exhibit 5, it shows 40-foot shoreline setback. So the structures are setback beyond the 40-foot setback but I keep hearing 52 feet setback for the property. Which is applicable?

Mr. Scott: It appears and this may be my fault because there was a redesign done after the applicant was informed it was 52 feet. Fifty-two feet is the shoreline setback at this location and the project was redesigned for that purpose.

Mr. Hedani: Okay if 52 feet is the setback for the property what you're saying is that the pool and the steps and all of those structures are setback an additional 12 feet beyond what we see here.

Mr. Scott: Correct.

Mr. Hedani: So the exhibits are not correct?

Mr. Scott: That's correct. And I apologize for that.

Chair Tsai: Commissioner Higashi?

Mr. Higashi: Can you get to that photo of that wall that you had constructed? Yeah, that one. Now looking at that residence and looking at the wall if there's a heavy rain coming down where does the drainage go for the water from Front Street over to the ocean from mauka to makai?

Mr. Taron: So the drainage from Front Street to the ocean?

Mr. Higashi: Right.

Mr. Taron: Drainage from the Front Street portion of the property we have inlets. We have area drains throughout that area that go to subsurface drains that lead to the perforated pipe retention basin.

Mr. Higashi: And the reason why I ask because you mentioned that your driveway is 3 feet lower than the residence itself.

Mr. Taron: Two and a half.

Mr. Higashi: So now that water that goes into the driveway it goes down into a drainage is what you're saying so that it doesn't go to the neighbor or...

Mr. Taron: Correct. All surface runoff is contained on property onsite.

Mr. Higashi: So what you're saying is there is a drainage that accommodates that water.

Mr. Taron: Correct there are area drains and subsurface pipes that contain the water onsite.

Mr. Higashi: Okay, thank you.

Chair Tsai: Commissioner Hedani?

Mr. Hedani: Mark I'm looking at your Exhibit 6 which shows your landscape planting plan. The landscape planting plan shows I'm not sure I'm reading this correctly, the landscape planting show planting going out to a straight line on the makai side of the property. And there's a dash line that's above that that looks like a property line also. Can you explain to me what that is?

Mr. Taron: So I believe the dash, the dashed line that you see to the right is the top of bank.

Mr. Hedani: It's the top of bank?

Mr. Taron: Perhaps not. I'm not sure what that line is. I would have to look.

Mr. Hedani: Okay is the property land courted? Is it land court property?

Mr. Taron: No it's not land courted.

Mr. Hedani: It's regular system?

Mr. Taron: Yes.

Mr. Hedani: Okay. The question...the State usually interprets the property line as the vegetation line. That's the generally what they take as the demarcation between private property and public property. If it's land courted property then the property line is usually straight like in this case it's between two points filed with the Land Court. Once the Land Court approves it that's your property. In some cases the property extends out into the middle of the beach.

Mr. Taron: Okay.

Mr. Hedani: Which looks like this is the case in this case 'cause it's a straight line and the vegetation line normally never is straight if it's following the natural vegetation of the shoreline. So what I would like to understand is is this landscape planting being planted on state land or is it being planted 100 percent on private property?

Mr. Taron: It would be definitely 100 percent on private property.

Mr. Hedani: Okay. So we just need to verify that the state certified shoreline is makai of this straight line.

Mr. Taron: Okay, yes.

Chair Tsai: Commissioner Carnicelli?

Mr. Carnicelli: I don't want to I guess castrate any of the questions that my fellow commissioners might have, but it seems to me that as Commissioner Hedani had said this is the thinnest SMA application that he's ever seen. The Exhibits aren't correct. There's a lot of questions that we have continuing and not all of them...we don't necessarily have the answers to them and so I guess I'm inclined Mr. Chair to make a motion for deferral. I don't necessarily wanna do that if people still have questions, but it just seems like we need to get more concrete, you know, answers and so I'm kind of inclined to make a motion to defer if I guess my fellow commissioners would be in agreement with that?

Mr. Murai: Mr. Chair if there's a motion then you'd need a second.

Mr. Carnicelli: Okay, so I'll go ahead...I'm gonna go ahead and make a motion then to defer.

Mr. Murai: So the discussion would be the period where you can find out whether fellow commissioners agree or disagree. There's a motion been made. You can ask whether he wants ...(inaudible)...hold off on the motion.

Chair Tsai: Recommendation. Commissioner Hedani?

Mr. Hedani: I think what we, what we might wanna do is hear the staff recommendation. Once we've had all our questions asked and then once the recommendation is made then we can proceed with the discussion.

Mr. Carnicelli: So I will withdraw my motion.

Chair Tsai: Okay, thank you. We have another question? Commissioner Castro?

Mr. Castro: Yes, I'm looking at the historic preservation review. The existing dwelling was built in 1956 so when you look at Lahaina Shores, is the setback still the same or was it readjusted for the new project?

Mr. Taron: This is Mark Taron. When you say the setbacks you mean the sideyard setbacks or do you—

Mr. Castro: Well, from the ocean. The existing home what was the setback back then compared to now? Did you have to make adjustments?

Mr. Taron: The previous, the previous home was about a 12 maybe 14,000 square foot, it looked rectangular in shape. It was closer to Front Street is I'm sure built before shoreline setbacks were enacted. So the proximity of the original house to this there's no relation. I mean to answer your question the previous house was closer to Front Street but it was also a much smaller house. I'm sure it was not built with any thought of shoreline setbacks in mind.

Mr. Castro: You have any idea of when Lahaina Shores was built?

Mr. Taron: I do not know.

Mr. Castro: I'm just trying to see the difference in the setbacks, yeah. Thank you.

Chair Tsai: I have a question Mark. What's the estimated budget or cost for construction?

Mr. Taron: About 3.5 million.

Chair Tsai: Thank you. Any other questions from the Commission. Can we have the

Department's recommendation please?

Mr. Scott: The Department recommends approval with six standard and six project specific conditions. Noting a change per the Director of Public Works under Condition No. 10 would be the Department of Public Works to do with the BMP plans.

Chair Tsai: Okay, do I hear a motion?

Mr. Carnicelli: Mr. Chair, I would like to recommend deferral of this application and what I'm looking for in the deferral will be Number 1, some sort of note from the Lahaina Historical District as to whether or not this is in their district or not and we have approvals that way. Also, looking for it says public participation, I can't imagine if you actually solicited that the Lahaina Shores wouldn't weigh in. So I'm looking for active solicitation of public testimony. I'm looking for drainage something I guess some sort of engineering to that effect. I would like the exhibits to be accurate and current. And I'm open to any other items that my fellow commissioners would like to add to my deferral request.

Chair Tsai: So I have a motion to defer. Do I hear a second?

Mr. Robinson: Second.

Chair Tsai: Second by Commissioner Robinson. Discussion on the motion? Commissioner Hedani?

Mr. Hedani: Don't get me wrong I like the design. I think the architecture itself is beautiful. I think it's a beautiful house.

Mr. Taron: Thank you.

Mr. Hedani: It's just a lot of questions that we have that are not answered in the presentation that we got today. I'd like a confirmation of approval of the two driveways for the plan. A determination on whether the property is land court or regular system, a display of the certified shoreline as evidenced by the vegetation line. A statement or confirmation that the project will be downlit and complies with the outdoor lighting ordinance. A confirmation of the distance to public parking between public parking and the beach access which is on the north side of the property. A display of the 52-foot setback line displayed on the map, on the topographic map showing the structures in relation to the setback and a confirmation that it complies with the lot coverage ratio for the property. And whether or not erosion protection is something that the homeowner might wanna consider and incorporate into the design and incorporate it. If that's the case then incorporate it into the corrected map. If that's acceptable to the maker of the motion.

Chair Tsai: Yes.

Mr. Carnicelli: I have no problem with that that's very much acceptable part of the motion.

Chair Tsai: Commissioner Robinson?

Mr. Robinson: I would also like to ask which it might already be in the packet is the street level flooding and where the current rainwater flows into, if it flows on the property or off of the property. What the...because it's next to a hotel what is the construction plan as far as where is all this construction equipment is gonna go, what time is construction gonna start, what time is construction gonna start, how tall is the silt fence gonna be, is there any type of effect to the beach access which hopefully won't be. If you could add those as well please.

Chair Tsai: And Commissioner Robinson are you okay with the additions that Commissioner Hedani added to the motion?

Mr. Robinson: Well, that's his motion but—

Chair Tsai: No, you had to, you had second.

Mr. Robinson: Yeah, yeah.

Chair Tsai: Commissioner Carnicelli you okay with Commissioner Robinson's additions?

Mr. Carnicelli: Yes and agree.

Chair Tsai: Thank you. Commissioner Hudson?

Mr. Hudson: Commissioner Robinson addressed my concerns. I'd just like to make it clear I think the project is a good project, but I think it's sorely lacking in certain areas so I think that what we're trying to say here nicely you have some homework to do.

Mr. Taron: Thank you.

Chair Tsai: Commissioner Higashi?

Mr. Higashi: Yes, I think that I also agree when an applicant sends in an application that all information is current and accurate to scale.

Chair Tsai: Commissioner Hedani?

Mr. Hedani: I'd also like a copy of the SMA presentation whatever was submitted.

Mr. Carnicelli: Agreed being included in the motion.

Mr. Scott: Could you please elaborate on that?

Mr. Hedani: The SMA submittal.

Mr. Scott: Okay.

Chair Tsai: Commissioner Robinson?

Mr. Robinson: I'd just like to make the comment that it is next to a hotel also where people live and on the other side of that is also the veterans and there is a concern of the water, and the beach, and erosion if something was to pass through and it would affect all in the coastline you know all the way down to the historical sites of the Hawaiian encampment and where the Alii used to reside. This waterfront is a very precious area. There's seawalls a few hundred feet to the left and you know, we just wanna make sure that the oceanfront and the street involved are taken care of and that the owners of this house have a nice house to enjoy but that it won't affect anybody else.

Chair Tsai: Commissioner Hedani? Oh, Keith go ahead.

Mr. Scott: I have a question for Commissioner Hedani. You gave your list and there's one that I missed and I'm not sure what it was. You asked was it a land court decision, you wanted shoreline certification and landscaping conformed and the next one I didn't quite get you were talking too fast for me.

Mr. Hedani: You're testing my memory.

Mr. Scott: I got public parking distance.

Mr. Murai: Outdoor lighting.

Mr. Scott: That's the one.

Mr. Murai: Down lighting.

Mr. Scott: Yeah, okay. Thank you.

Chair Tsai: Thank Corp. Counsel.

Mr. Murai: I was taking notes.

Chair Tsai: Commissioner Hedani?

Mr. Hedani: As soon as I say things I forget them. See before I said it I forgot it already.

Chair Tsai: Commissioner Carnicelli?

Mr. Carnicelli: I guess I also too want to reiterate to you Mark it's a beautiful design. It's the, you know the motion for deferral in no way is slight towards your work. It's just wanting more

information.

Mr. Taron: Thank you. Understood. Thank you.

Chair Tsai: Commissioner Hedani.

Mr. Hedani: I remember. Is that a sign of dementia? And this is for the Department's consideration Keith. The Olowalu thing really bothers me. Because there is a designated government beach reserve on the makai side of the property that kind of slips into the cracks. I think it's because nobody knows whether the State is supposed to be responsible for the government beach reserve or the County is supposed to be responsible for the government beach reserve or nobody's responsible for the government beach reserve because they didn't designate anybody. But what I'd like for this project is just a confirmation that there's no government beach reserve on the makai side.

Mr. Scott: Okay.

Mr. Hedani: For the Department's consideration I think what the commission should get is a map showing government beach reserves for the island of Maui, Olowalu I know there's one there. Napili, Honokowai there's one there. I know in South Maui in the Kihei area there's government beach reserve that's like 70 or 100 feet wide and it always falls into the cracks and we catch it by mistake usually or by accident you know when it comes to us. So if the commission could get a map which shows these are all the government beach reserves on the island. When it comes up for a project that's submitted to us this is how it relates to that that way it won't slip into the cracks.

Mr. Carnicelli: Agreed and adopted as part of the motion.

Chair Tsai: Thank you.

Mr. Murai: Well technically you would be amending the motion.

Mr. Carnicelli: ...(inaudible)...all the additions to it.

Mr. Murai: That's fine.

Chair Tsai: Any other comments, additions?

Mr. Scott: I do have a question. The map for the beach reserves do you want that back with...I mean, we'll answer the question for this particular project but it may take us more time to get gather the other map you're referring to.

Chair Tsai: Commissioner Hedani?

Mr. Hedani: Yeah, I don't think we should, you know delay this particular project because of

that but that's just for the department's consideration.

Mr. Scott: Just wanted to make sure.

Chair Tsai: Commissioner Robinson?

Mr. Robinson: Just have one last comment is whatever you got give to us so that we won't say, oh sorry we also need this too. Hopefully what you, you know besides the questions that we had if you think there's something to make sure that we might ask again bring it also we can take the vote and you guys can move on. Thanks.

Chair Tsai: No more questions? Let's have Clayton can you repeat the motion on the floor? Maybe ask Keith to state all the reasons and stuff we're looking for.

Mr. Yoshida: I guess the motion before you is to defer the application pending receipt of additional information as expressed by the Commissioners.

Chair Tsai: Thank you, Clayton. Commissioners you guys wanna hear the list from Keith, repeat it?

Mr. Scott: Actually I would like to do that just to make sure that I got everything that you want.

Chair Tsai: All right go right ahead.

Mr. Scott: All right, so the first thing is want confirmation with respect to being within or without the Lahaina Historic District and approval of the afore if within. You want assurance with respect to obtaining public testimony. A copy of the drainage study. Make the exhibits accurate. Confirmation that the two driveways were okay. Determination by the land court or other ...(inaudible)...for the property. Confirmation of the landscaping within the shoreline setback and actually the shoreline certification. Confirmation that all the lighting is down. Measure the public parking distance or the distance to the public parking. Display the setback line with the structures accurately. Determine the conformance of the lot with the lot coverage ratio. The applicant is to ask the owner whether they want to incorporate shoreline protection into the design of their structure. Determination of where the street level flooding goes to. Construction staging plan including height of silt fence and other ...(inaudible)... A copy of the SMA application and is any of the property within the beach reserve.

Chair Tsai: If it's okay with the maker of the motion, I'd like to ask for also maybe a better either rendering or picture of the front makai side where it relates to the, you know, current vegetation and where everything is because it seems like it's pretty foggy the information we're giving. We're talking 40 feet setback but where does that start. And we're talking and you know there's substantial amount of beach area also but it's not clear where that it especially with the rendering or the video it doesn't show clarity of that so if you can just provide the commission with better illustration pictures, drawings so that appreciate it.

Mr. Carnicelli: Agree.

Chair Tsai: Okay with that. Call for a vote. All in favor of the motion to defer?

Mr. Yoshida: Six ayes.

Chair Tsai: Seeing no opposing motion carries.

It was moved by Mr. Carnicelli, seconded by Mr. Robinson, then

**VOTED: To Defer the Matter in Order to Get Additional Information Requested by the Commission.
(Assenting – L. Carnicelli, K. Robinson, L. Hudson, W. Hedani,
S. Castro, R. Higashi)
(Excused – S. Duvauchelle)**

Mr. Murai: Mr. Chair, perhaps there's one thing I wanted to comment on. The Commissioners asking the Department to I think solicit additional public testimony I think it was mentioned specifically from the Lahaina Shores Hotel. Is the Commission saying that...is it sufficient to just send them a copy of the agenda...(inaudible)...provide public testimony or you're not saying that they gotta publish another notice or anything like that?

Mr. Carnicelli: No. My intent wasn't necessarily to have them post another notice. That wasn't necessarily my intent. My intent was to I guess...I guess it just says right here, public participation through the SMA permit process, public participation in the form of testimony will be solicited. Is that you know I guess, is Corp. Counsel telling me that just public, you know public notice is enough?

Mr. Murai: No, no, no. All I'm saying is the Department, it might be helpful to the Department if you told them how you want solicit the additional testimony. In other words, is it sufficient if we just sent the hotel a copy of the agenda with a letter saying that they may submit public testimony?

Mr. Carnicelli: Sure and the abutting neighbor, both abutting neighbors how about that?

Mr. Scott: If I could offer this, you know when the application was submitted we got a listing of all property owners within 500 feet and notices were sent to them indicating that this project was going to come forward. So...

Mr. Carnicelli: And no one responded?

Mr. Scott: We got the one response.

Mr. Carnicelli: Well, I hate to try to amend something we've already voted on passed. So...

Mr. Scott: Can I just confirm for you that that's what we did?

Mr. Carnicelli: ...say we now have confirmation is that what it is. Sure if that's the confirmation that I need then that's fine. Okay, thanks. Sorry about that Keith.

Chair Tsai: Commissioner Robinson?

Mr. Robinson: Keith I guess what it is is you have a hotel right next door. You got a GM, you got different management that could just send we have no problem or we have no something from, you know, just a simple, you know they're aware of everything or they've seen the plan. I mean, I know the applicant has a residence at Lahaina Shores so I'm sure they all get along, but I think would help in the packet, well gee did anybody talk to the hotel and the hotel might come three years later and say, well you know we didn't approve this. You know, it's let's get everybody on board and let's make it a slam dunk and if we could get that I think that be great.

Chair Tsai: All right. Thank you. At this point we're gonna take a 10-minute recess and be back at 10:45.

A recess was called at 10:35 a.m., and the meeting was reconvened at 10:49 a.m.

Mr. Spence: Okay, Commissioners good morning. Where I went off to just briefly we went and signed into the Lanai Community Plan. And so we took our Long Range folks who have been so much and we went and had a little signing ceremony with them and it was very gratifying after a very long road. I think they did an amazing job.

Our next agenda item is number D or letter D, Acceptance of the Action Minutes of July 12, 2016 meeting and Regular Minutes of the February 23 and April 26 meetings.

D. ACCEPTANCE OF THE ACTION MINUTES OF THE JULY 12, 2016 MEETING AND REGULAR MINUTES OF THE FEBRUARY 23, 2016 and APRIL 26, 2016 MEETINGS

Mr. Carnicelli: So moved.

Mr. Higashi: Second.

Chair Tsai: Moved by Commissioner Carnicelli, second by Commissioner Higashi. Discussion? Seeing none, all in favor? Six ayes.

It was moved by Mr. Carnicelli, seconded by Mr. Higashi, then

**VOTED: To Accept the Action Minutes of the July 12, 2016 Meeting and Regular Minutes of the February 23, 2016 and April 26, 2016 Meetings.
(Assenting – L. Carnicelli, R. Higashi, L. Hudson, K. Robinson, W. Hedani, S. Castro)**

(Excused – S. Duvauchelle)

Chair Tsai: Director's Report.

Mr. Spence: Okay, the first item, E-1, pursuant to the provisions of Section 19.32.020(c) of the Maui County Code, Planned Development, we are notifying the Commission of the review of a Step III Unified Site and Building Program on a particular site in Wailea and our staff planner to explain what we have is Mr. Keith Scott.

E. DIRECTOR'S REPORT

- 1. Pursuant to the provisions of Section 19.32.020.C of the Maui County Code, Planned Development, the Planning Director notifying the Commission of the Planning Director's review of the Step III Unified Site and Building Program on the following application:**

SUNSTONE HAWAII 3-0, LLC requesting a Step 3 Planned Development Approval for the proposed Renovations at Wailea Beach Resort and Spa Project at 3700 Wailea Alanui Drive, TMK: 2-1-008: 061, 074 (por.), and 076, Wailea, Island of Maui. (PD3 2016/0001) (K. Scott)

Mr. Scott: Good morning again. Step III of the Planned Development process confirms that the site design that is being applied for with building permit applications is consistent with that which has been approved in the Step I, Step II part of the process. The Special Management Area Use Permit and the Planned Development Step II Permit were approved by this body last October the 27th. On June 28th they submitted their application for Planned District III, 3rd step approval and we have determined that it appears to be consistent with that which was approved with the Step II approval. We did pass out a copy of the site plan for you which is very germane and we're here to answer questions both the applicant Katie McNeil representing the architect for the project and personnel from Munekiyo Hiraga are here to answer whatever questions you might have with them.

Chair Tsai: Thank you, Keith. At this point, I'm gonna open the floor for public testimony. Anyone wish to testify on this agenda item please step forward to the podium. Seeing none, public testimony is now closed. Questions from the Commission?

And I'll start out so Keith, maybe the applicant too. I'm very familiar with the project improvement so is this just the next phase, Step III is just another way of calling it Phase III of the improvement or are we actually recategorizing the approval?

Mr. Scott: The project itself is for renovation of existing facilities in general. And so what we're looking for here is whether or not you want to do an in-depth review of the project as it relates to the site plan as presented here versus the one that was approved last year.

Chair Tsai: Are there any changes?

Mr. Scott: No substantive changes at all. It's very much in conformance.

Chair Tsai: Okay, thank you. Commissioner Robinson?

Mr. Robinson: How is the time frame? How are we doing? When is the estimated completion?

Ms. Katie McNeil: Aloha. My name's Katie McNeil. I'm with Group 70. Time frame's good. We're ready for construction and we're gonna meet the completion time frame that was set with your SMA approval.

Chair Tsai: Yeah, for the applicant I guess, just on a side note I live right next to it so I actually take the beachwalk quite often. It's pretty impressive how fast you guys have actually went forward with this project and fast it has progressed. So is that all within your original timelines?

Ms. McNeil: Yes.

Chair Tsai: Could you please step forward? Thank you.

Ms. McNeil: Yes, it's all within the time frame. So they're self-financing project and they're moving forward in a time frame that they had initiated from the get go.

Chair Tsai: And again, there's no major changes to the design of what was originally approved?

Ms. McNeil: Not substantive changes. The construction documents have been reviewed by the Planning Department and we're in line with the SMA and I guess what's called the PD Step II that we presented to this body in October.

Chair Tsai: Thank you. Commissioner Hudson?

Mr. Hudson: And just for clarification there's no substantial changes, but that doesn't mean there's no change orders?

Ms. McNeil: I wish. Talk to the contractor for me.

Chair Tsai: Commissioner Hedani?

Mr. Hedani: Katie, actually I think there's probably a couple of commissioners here that weren't there when the original thing was presented. Can you refresh my memory, how many beach parking stalls were committed by the project?

Ms. McNeil: As we discussed earlier I think is that this is part of the Wailea Beach Planned Development and so on this particular site which is already a developed resort site there are not dedicated beach parking for the public. There is beach parking at public access points throughout the community and so that's what was designed way before my time.

Chair Tsai: Katie, you know that actually brings up a good question. I remember 'cause I was part of this. One of the concerns and if you look at that document, I assume you know what I'm talking about is that the losing of or actually reallocation of...I assume that's public parking along the entry drive 'cause that's a really nice view corridor. My understanding was it was gonna be full with parking on both sides. Has that changed at all from the original approval?

Ms. McNeil: Yeah there's been no change from the original approval. We've been working very closely with the Zoning Division for onsite parking and we are in compliance with onsite parking.

Chair Tsai: So specifically you're not talking about the entry drive, right?

Ms. McNeil: Right.

Chair Tsai: On the upper right-hand corner of the map. So that will be all still be replaced with public parking?

Ms. McNeil: It would be parking controlled by the resort.

Chair Tsai: By the resorts?

Ms. McNeil: Yeah.

Chair Tsai: And then you're gonna have parking for both sides or just one side of that?

Ms. McNeil: Just the single side.

Chair Tsai: Single side, yeah. Commissioner Robinson?

Mr. Robinson: Director, I remember when we went through this I thought at that entry drive where it says private I thought on the side of the street that was public parking?

Mr. Spence: I don't recall. Keith were you the original staff planner for this?

Mr. Scott: Yes, I was.

Mr. Spence: Can you address the question about whether there was supposed to be public parking on the driveway or not and the applicant should too?

Ms. McNeil: I hope that I'm not mixing the definition of public parking versus onsite parking and parking required for the resort. That's...the entry drive is not a public street. It's a easement over which the resort is actually private property that's owned by The Shops at Wailea their neighbor. And so, it would be the same type of parking as the parking structure and the surface parking, you see this guest parking garage all existing.

Mr. Robinson: I guess what I'm getting at and I apologize is where you have the word, entry drive—

Ms. McNeil: Yes.

Mr. Robinson: --on the right hand side, I thought that used to be public parking stalls?

Ms. McNeil: No, there's...right now it's just a drive.

Chair Tsai: Yeah, there's no parking just the drive.

Mr. Robinson: So was that a recommended? 'Cause I remember we talked about parking along the driveway and there was about five or six stalls I thought on that side there to make up for the lack of parking somewhere else were...

Ms. McNeil: Right, but that was the improvement that this—

Mr. Robinson: So I guess the question is there parking on the driveway or is there's not parking on the driveway?

Ms. McNeil: There's capability of parking on the driveway under the improvements that this SMA...

Mr. Robinson: On the driveway?

Ms. McNeil: Yes.

Mr. Robinson: And will there be a gray curb or will there be...

Ms. McNeil: It's called a rolled curb.

Mr. Robinson: And will there be any parking markings on it or it's gonna be obscure?

Ms. McNeil: We're still working out the compliance with the Planning...the Zoning Planning. Right now we're moving through that process with them and we have compliance onsite. So those are the details that we work through with them during the permitting process.

Mr. Robinson: Okay, thank you.

Chair Tsai: Commissioner Higashi?

Mr. Higashi: Talking about public access parking is there any kind of sign that would demark saying that this is for public parking versus a guest going into this particular area and parking as well since you have guest parking for the guests of the hotel. So the private driveway if you

have public access is there any way you can discriminate between the public and the guest parking in those stalls?

Ms. McNeil: Well it's operational control, so the guests, people arriving on site it's gonna be on a full valet operations. So they'll be monitoring that and making...

Mr. Higashi: My question is if a guest parks in the public parking stall how can you discriminate between a guest parking there versus the public parking there 'cause you only have six stalls designated for public parking?

Ms. McNeil: I guess the answer is that there's no public per se parking. It's not beach access parking. The beach access parking is at the public beach access points within the Wailea Community Association.

Mr. Higashi: I'm still confused 'cause it doesn't, it doesn't denote that this is for public not for guest parking and so you cannot discriminate one of the other unless you have—

Ms. McNeil: A sign that says guest parking only.

Mr. Higashi: Yeah, unless you have the guests or the public go to the desk and get one of those passes they put on the dashboard that says public.

Ms. McNeil: Yeah, they would control the parking operationally so that might be one way of doing it. Monitoring it, but it would be a hotel operations component this is their parking to control.

Mr. Higashi: Yeah, procedurally you don't have anything now in place?

Ms. McNeil: Right now there's—

Mr. Higashi: Specifically for public.

Ms. McNeil: Correct.

Chair Tsai: As a follow up if my memory serves me correctly, I think because due to lack of any sort of beach access parking in our last, during our approval process I believe I have to side with Commissioner Robinson, I thought the entry drive making that available as public beach parking was the plan. Am I incorrect on that 'cause that's what I remember too it's all that drive entry way which currently just basically it's just a driveway there's nothing there but there's wide enough space to have parking stalls on one side.

Ms. McNeil: It was never translated as such as a condition or a requirement. I think the discussion if I recall was that it was still a long distance away from the beach so the practicality of it was called into question. I know there was discussion around it, but you know it was back in October so I'm not, but when we looked at the documentation it's not there. I believe, you

know part of the educational process that even Mr. Hedani referenced in the past was that the whole community was under this planned development and the community has adequate beach parking throughout. So that wasn't individually assigned to each of the parcels which are you know various either commercial enterprises or residential homes.

Chair Tsai: Commissioner Robinson?

Mr. Robinson: I remember a discussion we had between the Wailea Beach Villas and Andaz had the public parking into that one beach there. Is that what you're referring to as those stalls that were beach access?

Ms. McNeil: I'm not familiar with that.

Mr. Robinson: Am I getting bits of it but I distinctively remember talking about four or five stalls. However, I can't recall the final result of it. But I remember that that was the discussion. I'm sorry.

Chair Tsai: I mean the closest parking spot is Uluu Beach that's next to—

Mr. Robinson: Between the two hotels.

Chair Tsai: Yeah, between the two hotels, Andaz and the Beach Marriott. So Commissioner Hudson?

Mr. Hudson: I remember talking about this ad nauseam in fact 'cause we went around and around and around on this and I recall that there was some concession made saying that they're gonna put parking stalls on that and then we could move on. I'm dismayed to find that there's no written record of it though. 'Cause I'm sure if we pull up the minutes we'll be able to go over that.

Chair Tsai: Commissioner Hedani?

Mr. Hedani: My recollection of the discussion was that the entry driveway into the project was gonna be open to the public. That's if you misspoke at the time and that wasn't the intent then it should be clarified now. But the question that, the question that I have because the property has so much beachfront is what is, you know, what is the number of parking stalls that have been committed in the past and where is it represented on this map?

Ms. McNeil: I don't know if Mark or Bryan would like to answer but I'm unaware that is public beach parking stalls provided associated with this property from past approvals. Whether you know parking...right now there is no parking along the entry drive. So the improvement was to look to see if we could add parking along the entry drive meeting County standards. And we've been working through that with the County to fit that. I'm unaware of any count or number of public dedicated beach access stalls that, and my understanding from our last meeting was that the...if we looked holistically at the Wailea Planned Development which is the whole Wailea

community that there was...in that planned development there was public beach access provided very specific areas throughout the community in order to provide that needed and necessary access to the beach. Unfortunately my understanding of you know that larger development is...I don't have it. You know Mark was talking about a recent upgrade to a beach park by the Andaz so you guys may be familiar with that. I don't have any more information to provide.

Chair Tsai: Thank you, Katy. We didn't mean to put you on the spot or anything but to be fair I'm actually very familiar with it because I jog down that boardwalk twice a week so there is actually no beach fronting the Wailea Beach Marriott. There is basically you're looking at a rocky shoreline. The only beach is Ulua Beach which is north of the Wailea Beach Marriott and that has access through the Ulua Beach parking which has been modified. And the only other beach that's closest to it it's actually beach fronting the Grand Wailea Hotel. And it's a decision for us to wanting to put beach access to no beach it's gonna be kinda difficult too because you would have to walk pretty much along the boardwalk either north or south to get access and the Grand Wailea Beach fronting that which is between the Four Season, Grand Wailea there's already another beach access with public parking. So that's the situation we're in. Commissioner Higashi?

Mr. Higashi: I still get back to that whole idea about public access because that particular beach frontage is very popular with people walking that trail along the shoreline and I remember prior to this owner that they allowed this guest parking for public to go in, park there and go. Now it's valet parking so you gotta get a ticket in order to park in that area and I think what is happening now is that the public is getting very upset about people coming in, buying property and then eliminating the public from access to the beach and we hear it all the time and so, you know, one way to kinda promote public acceptance is to allow public to park in the public guest parking area and somehow allowing them to get a ticket identifying or whatever so it will allow.

Also, with the Wailea Shops parking that used to be all open too, now it's gated so the public if they're gonna go in there and go to the beach they gotta pay for the parking. And I think what is happening now is that the public is getting less access to the ocean because all of these new requirements are coming in. I think part of our responsibility is to make it so that we are promoting public appreciation and access to the ocean which is public. And I think some way or another we gotta make it so that we're not shoving them out on a private driveway away from the facility just for the guests. So somewhere or another I would strongly recommend that there be a revision on allowing public access or public parking.

Chair Tsai: Thank you, Director for pointing out so on this agenda item you guys look at is we have the ability to as a Commission to waive its review allowing the Planning Director to take the final action or we can ask to review the matter.

Mr. Spence: That's what the agenda item is for is for the Commission to decide whether you want the Planning to go ahead or if you want to see it yourself.

Chair Tsai: Commission Hedani?

Mr. Hedani: Step III is that a case where we can add a condition for beach parking?

Mr. Spence: I don't know. I don't think so.

Mr. Hedani: It's just to verify that Step II, all of the conditions that we set up at Step II are incorporated?

Mr. Spence: Yes.

Mr. Scott: The purpose of the Step III is to determine whether or not the site plan that is being presented is and the building plans, the construction plans that were submitted for review are consistent with the approval that was given for the Planned District Step II Permit.

Mr. Murai: Mr. Chair?

Chair Tsai: Corp. Counsel?

Mr. Murai: Just to clarify. Is my understanding correct that this process or the scope of this process is to assure that the project conformed to the standards of development? Is that the...(inaudible)...standards?

Mr. Spence: I think as Keith explained it's complying with Step II which the Commission did review. It's not an opportunity to reopen the docket and add conditions or anything. It's like you're reviewing this, this is fall in line with that you reviewed.

Chair Tsai: Commissioner Carnicelli?

Mr. Carnicelli: And so if we were to say okay Director do that and they're not then what? Then what happens?

Mr. Scott: If they're not, we wouldn't approve it.

Mr. Spence: Right.

Mr. Carnicelli: Got it. So it's whether we do that or you do that. It's kind of really what the question is on the docket right now.

Mr. Scott: Correct.

Mr. Carnicelli: Got it.

Chair Tsai: Commissioner Robinson?

Mr. Robinson: I don't want to beat a dead horse with this parking thing but I know that we didn't creatively said just throw some parking stalls in the driveway so I'm pretty sure that it came from the applicant 'cause...and that's all I'm saying and I just, I'm just so confused about me thinking that there's something and hearing that it's something else. It's I know that, I saw it on a drawing and I know we don't make drawings so I don't...I guess the Planning Department can figure out what happened to it. I personally don't think I need to review because you guys are gonna review it, but if you guys could just you know hear us and maybe just check on that, that's all. But other than that, I mean the hotel is building fast, it's you know, they're getting done and it's you know, everything's good I just, I just, you know a decision either way on the parking but I thought the parking component was they threw it in there as a olive branch and they were being you know, good new owners and they were helping people. I don't know if it was required or not but I thought that that's something that I think they wanted to do to enhance and said if there was a need that you know somebody could do it that way that's all. Thank you.

Mr. Spence: Mr. Chairman?

Chair Tsai: Director?

Mr. Spence: How ever the Commission decides on this whether you want just the Planning Department to review this, one of the things we're definitely gonna look at is what the record said regarding parking along the driveway and beach access and all that, okay, so that's my assurance to you. And if you choose not to waive your review of it and you want them to come back I mean certainly we would gather that same material for you since it's come up as everybody's collective memory that you know, what is the issue regarding beach parking we would gather that and bring it back at another time should you choose to do the review.

Mr. Robinson: I'd like to make a motion to waive review.

Mr. Hudson: Second.

Chair Tsai: We have a motion to waive review by Commissioner Robinson, second by Commissioner Hudson. Discussion? Commissioner Hedani?

Mr. Hedani: I was under the impression when this project gets finished that I could drive up, if there's an open space along the driveway, park my jalopy right in that stall with all of its rust hanging out and meander through the property to the beach one way or another. That's the impression that I had. The impression that I'm getting right now is that if you do that, your car is gonna end up being towed away or something in terms of control. I think although Wailea is a Planned Development with beach accesses and beach parking I think Commissioner Higashi is right, over time utilization of those beach accesses have gotten to the point where people cannot access the beach anymore because everything is taken. The same can be said for Kaanapali. In Kaanapali we have three beach parks, three dedicated to the public with parking designated for those beach parks. In addition to that, whenever a hotel comes in for an improvement, a renovation such as this, an expansion project they always get tagged for beach parking, ten stalls here, 20 stalls there, in the end you end up with a 110 stalls of parking you

know of additional assessments on top of the beach parks that were dedicated to the public. That's the same case with Wailea and I think in this particular case we have pressure from the public because stalls that were allowed to be used for beach parking in the past apparently are not available at this point. So that being said, you know, it's up to the Commission to decide whether you want to review, you know waive review or not. I thought it was a voluntary commitment from the applicant in this particular case to make access stalls available for the public on the driveway leading to the hotel, at least that's my recollection of the record.

Chair Tsai: Commissioner Hudson?

Mr. Hudson: A question for the Director. Say that we review it are you gonna come back and let us know because I have the same opinion of Mr. Higashi that...I mean, Mr. Hedani that there are a certain amount of committed parking stalls. Now we have a lot of work already, so and I trust you and staff to do a good review—

Mr. Spence: Thank you.

Mr. Hudson: --but I would like to some closure on this also because I'm almost a 100 percent certain that the records will bear it out that we had this discussion. Are you gonna, are you gonna come and let us know what your findings are?

Mr. Spence: We would have to put in another Communication item if you wanted to do that. Let's say...put it this way, if...and thank you for your confidence for the Department and Staff because we would definitely look into that and make sure that the record...of what the record says and what the representations were. If it turns out that, you know let's say we find out that there were representations made for the beach parking and you know, public parking and all that, we come back and we report to you...I'm trying to...I'm just wondering okay then would that trigger a third Commission review of some sort? I'm wondering if it wouldn't be better just to...for the Commission to review this, and we can gather the materials, put it in your packet and you can see for yourself and then everybody will be satisfied one way or another.

Mr. Hudson: Thank you.

Chair Tsai: Commissioner Robinson?

Mr. Robinson: Director, we have 20, 30 conditions that we put on things that you guys you know monitor and correct. I don't think we have to come back and review this whole thing again. I think if you know you guys if it's a condition that has to be done you guys can handle it yourself and not have it come back to us, correct?

Mr. Spence: Yeah, it's just...I mean it's just this waiving the review of this, it's not we're not reviewing the SMA compliance, we're reviewing this Planned Development Step III is what this what you recall, okay. I mean either way I'm good with it. We will definitely...we have applicant's rep?

Mr. Mark Roy: Good morning, Mark Roy with Munekiyo Hiraga. Thank you for all the comments this morning. We really appreciate it. From the applicant's perspective, you know an SMA Permit when it's approved by the Planning Commission comes with a number of approvals and so this permit was issued with a number of conditions. One of those conditions, those required the applicant to implement the project in substantial accordance with the plans that were presented to you at that commission meeting when the SMA Permit was approved. So there a substantial onus on the applicant to develop in accordance with the plans that were presented to the commission. Also, I believe the condition is that representations to the commission need to be complied with as well. So certainly it's the applicant's intent to develop this project in accordance with the plans that were presented to this commission back in 2015. Where we are today is as Katy mentioned, as Keith mentioned, they're right in the midst of building permit review at this point. There has been a lot of collaboration and discussion and back and forth with the respective agencies including the Planning Department to make sure that all of the requirements that are triggered by this renovation project are strictly adhered to by the applicant. The application that was filed with the Planning Department is literally construction level plans which is required at Planned Development Step III Approval. And as Keith mentioned today, you know, we're here to respectfully request approval of those Planned Development Step III construction plans that have been submitted. But what I wanted to do today was to stand up and reassure the Commission that those conditions that were attached to the SMA Permit when we came before you are taken very seriously by the applicant and the intent is to fully comply with the conditions and complete this project in accordance with the representations that we made to you back in 2015.

Chair Tsai: Thank you, Mark. And I believe by most general standards, yes, you know, I believe you guys did a great job in preparing and making sure all the conditions are met. However, for sake of consistency and also we have a very specific issue that's regarding the parking and I think my belief as a commission we should have a certain level of consistency with our decisions and going back on some of the other items, other projects that we've approved in the past and you know, Commissioner Hedani's absolutely right Kaanapali, The Westin came forward with their renovation, we required it at...well, they had voluntarily I think added additional beach parking. Some of the other Wailea project we approved in the past the same thing happened, they've actually come forward and provided additional beach parking. So parking's obviously a big thing for us and for us to be consistent in our decision process I think this is a serious matter when we start talking about beach access or taking access away from the public and I personally don't feel comfortable if it's not addressed and on a consistent level. Commissioner Higashi?

Mr. Higashi: I'm not faulting the applicant for their presentation and accommodating the commission for a recommendation and we were basically looking for possible access for public and sometimes it's hindsight when you look at it and find out that hey you know what maybe we missed the boat on this one. We're putting the public out on a private driveway when in the previous owners allowed public to park either in The Shops of Wailea or the guest parking that was open. But now that all these new restrictions are coming out we start to look at, you know, maybe we should for a public relations standpoint for the public maybe do that because you're absolutely right, we did go along and request for parking and the applicant did provide us with

private driveway parking. But like I said it's hindsight looking at it but I think maybe we could improve on it that's all.

Chair Tsai: Commissioner Carnicelli?

Mr. Carnicelli: Well to speak to the motion on the floor I'm in favor of that motion. You know, is again I trust Staff and the Department to be able to do that. I have no recollection of what happened as far as that because I wasn't here so I guess speaking solely just to this, but I think what every single one of the commissioners are getting to is this systemic problem that's coming and that is you know public access, you know local folks being able to go to the beach plain and simple. I thought you know Commissioner Higashi you hit on something I think that is kind of skimmed over a little bit and that is we can add all of these additional parking stalls, but if the hotel guests are using those beach access because I'm one of those guys that have done that, right? I mean right next to The Westin, you know, like behind Leilani's. How many times have you driven through there and you have to do the loop and it's all rental cars. You know, it's not local folks being able to do that which is a whole other issue that I don't think we can necessarily address currently. But I think it's just you know I guess moving forward just to speak to the public parking issue I like the fact that every single one of us takes that very, very seriously and that's important to all of us and I also agree that The Shops at least for this particular project, The Shops going to paid parking completely changed the dynamic in that entire area as far as you know, beach access goes for us local folks. So I'll park my jalopy in front on this driveway specifically to show I could go to the beach.

Chair Tsai: Director?

Mr. Spence: Commissioners, I'm not telling you which way to vote, but if you voted to waive what we could do is we could put a Communication item on the agenda and we could write you, you know, a couple-page memo just saying and any attachments that are necessary saying, okay this is what we found, the discussion on beach parking, representations made and I don't want to confuse the Step III Planned Development review versus SMA requirements either. They're two related but different things and so we'll send something back to you if that's the way you go.

Chair Tsai: Any more discussion on the motion? Okay, let's call for a vote. We have a motion to waive review by Commissioner Robinson and second by Commissioner Hudson. And also, we have a Director to put some type of note back to us of their findings specifically regarding parking and public access. So with that, all in favor of the motion?

Mr. Spence: That's six ayes.

Chair Tsai: Motion carries.

Mr. Spence: Commissioners, we'll work on this as we work on this other review as well.

Mr. Roy: Thank you.

It was moved by Mr. Robinson, seconded by Mr. Hudson, then

**VOTED: To Waive Its Review and Allow the Planning Director to take Final Action on the Planning Development Step III.
(Assenting – K. Robinson, L. Hudson, L. Carnicelli, W. Hedani,
S. Castro, R. Higashi)
(Excused – S. Duvauchelle)**

Mr. Spence: Number 2 in the Director's Report is requesting that the Commissioners...requesting that the Hana Advisory Committee to the Maui Planning Commission review and provide recommendations for the following legislation. One is, one more bill to amend enforcement procedures for bed and breakfast and short-term rental homes. And then also, there's Council Resolution to the Lanai, Maui, Molokai Planning Commissions to establish...containing a proposed bill to establish ownership durational requirements for Short-Term Rental Home applications. So those things just for the sake of...you'll get those things later but right what we wanna do is delegate the public hearing...we want to get Hana Advisory Committee input and I see Clayton.

- 2. MR. WILLIAM SPENCE, Planning Director requesting that the Hana Advisory Committee to the Maui Planning Commission review and provide recommendations on the following proposed legislation:**
 - a. MR. WILLIAM SPENCE, Planning Director, transmitting Council Resolution No. 16-93 referring to the Lanai, Maui, and Molokai Planning Commissions a Proposed Bill Amending the Comprehensive Zoning Ordinance relating to Enforcement Procedures for Bed and Breakfast Homes and Short-Term Rental Homes. (G. Flammer)**
 - b. MR. WILLIAM SPENCE, Planning Director transmitting Council Resolution No. 16-94 to the Lanai, Maui and Molokai, Planning Commissions containing a Proposed Bill Amending Section 19.65.030 of the Maui County Code to Establish Ownership Durational Requirements for Short-Term Rental Home Applications, (G. Flammer)**

Mr. Clayton Yoshida: Yes, thank you Mr. Chair, I mean Mr. Director. I guess copies of the resolutions have been circulated to the Commission today. Again, we have 120 days from receipt of the resolutions to get back to the Council with your recommendations. About two years ago the Department came through with their proposed amendments to the Short-Term Rental Home Ordinance. The Council dealt with it for about a year and a half and in May of this year those amendments were codified in Ordinance No. 4315. In the context of the Council's year and a half review certain amendments came out toward the end which the members felt were not properly vetted with the public. One Commission, on Resolution 16-93 regarding

enforcement introduced by Council Chair White and two, Council Resolution 16-94 regarding the duration of ownership of the short-term rental home property introduced by Councilmember Carroll. So the Council has referred these bills to the three planning commissions. We're just asking if it can go to the Hana Advisory Committee for their recommendations for your consideration when you consider these resolutions.

Chair Tsai: Commissioner Hedani?

Mr. Hedani: Move to refer to the Hana Advisory Committee for comments.

Mr. Hudson: Second.

Chair Tsai: Second by Commissioner Hudson, moved by Commissioner Hedani. Discussion? Commissioner Hedani?

Mr. Hedani: I'm glad that we're gonna take the issue up in the future so we can concentrate on it and actually see what it says rather than try to take action today. I think one of the things that would be helpful is to understand the Commission in the past has asked the Council to put a moratorium on transient vacation rentals. We drafted a letter, we sent it to the Council and I don't know whether or not we got an acknowledgement of receipt of that letter or any other kinds of consideration of the letter. And what I'd like to see is the Department's recommendation on these two resolutions or comments and also an understanding of whether or not the Council has taken any kind of action other than maybe filing it the letter that sent forward.

Mr. Spence: Yes, Commissioners you will be getting a brief report on both of these resos and you know after we go to the Hana Advisory Committee, but you'll get a full chance to review it as will the other two planning commissions, Lanai and Molokai.

Chair Tsai: Okay, call for a vote. All in favor?

Mr. Spence: That's six ayes.

Chair Tsai: Motion carries.

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

**VOTED: To Refer to the Hana Advisory Committee to Review and Provide
Their Comments on the Proposed Legislation.
(Assenting – W. Hedani, L. Hudson, K. Robinson, L. Carnicelli,
S. Castro, R. Higashi)
(Excused – S. Duvauchelle)**

Mr. Spence: Number 3 and 4 you have your SMA Minor Permit Report and your SMA Exemptions Report.

3. SMA Minor Permit Report

4. SMA Exemptions Report

Chair Tsai: Commissioner Carnicelli?

Mr. Carnicelli: I have a question that was brought up. Unfortunately I wasn't here the last time, but the last meeting I was at that in our open SMAs we still have some from 2008 you know, 9 10, 12, you know it's just like were we gonna...and the Deputy Director did communicate to us about the one from 2008 that Commissioner Higashi had questions about, but I guess my question is like is there some point in time we can "clean this up" to where we're not looking at pages and pages, you know we got 12 pages of open SMAs dating all the way back to 2008. And maybe they're open and that's fine, but it seems like, you know we've got dozens of them from 2012 even. That's four years old. You know, is...and maybe and again, I'm kinda the new kid on the block and maybe that's just normal and it's all good and there's nothing to clean up, I don't know, but I just thought I'd address here and say is that normal, is there something there something that we can do to suddenly say okay, these things are closed in some particular way?

Mr. Yoshida: Mr. Chair, Members of the Commission the Department is making an ongoing effort to try to be current with the list regarding the open SMXs. In some cases, you know it may be dependent on land use entitlements that are pending before the Council. But we are making an ongoing effort to try to clear the list of some of these older SMXs that appear on the open assignment, open applications list.

Chair Tsai: Thank you, Clay. Actually credit to the Planning Department this list is actually a lot shorter compared to five years ago when I first started out so they're definitely making an effort. But my question to Clayton though is that isn't there a timeline or there's a expiration date on some of these SMX permits, I mean for some of them looks like new family dwelling. Permits only last for a number of years, correct? I mean, seems like 2010 that's six years ago, surely that's expired or close to expiration.

Mr. Yoshida: Yeah, I guess it may be the case that the open SMX was not closed. I mean it was dealt with an exemption or minor permit was issued but the SMA Assessment itself was not closed. So you know we are making a constant effort with the planners to try to close those that have been closed and to try to modernize the list.

Chair Tsai: Thank you. Commissioner Higashi?

Mr. Higashi: I'd like to make commendation to the Planning Staff, I finally see one that says, done, done which means it's closed. So that's a big accomplishment.

Chair Tsai: Okay, Commissioner Hedani?

Mr. Hedani: I think one thing that we might consider is that you establish a timeframe for the minor permits so that when it's granted the applicant understands that he has a set timeframe to get it done. And if it requires a change to our rules or it requires legislation then you know the Department can consider attaching some kind of a timeframe like that.

Chair Tsai: Is there a process in place currently for that?

Mr. Spence: To? To just see if...?

Mr. Hedani: I'm just saying when we grant the...when you grant the permits you know see if whether or not we can attach a drop dead date.

Mr. Spence: Well an SMX is an exemption. You're saying no permit is required. So there's no there's no drop dead date, there's no conditions or anything like that. You're saying this is not a development under State Law or the Commission's Rules or anything else. Issuing a SMA Minor depending on the...there's a determination that there is a development then it's a matter of does it need a drop dead date? Does it need, you know a start date, an ending date and all that. So we'll look at those individually. And I've seen any number of SMA Minors with you know you have to complete within a year or whatever. That's a pretty standard practice two years.

Mr. Hedani: So in the case where we have open items that are six years long it's a case where they weren't really required to have a permit?

Mr. Spence: They may not be required to have a permit. As Clayton said, these lists are generated by KIVA our permitting tracking software. Sometimes a staff planner may not go back in and you know, put in closed. Some of them you know for whatever...there's 100 other reasons why something may not be closed and so I mean, like I said, some of it just simple error of not going in and closing it. But you know, as Clayton said, we try to keep up with this and we'll make some more effort to do so.

Chair Tsai: Commissioner Hedani?

Mr. Hedani: Move to accept.

Mr. Carnicelli: Second.

Chair Tsai: Moved by Commissioner Hedani, second by Commissioner Carnicelli. Discussion? Call for a vote. All in favor?

Mr. Spence: That's six ayes.

Chair Tsai: Motion carries.

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

**VOTED: To Accept the SMA Minor and SMA Exemption Reports.
(Assenting – W. Hedani, L. Carnicelli, L. Hudson, K. Robinson,
S. Castro, R. Higashi)
(Excused – S. Duvauchelle)**

Mr. Spence: Okay, Commissioners you have in front of you a memo by our Planning Program Administrator Mr. Yoshida.

5. Discussion of Future Maui Planning Commission Agendas

a. August 9, 2016 meeting agenda items

Mr. Spence: On the August 9th Planning Commission meeting we're gonna have...it's gonna be an interesting meeting. First we have a site inspection at 9 o'clock for Ms. Leona Rocha Wilson requesting a Land Use Commission Special Use Permit and a Conditional Permit. We're gonna go take a look at that. Clayton are we meeting here first or are we meeting at the site?

Mr. Yoshida: I believe we're meeting at the project site.

Mr. Spence: Okay. Any Commissioners need a map, we're happy to provide that. Then Communications there's just the one, the Vice-Chair of the Hana Advisory Committee providing the Committee's recommendations for Mr. Stuart Stant, Director of Department of Environmental Management for the closure of the inactive Makai Hana Landfill and that will be for your action.

Chair Tsai: And with the passing of our Vice-Chair, Mr. Medeiros, I think we're gonna be voting, adding a agenda item to vote for a Vice-Chair position at the next meeting. And also, I guess do we...do we ask the Mayor for a replacement?

Mr. Spence: Yes. We have spoken to the Mayor already and so that is in the works and they will be notifying the County Council of the vacancy.

Chair Tsai: Thank you. Okay, next meeting is August –oh, Commissioner Robinson?

Mr. Robinson: I'm sorry I was a little taken back earlier, but I want to express my condolences and aloha to the Medeiros Family. Thank you.

Chair Tsai: Thank you, Commissioner Robinson. Okay, see you guys on August 9th. Meeting adjourned.

F. NEXT REGULAR MEETING DATE: AUGUST 9, 2016

G. ADJOURNMENT

The meeting was adjourned at 11:45 a.m.

Submitted by,

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

RECORD OF ATTENDANCE

Present

Lawrence Carnicelli
Stephen Castro
Wayne Hedani
Richard Higashi
Larry Hudson
Keaka Robinson
Max Tsai, Chair

Excused

Sandy Duvauchelle

Others

Clayton Yoshida, Planning Program Administrator, Current Division, Planning Department
Will Spence, Director, Planning Department (9:04 a.m.-9:07 a.m.)
Gary Murai, Deputy Corporation Counsel, Department of the Corporation Counsel
David Goode, Director, Department of Public Works