

**MAUI PLANNING COMMISSION
PORTION OF REGULAR MINUTES
ITEMS E-1a and E-1b
MARCH 28, 2017**

Chair Tsai: Okay, Maui Planning is called back to order. Director?

Mr. Spence: Okay, Commissioners we are on Item E-1. This is...well, in E these are adoption of written decisions and orders. You have a number of them on your agenda. The first one is Mr. Michael Baskin of Seashore Properties, LLC requesting county Special Use Permit to operate a nine-bedroom transient vacation rental and that was Paia Inn. So you have two decisions and orders in front of you, one for the denial of the Special Use Permit and one for the denial of the Petition to Intervene.

E. ADOPTION OF WRITTEN DECISION AND ORDERS

1. **MR. MICHAEL BASKIN of SEASHORE PROPERTIES LLC requesting a County Special Use Permit to operate a nine (9) bedroom transient vacation rental (Paia Inn) with 1st floor lobby on property situated at 93 Hana Highway, TMK: 2-6-002: 027, Paia, Island of Maui. (CUP 2015/0006) (K. Wollenhaupt)**

- a. **Having voted on December 13, 2016 to Deny the Petition to Intervene submitted by ISAAC HALL, attorney for FRANCINE AARONA on November 29, 2016 regarding the County Special Use Permit application submitted by MR. MICHAEL BASKIN of SEASHORE PROPERTIES LLC to operate a nine (9)-bedroom transient vacation rental (Paia Inn) with 1st floor lobby on property situated at 93 Hana Highway, TMK: 2-6-002: 027, Paia, Island of Maui. (CUP 2015/0006) (K. Wollenhaupt)**

The draft Decision and Order was prepared by Planning Department staff and reviewed by the Department of the Corporation Counsel.

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

The Commission may take action to adopt, adopt with modifications, or take some other action regarding the proposed Findings of Fact, Conclusions of Law, and Decision and Order.

- b. **Having voted on December 13, 2016 to deny the subject County Special Use Permit application submitted by MR. MICHAEL BASKIN of SEASHORE PROPERTIES LLC to operate the Paia Inn with 1st floor lobby at 93 Hana Highway, TMK: 2-6-002: 027, Paia, Island of Maui. (CUP 2015/0006) (K. Wollenhaupt)**

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The Commission may take action to adopt, adopt with modifications, or take some other action regarding the proposed Findings of Fact, Conclusions of Law, and Decision and Order.

Mr. Spence: You have a letter before you that we handed out just at...just after lunch. It's dated March 24th, but we did not receive it until 11:19 last night, and I did not see it until 8:43...it went to the general Planning Department inbox and so it didn't reach me or Carolyn till about time that I left for the Planning Commission meeting so...but we're providing it for you now.

Chair Tsai: Okay for the record, I'm also gonna make a disclosure here, at 11:20 p.m. last night I did receive email in my personal email box from Michael. I guess he's baskindesign@gmail.com. I was bcc'd on that...on this email with this letter right here. And first I want to disclose this. Second of all, I definitely don't believe that's appropriate Michael. All matters should be directed to the Planning Department and they will forward it to all the commissioners. For me to be the only person that get bcc'd on this email, I don't feel that's acceptable, so...

Mr. Spence: So Commissioners as an agenda item I think, I believe with the receipt of the letter Mr. Baskin or one of his representatives would like to probably provide testimony as this is an agenda item or these are agenda items you know at the discretion you should open it up for testimony.

Chair Tsai: Okay, so at this time, I'm gonna open the floor for public testimony regarding this agenda item. Anyone wish to testify please come forward? You have three minutes. Please identify yourself first.

Mr. Eric Molina: Good afternoon, I'm Eric Molina. I'm Assistant General Manager of the Paia Inn, and again, good afternoon Mr. Chair, Committee Members and staff. I'm here in support of Michael Baskin and the Special Permit, Use Permit application for the Paia Inn and I'd like to take this moment to read a letter from Neil Abercrombie in support of this Special Permit application.

I won't be speaking in his voice, but let me read...and this letter has been submitted to the committee prior to the December meeting. He says I am writing to you and request for the memo to be forwarded to the Maui Planning Commission in support of the Special Use Permit application for Paia Inn. And by way of disclosure I want to inform you that I am a partner, and this is Mr. Abercrombie, with Mr. Baskin for the use of his property located at 65 Hana Highway and their intention is to offer wedding events to the general public but this business is separate and apart from any issues before the commission with respect to the CUP 2015/0006.

I am in support of the CUP request as a result of personally walking and observing every venue embodied in this description of the project submitted to the commission in its report the CUP 2015. Included in the areas the activities cited in the exhibits I note the Maui County Planning Department does not oppose the project. The report lists its exhibits responses which ostensibly establishes objection and/or opposing interpretations of the point enumerated in the application in favor of the Paia Inn request.

It is not my intent to analyze every observation on every page although I found that I disagree with much it is not a great majority of the negative comments. Suffice to say, in summary the response constitutes a vast overstatement of supposed adverse consequences if the applicant is granted. One is encouraged to believe that by converting four small rooms into bedrooms Paia as a historical town will be devastated, its character unalterably ruined and dire consequence for its future survival in any recognizable form.

It stains credibility for example to characterize the Paia Inn in the same category as hotels or resort developments as it is commonly observed anywhere on Maui or in the State of Hawaii for that matter. The present uses of the property for rentals are permitted. Whatever arguments may be at issue concerning whether the applicant has met all the conditions associated with the permits do not alter the fact that the use of the property for its rentals is in itself acceptable under all the Codes and rules in effect on Maui.

So whatever challenges exist concerning parking or signage or tortured definitions of lodging versus vacation rentals or transient accommodations. People of goodwill and intentions can work them out. Paia is not in 2016 what is observed on Page 10 of the report, a relatively rural local hamlet at least where the Hana Highway portion is concerned and where the Paia Inn is located. A tourist filled destination. It is absurd to think that the fact is going to change that or granting the application duly noting the reasonable conditions needs to be honored.

So he trusts the commission will separate its decision making, the personalities involved and deal with the possible benefits having small business success in Paia Town.

Again, that was from Mr. Neil Abercrombie. My name is Eric Molina and thank you for your time.

Mr. Spence: We need a copy of that.

Chair Tsai: Eric, can we get a copy of that please?

Mr. Molina: Yes, I believe it was submitted. I do have a rough copy. Can I submit a copy via email?

Mr. Spence: Yeah, if...what's the date on that? If we already have it.

Mr. Molina: He said it was for the December meeting.

Mr. Spence: That was from the December meeting?

Mr. Molina: It had been submitted before the December meeting.

Mr. Spence: Okay, we have that already, so it's from that meeting.

Mr. Molina: If you do, we can submit another copy.

Mr. Spence: Okay, thank you.

Chair Tsai: That's fine. Thank you. Anyone else wish to testify? Please come forward. You have three minutes.

Mr. Michael Baskin: Thank you. My name is Michael Baskin. I'm the owner of the Paia Inn and the last time I was here was on December 13th and I'm back to ask that you reconsider and that you today request the Commission to postpone the adoption of your decision and order against our application for a Special Use Permit as we are currently preparing a new submittal based on the current status since our December 13th presentation.

There had been some testimony to this Commission. A few individuals in our community had come out about my intentions as a small business owner and our renovations to the historic Paia Inn.

I grew up here. I was raised here and my family is here and my kids are here, parents live in Paia and I just think that I want to...anybody that thinks I wanna change the nature of the town hurts me dearly. We all have the same desire which is to keep Paia, Paia and continue to make this a town that visitors enjoy and locals are proud to call home.

If you all got a copy of my letter that was distributed did you all have a chance to read it? Okay, the main thing in the letter that I'm reaching out for you to consider is to come out and take a look at the Paia Inn. I think it's very difficult for me that you all are gonna make a decision here today on an operation that we have had for the last nine years with staff and employees and not have actually come out and taken a look at it. I think if you do, you're gonna find it's not a hotel resort development and I would be the first to ask either the new Chair or all of you or any of you to come out and take a look before you make this final decision.

And what I would ask is you give us 60 days to respond, update and respond to the people that came out here, the neighbors, and some of the Planning Department's questions. We have made some changes since the December 13th. We've addressed some of the issues. The fine that was not yet due has been paid. We've addressed the violations. The RFS that were apparently numerous were mostly for inquiries have been addressed and so we feel that if you give us 60 days, if you come out and take a look, we'll have a chance to actually show you the property and you'd be making an informed decision rather than a not informed decision.

Keeping in mind that, you know, this is only a 1,000 square foot addition. It's four rooms, they're 150 square feet each. This is a 600 square foot property that we're talking about that was built two years ago. It's not any new development. This is something already constructed. We are

using it as offices and to change the use from offices to accommodations is far less intensification. It's a great thing in the town. Most of our neighbors, most of the town has written in letters of support. Over 2,000 people have written in support and only a few people came out and I understand the complexities of the neighbors, but you already found that the neighbor who was mainly up here talking was...I'll go ahead and conclude and then I'm available if you wanna any questions. Thank you so much for your time.

Chair Tsai: Thank you. Anyone else wish to testify?

Mr. Spence: Are there any questions?

Chair Tsai: I don't see any. Hold on just a second. I don't see anybody. Any questions of the Commission? Oh, okay. Yeah please. Commissioner Castro?

Mr. Castro: Mr. Baskin, if we were to go to, to the Inn right now is the sign still out there, hotel entrance?

Mr. Baskin: There is a sign. It's a directional sign. That sign sir, has been approved per our permit for our comprehensive sign. It was as part of our signage and it has been approved by the County of Maui. The sign is still up as a directional entrance sign, but it has been approved by the County.

Mr. Castro: But it hasn't changed...the wording on it, hotel to inn? Inn entrance or hotel entrance?

Mr. Baskin: I believe it's the same sign that we have up there.

Mr. Castro: Hotel entrance. I believe last time you were up here before us I had a concern because there was a picture that was circulated about way back when the fire, you know it devastated that area. Are you in compliance with the Fire Code, the sprinkler system, smoke detectors?

Mr. Baskin: Yes, absolutely. We've received all of our inspections. The property, the four rooms that were added it has a current Certificate of Occupancy. So there is...everything was inspected, everything is up to Code and we do have fire sprinkler systems throughout the property, yes.

Mr. Castro: And I think I also asked you if there was a enunciator panel so that your front desk can, they could see where the fire is at. Do you have a system like that?

Mr. Baskin: As far as I know everything related to the fire issues, Fire Codes, safety is all up to Code has been inspected and approved. We've had numerous inspections. County has come through. There is nothing on the building that is not to Code or has not been approved. Everything's been approved.

Mr. Castro: Thank you.

Chair Tsai: Commissioner Canto?

Ms. Canto: Mr. Baskin, the contents of this letter has the community been apprised of what you've written us today?

Mr. Baskin: As the community been apprised?

Ms. Canto: Have the community been advised of your intent going forward?

Mr. Baskin: We are continuously reaching out to the community, to the people around us. The people to the right of us that own Maui Oil, Terry McBarnett has given us a letter of support. The people to the left of us Flat Bread have given us support. The people behind us have given us letters of support. The people across the street from us, the Nagata Family has given us letters of support. Pretty much most of the people around us, the Paia Youth and Cultural Center have given us letters of support. There's strong community support for the Paia Inn. It obviously came as a big surprise to us to have a few people come out and who were opposed to us and they were, you know, strong in their conviction but we would like to work with those people going forward and think we can.

Ms. Canto: Okay, thank you.

Chair Tsai: Commissioner Hedani?

Mr. Hedani: Mr. Chair, I believe the discussion that we're having at this point is, is not agendaed for this meeting. The meeting agenda talks about acceptance of written decisions and orders relative to the decision that we've already rendered on this case. So a motion for reconsideration of the decision itself is not up for consideration at this point I don't believe.

Chair Tsai: Director?

Mr. Spence: I concur with Commissioner Hedani so far as that's the decision that's before this body. You could decide not to sign the decision and order today. That's, you know, that's up to the Commission. Yes, it's either a yes or no decision to be made.

Chair Tsai: Okay, any other questions for the testifier? Thank you Michael.

Mr. Baskin: Thank you so much for your time. Aloha.

Chair Tsai: Please identify yourself you have three minutes.

Mr. Isaac Hall: Good afternoon Chair Tsai and Member Hedani. Thank you for your service and for the other members of Maui Planning Commission. My name is Isaac Hall. I represent Francine Mopsy Aarona. The Maui Planning Commission conducted a lengthy public on December 13th where many, many people came out in opposition to this project. The Maui Planning Commission voted to deny the SUP and individual members stated their reasons for doing so.

We're here today not to conduct a further public hearing but to adopt findings of fact, conclusions of law. After 1 o'clock today I obtained a copy of Mr. Baskin's request for deferral and I object to any deferral. In answer to Ms. Canto's ...(inaudible)...the community has no idea that Mr. Basking submitted this letter.

There's been no change. I wanna note on Page 3, Mr. Baskin says he's modified his marketing material to remove the word, "hotel" and use only the word, "inn" and that the commission will discover the property is not a resort hotel. But fortunately because you go so slowly...I got this at 1 o'clock I went back to my Paia Inn website and downloaded what's currently on Mr. Baskin's website and you can find all the references to hotels and...(inaudible not speaking into mic)...before.

Mr. Spence: Isaac why don't you--

Mr. Hall: ...(inaudible)...

Mr. Spence: Give it to staff and we'll—

Chair Tsai: Isaac just please give it back there.

Ms. Thackerson: Also, if you could speak into the mic so it gets recorded if you're gonna walk around.

Mr. Hall: You'll see in the front page here and I drove by it this morning the hotel entrance sign is still there. You think somebody that had a vote against him on an SUP would decide they're gonna make some changes, but he didn't. Then you'll see a picture Page 2, sheek boutique hotel showing a reservation desk. Page 2, you'll see the pictures of the rooms that he's renting and the short-term rentals still doing that. Page 3, you'll see another room sheek lushness of the hotel. Page 4, trendy new boutique hotel showing one of the rooms. Page 5, hip boutique hotel, stunning beach. Page 6, are the advertisements that he's showing in here, Travel and Leisure, America's most romantic hotel, Honolulu Weekly, charming boutique hotel, ...(inaudible)...perfect boutique, Honolulu Hotel, on and on and on. So Mr. Baskin's...I know some people noted that he had creditability problem. He still has a creditability problem. He's still running the same hotel resort development that he was running before. There's no change in circumstances and I would ask that you folks simply adopt the proposed findings of fact, conclusions of law that you intended to adopt before.

Lastly, it's best that the Commissioners who heard the actual testimony be the ones that adopt the findings of fact, conclusion of law because if you two go off the Commission and some new Commissioners come on they're gonna have to read the whole transcript and go through the whole thing all over again which probably no one wants to do. So it's better that all the Commissioners that are present here today who heard the testimony are the one's that—

Chair Tsai: Thank you. Thank you Isaac. Appreciate it.

Mr. Hall: Thank you. Thank you very much.

Chair Tsai: Any questions from the Commission for the testifier? Seeing none, any other testifier wish to testify at this time?

Mr. Baskin: Can I comment?

Chair Tsai: No, you had three minutes. Public testimony is now closed.

Ms. Amy Stokes: Good afternoon. Is it on?

Chair Tsai: Are you—

Ms. Stokes: I'm gonna testify.

Chair Tsai: Okay.

Ms. Stokes: Yeah. My name is Amy Stokes. I'm Executive Legal Assistant for Mr. Baskin. I wasn't going to speak today but in light of Mr. Hall's accusations I would like to comment on the claims that were just put forward before you. Primarily the fact that those words that were read that include boutique hotel, hip, sheek, are not Mr. Baskin's words. If you look, they are reviews. Mr. Baskin in no way controls the reviews that come out about his establishment. So, that's something that I think needs to be taken into careful consideration when looking at these pictures and these words. If Mr. Baskin were to remove any five-star reviews that he had how is that going to benefit him in any way? I just wanted to say that much.

As far as the signage goes, if the word "hotel entrance" which is a directional sign, it's not saying...it doesn't say Paia Hotel if you drive, our sign says, "Paia Inn". I'm sure, I'm speaking for Mr. Baskin but I'm sure knowing his intentions he will repaint the sign if that is deemed one of the qualifications to receive his SUP. Mr. Baskin has gone above and beyond to try and work with and for the betterment of Paia Town. I've known him in essence I used to work at Flat Bread when I was very young back in 2007 and so I know Mr. Baskin's intentions are not to destroy Paia Town, they're to preserve Paia Town. And if anything, what he has done has uplifted the face of Paia Town. And his request today was not to rediscuss or make another decision. He respects your decision that you made on December 13th. This body spent ample time discussing your decision. However what he is asking is perhaps that you could defer the adoption of the decision and allow him time to submit another application for an SUP. An appeal process would cost the taxpayer's money would be lengthy. This is another avenue that we are seeking. And I just ask you consideration that's all and that, yeah, Mr. Baskin's character stop being so ...(inaudible)...yeah, drug it through the grounds. He's a good man with good intentions. Thank you.

Chair Tsai: Thank you. Okay, now I'm gonna close the floor for public testimony. Commissioner we have two items here for adoption. We can have discussion first, I think, right?

Mr. Spence: Sure you can, Commissioners you can...options before you you can just discuss openly on the floor and to adopt, whatever questions you have so long as they're pertaining to

this adoption or rejection whatever. You may also go into an executive session to discuss, you know, as it's noted on the agenda to consult with your attorney regarding questions, issues pertaining to the commissioner's powers, duties, privileges, immunities, et cetera.

Ms. Duvauchelle: I'd like to move that we go to executive session please.

Ms. Canto: Second.

Mr. Spence: Before we do, can I make a comment?

Chair Tsai: Yes, Director?

Mr. Spence: Actually there's a motion on the floor. I shouldn't.

Chair Tsai: Actually technically yes we have a motion on the floor to go to executive session by Commissioner Duvauchelle and second by Commissioner Canto. Discussion regarding the motion? Okay, call for a vote. All in favor of going into executive session?

Mr. Spence: One, two, three ayes.

Chair Tsai: Three ayes. Opposed?

Mr. Spence: Three opposed, four opposed.

Mr. Giroux: Just for the record I'd like to—

Chair Tsai: Corp. Counsel?

Mr. Giroux: I'd just like to put that the board is going into executive session in light of its adjudicatory function under Chapter 91 just so it's clear that you're at a stage of reviewing the legal ramifications of your decision as far as memorializing it.

Chair Tsai: Well, the motion fails. So we have to continue. You only have three votes for it.

Mr. Robinson: I abstained. So it's four.

Mr. Spence: Okay, so that's four, four.

It was moved by Ms. Duvauchelle, seconded by Ms. Canto, and

The Motion to Go Into Executive Session, FAILED.

**(Assenting – S. Duvauchelle, P. Canto, S. Castro, K. Robinson-abstained)
(Dissenting – L. Carnicelli, L. Hudson, W. Hedani, R. Higashi)**

Mr. Carnicelli: Can I change my vote?

Mr. Spence: Okay, it's be cleaner if we did that, this whole thing over.

Chair Tsai: Yeah, let's...

Mr. Spence: Okay so there was a motion by Commissioner Duvauchelle to go into executive session. Commissioner Canto seconded it.

Chair Tsai: Any more discussion before we vote again?

Mr. Carnicelli: Okay, now that I've got clarity from Corp. Counsel as to why it is that we're going into executive session I will go ahead and support the motion.

Chair Tsai: Okay, anymore discussion regarding to the motion to go into executive session? None. Okay, call for a vote. All in favor of going to executive session say aye, raise your hand. Six ayes, seven ayes. Opposed? One.

Mr. Spence: One opposed.

Chair Tsai: Motion carries. We're going to executive session.

It was moved by Ms. Duvauchelle, seconded by Ms. Canto, then

VOTED: To Go into Executive Session.
(Assenting – S. Duvauchelle, P. Canto, L. Carnicelli, K. Robinson,
W. Hedani, S. Castro, R. Higashi)
(Dissenting – L. Hudson)

The Commission went into Executive Session at approximately 2:37 p.m., and the Commission reconvened the Regular meeting at 2:48 p.m.

Chair Tsai: We're back to Agenda Item E-1 a and b. So can I get a motion Commissioners? So let's do E-1a first. We're gonna address a and b separately.

Mr. Spence: So a—

Chair Tsai: Yes Director?

Mr. Spence: a is the decision and order on the petition...on the denial of the petition to intervene.

- a. **Having voted on December 13, 2016 to Deny the Petition to Intervene submitted by ISAAC HALL, attorney for FRANCINE AARONA on November 29, 2016 regarding the County Special Use Permit application submitted by MR. MICHAEL BASKIN of SEASHORE PROPERTIES LLC to operate a nine (9)-bedroom transient vacation rental (Paia Inn) with 1st floor lobby on property situated at 93 Hana**

Highway, TMK: 2-6-002: 027, Paia, Island of Maui. (CUP 2015/0006) (K. Wollenhaupt)

The draft Decision and Order was prepared by Planning Department staff and reviewed by the Department of the Corporation Counsel.

Chair Tsai: Commissioner Hedani?

Mr. Hedani: Move to accept as presented.

Mr. Carnicelli: Second.

Chair Tsai: Moved by Commissioner Hedani, second by Commissioner Carnicelli. Discussion? None. Director?

Mr. Spence: Commissioners you have a motion to approve the Decision and Order on the denial of the Petition to Intervene.

Chair Tsai: Call for a vote. All in favor?

Mr. Spence: That's eight ayes.

Chair Tsai: Motion carries.

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

**VOTED: To Adopt Decision and Order.
(Assenting – W. Hedani, L. Carnicelli, L. Hudson, K. Robinson,
P. Canto, L. Hudson, S. Duvauchelle, S. Castro,
R. Higashi)**

Chair Tsai: E-1b.

- b. Having voted on December 13, 2016 to deny the subject County Special Use Permit application submitted by MR. MICHAEL BASKIN of SEASHORE PROPERTIES LLC to operate the Paia Inn with 1st floor lobby at 93 Hana Highway, TMK: 2-6-002: 027, Paia, Island of Maui. (CUP 2015/0006) (K. Wollenhaupt)**

The draft Decision and Order was prepared by Planning Department staff and reviewed by the Department of the Corporation Counsel.

Mr. Spence: So Commissioners this Decision and order is pertaining directly to the denial of the County Special Use Permit application submitted by Mr. Michael Baskin to operate the Paia Inn.

Chair Tsai: Commissioner Hedani?

Mr. Hedani: Move to accept as presented.

Ms. Canto: Second.

Chair Tsai: Okay, moved by Commissioner Hedani. I heard Commissioner Canto second. Discussion? Commissioner Hedani?

Mr. Hedani: I believe it's an accurate representation of what happened at the meeting and the decisions and the conclusions that we reached as a result of that discussion.

Chair Tsai: Commissioner Carnicelli?

Mr. Carnicelli: I also feel that that is a fair and accurate representation of the meeting and our decision.

Ms. Canto: I agree.

Chair Tsai: Okay, any other discussion? None. Director do you want to repeat the motion?

Mr. Spence: The motion is to accept the Decision and Order as it is written.

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

Mr. Spence: That's eight ayes.

Chair Tsai: Motion carries.

Chair Tsai: Thank you.

It was moved by Mr. Hedani, seconded by Ms. Canto, then

**VOTED: To Adopt the Decision and Order.
(Assenting – W. Hedani, P. Canto, L. Carnicelli, K. Robinson,
L. Hudson, S. Duvauchelle, S. Castro, R. Higashi)**

Chair Tsai: Moving on.

Submitted by,

Carolyn Takayama-Corden
Secretary to Boards & Commissions II

RECORD OF ATTENDANCE

Present

Pua Canto
Lawrence Carnicelli
Stephen Castro
Sandy Duvauchelle, Vice-Chairperson
Wayne Hedani
Richard Higashi
Larry Hudson
Keaka Robinson
Max Tsai, Chairperson

Others

Will Spence, Director, Planning Department
James Giroux, Deputy Corporation Counsel, Department of the Corporation Counsel
Rowena Dagdag-Andaya, Deputy Director, Department of Public Works (on-call)