

**MAUI PLANNING COMMISSION
PORTION OF REGULAR MINUTES
ITEMS C-3 and D-1
DECEMBER 13, 2016**

Mr. Spence: Okay, Commissioners we have before you today Mr. Michael Baskin of Seashore Properties LLC requesting a County Special Use Permit to operate a nine-bedroom transient vacation rental in Paia.

Because we also have Item D-1, we have a Petition to Intervene and Petition to Deny and so because this is...you know procedurally this could get a little interesting we wanna just clarify where we're gonna go from here. First off, as normal you know staff planner will give preliminary, you know, report, an overview of the staff report. We will offer an opportunity for the applicant to make a presentation. We will then hold public testimony. We will close public testimony when all is pau and then the next thing we're gonna do is take up the Motion to Intervene. So what at this time I'm gonna ask the Commissioners you know hold your questions, let's get through this process and see where it goes. Okay, so there will be plenty of opportunity. Anyway, Kurt?

- 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)**

Mr. Kurt Wollenhaupt: Good morning, good afternoon, Members of the Maui Planning Commission, members of the audience who have come today to give their testimony on this project and members who will be looking on it on Akaku. The first item today that we're going to be discussing this afternoon is a request by Seashore Properties LLC seeking a County Special Use Permit in order to operate a nine-bedroom transient vacation rental with a first floor lobby located at 93 Hana Highway on approximately 5,600 square feet of land in Paia, Maui. Mr. Michael Baskin is the principal of the Seashore Properties LLC and the building and the current operation are commonly known operating as the Paia Inn.

One of the things is that I like to do is well, why are we even here today? What's the purpose of this meeting today? And the purpose is, that the applicant in July of 2015 signed with the County a Settlement Agreement. That Settlement Agreement and Supplement Agreement, Supplement Agreement specifically indicated on Page 5, and I'll just read part of this into the record, "within 60 days of the full execution of the settlement agreement and this supplement owner will submit a complete application pursuant to Maui County Code, Section 19.510.070, Special Use Permit, and 19.15.030, as amended by Ordinance 4153 for a County Special Use Permit to operate the five existing non-conforming lodging rooms and four new offices as transient vacation rentals." So that is why we're here today. The County Code allows for a transient vacation rental from one to twelve bedrooms to be built in the Country Town Business Zoning District provided that in a public hearing and after Maui Planning Commission approval gives the green light for such a project. So we're not...there's been some discussion that this is an expansion of an existing property. I think it's important to note that this permit is for nine bedroom transient vacation rental. So that's a critical point. We're not talking about the issue of the grandfathering. We're simply today discussing does this application for the County Special

Use Permit meet each of these seven criteria. There's actually eight in the Code, the eighth one has to do rural and agriculture so that's not applicable. But in order for the Commission to guide the discussion this application has to meet each of these seven criteria, not five of the seven, but each of them. So the Commission after reviewing the testimony, after listening to the presentations today, they have to make a decision should we get to that point whether or not this application for nine-bedroom TVR meets each of these.

Now I could go into great depth and it is in the staff report, but will just highlight them briefly. The proposed use of a TVR has to meet the intent of the Maui Island Plan and the objectives, the objectives of the Paia-Haiku Community Plan. Those are clearly outlined in the staff report and we'll probably be discussing those at length in just a bit whether the proposed use as a TVR is consistent with the community plan land use map. The community plan is Business-Commercial so there has to be a consistency there. Whether or not it meets the intent of the zoning district, this is Country Town Business the intent can be met but only if the Special Permit is granted. It's not by right that a TVR can be allowed in this zoning district without getting Planning Commission approval. Whether the proposed use will not adversely affect or interfere with the infrastructure. That infrastructure can include sewers, traffic, schools, a whole range of public infrastructure that's important to a community. Whether the proposed use will not adversely impact social or economic structure of the community. As we all know the town of Paia has met with changes over time so it will be important to look at does this, how does this proposed TVR perhaps impact the social fabric of the community? Is the public protected from the deleterious effects of the proposed use? And are demands for public services created by the use fulfilled, i.e., has parking been addressed and other types of services that go with a use as a transient vacation rental. That...essentially that sets the stage and I really can emphasize enough that these criteria by which the debate needs to be guided in order for any permit to for a special use be granted. So if you have any brief questions, but I think we're essentially looking at the presentation from the applicant next.

Mr. Michael Baskin: Good morning. Good morning, I'm Michael Baskin. I'm the owner of the Paia Inn. Thank you all for looking over our presentation and I wanna welcome the people here today from Protect Paia that live in Paia and are concerned about the community and the town of Paia.

Before I show the presentation I just wanna give a quick background on myself just so you know a little bit about me. First of all, I've been living in Paia since I was 14 years old. So I'm very familiar with the town. I love the town. My parents live in Kuau and my kids were born in Paia. So like the group that's here today I am also very passionate and concerned and interested in protecting, preserving the town of Paia. We're fortunate to own some property in Paia and that's a true thing that we're fortunate about.

Before we start I'm gonna show a brief little video, it's just two minutes. It's a tour of the Paia Inn. It just gives you a little sense of what it's like so that you don't have to walk out there and be there, so if we could show that? Can you turn up the volume? Stop.

Mr. Spence: You want to hold the mic up to the—

Mr. Baskin: Oh that's great. Thank you, Will. Sorry, we're gonna... Good morning, I'm Michael Baskin and I'm the owner of the Paia Inn. I'm gonna give you a quick tour today of our property so that you can see the five rooms that are historic built in 1927 and the four new rooms that we will soon be bringing online. The Paia Inn is located right in the heart of the town Paia. The wonderful thing about that is guests can walk to all of the shops, the restaurants and to the beach and really get to know the character of the town. We are a small, quaint and that seems to be what most of our guests say, sort of a hidden gem. They don't wanna stay in the large resort, they wanna stay right in the middle of the town. My family and I have focused on restoring and renovating and preserving the character of this area of the building.

These are the existing rooms, I guess I'll talk because it's not very loud. These are the existing rooms that we have, the five rooms and this section shows the bathroom and also the existing five rooms. We're now walking down to the new section, the four offices that were built and this is what the offices look like. This is what one of the rooms, this is room two of the offices. I wanted to give everybody a sense of what we're talking about here. This is third room, and this is the fourth room. And basically what we're saying here is that the converting and change of the use from the existing...this is what the building looks like from the outside. We have onsite parking and we have offsite parking. This is located just 200 feet down from the Paia Inn where we have our own parking. Unfortunately the audio is not working on this.

Chair Tsai: Michael, why don't you just speak to the mic?

Mr. Baskin: Okay, sorry about that. Apparently the audio is not coming through. I'm just trying to share at this point. So this is some guests that are walking through the entrance to the Paia Inn. We do have some music once a week. We do have a little patio area where we have a little café for our guests to enjoy and now open to the public as well. My daughter Bella. Okay, thank you.

We can go to the slides. Okay, great. Okay, let's bring up the first slide. The building was originally built in 1927. Now one of the things that I'd like to emphasize, we can go to the next slide is that when we bought the building back in, it's been now about 16 years, back in 2000, 2001, that's what it looked like in the upper and that's what it looks like in the lower section. So what we're here for today is we're requesting for a County Special Use Permit to convert four office spaces. Now I want to emphasize these spaces are already built so there's not any new development that's going to be occurring and we wanna convert the five historic lodge rooms to transient vacation rentals in this process to allow for a total of nine transient vacation bedrooms. Can we go to the next slide?

So this is what the property looks like in 2014 after we constructed it and I wanna also emphasize that the new section where it says 2014 four existing offices to be converted to four guest rooms. This is about a 1,000 square feet. We went through the permit process. We got a certificate of occupancy for this. It is currently all permitted. And so we have been operating

the five rooms since we opened in 2008 for the last eight years and if we could go to the next slide? This is what the exterior looked like when we purchased the property. I don't know if some of you can remember the building back then but he had a sign here saying, take a dog on a picnic. Used to be able to walk in and get a sandwich made and there were a bunch of dogs in the back and you could actually take a dog to Paia, from Paia rather to Hana with you and I believe one of the people that testified earlier actually was the tenant at that time when we bought the building. Next slide. This is a little bit of a transformation when we did some renovations to the building in 2007. We preserved and kept the five rooms upstairs and we at that time made the shops downstairs, improved them and again kept the structure of the building. Next slide. This was the entrance to get up to the upstairs. There was a previous person operating a Paia Lodge prior to our obtaining the property. Next slide. This is the same door today that's there's now to enter into the lobby. We went through and again, preserved and kept the character of the building and we went through as designers, that's really what we like to think that we're good at is preserving and keeping the building. Next slide. The upper photo shows the office, the lower one shows what one of the bedrooms currently looks like. So we're here to request that the now in front of you to convert again the four permitted offices and the five existing lodging bedrooms on the second floor to transient vacation rental use. And at the same time we're also requesting an SMA and CTB Permit. Next slide.

So why are the offices conversion required? An ordinance was passed in 4153 in 2014 and it was amending the uses that were allowed in the town. So basically at that time, the use of TVR in the Business District was not an allowed use. This went through the Council. I was there. I remember when it went through and testimony that took place and at the time the idea was that they were looking for a way to relieve some of the vacation rental in the residential area and try to put it into the Business Commercial Districts and so there was much debate about the size of that. I recall that they were looking at potentially doing six. There was a discussion of doing 12 and potentially 20 and ultimately through the vetted process of the community coming out and talking and taking testimony it was decided by the Council to vote on this unanimously and it was for 12 rooms. You can go to the next slide. Here we have at the time the voting process and you can see, it's hard to see here but right here it says 12, 1 to 12 rooms. At that time it was voted 8 to 0. It was signed by Alan Arakawa two years ago and so this is essentially established in the Business Country Town the ability to have up to 12 TVR rooms.

What does TVR mean? A TVR by Code is a transient vacation rental use. It means occupancy of a dwelling or lodging unit by transients for any period of less than 180 days excluding bed and breakfast, homes and short-term rentals.

I wanted to just share with you the...if you look at this map, the red is the BCT properties in Paia. It's quite a handful meaning there's not that many. We are fortunate to have one of the properties in there and that's what we're here for. We are basically looking for our property which is located right here along Hana Highway to conform with the current BCT of 12 rooms. Next slide.

This is where we're located right in the heart of the town of Paia. You can see 93 Hana Highway. It's owned by Seashore Properties. The entire lot is 5,632 square feet. So the entire property that we're here considering today. That's the lot size, not the building size. Next slide. Here is the town of Paia in the vicinity. We may come back to me. Now this was David Spee's project that you all discussed where he's gonna be building the commercial. Here is where we are located in the town. The park is down here for the entrance. The parking as you come into the town of Paia you come in and park here. We're really right in the center of the town. Next slide.

Just wanna talk a little bit more about the building itself. It was in 1929, and actually back to 1927 it was a lodging house. And we're gonna show some additional slides just so that you can see that. The entire building that we're talking about today is 4,771 square feet. That's really the size of a large home I guess is what you might think. So these again are the five existing rooms which we preserved. We kept all of the interior walls, roof, exterior structure. We didn't change of it. We added this section right here which is again about a 1,000 square feet and we went through all the building permit process, all inspections, and this was signed off with all approvals about two years ago. Thank you. Next slide.

So again, it's a ...(inaudible)...square feet, four offices, an exterior staircase. Here's our building permit and again, SMA Minor Permits that were issued, we were issued one in 2010 and a new one in 2013. Just to go through the timeline. Just to give you a sense of the timing we bought the building back in 2003. We were actually...we bought it in 2001, but we were in escrow with Ms. Bersamin for a couple of years before it closed that was because she wanted to take time to close the escrow. We went through the process of getting permits back in 2008 and in fact, in 2009 we did some work on the bathrooms and renovations and all of our permits which we're gonna show in just a minute all show lodging. So basically every permit that we pulled from this time forward it all shows lodging component on the upstairs rooms. We then submitted in 2010 was for the SMA for the four offices. So where we are today almost in 2017, six years later from the time where we originally submitted the SMA for this 1,000 square foot addition six years later we're here with our presentation.

Just a couple of events here. We got approvals. Submitted for building permits. Went through the process. BCT zoning passed. We did originally build this with the intention of using it as office with the knowledge that if the BCT bill passed we would then convert that through a Special Use Permit and that's what we're here for today. So again, the construction of the offices were completed two years ago. We got our C.O. and we went then and submitted for the application and today we're giving that presentation.

I just wanted to focus in quickly on the first floor and what this looks like. You can see this was what our submittal was and this is what the first floor looked like and this is what we're proposing. There's no change in any of the downstairs area in terms of any building. There again is no construction that we're here for today. We're not looking for to do any construction whatsoever. We have three parking spaces currently and we will be going for six parking. You can actually park six cars there. We do have a variance application in to allow for the six

parking but technically you can park six cars here and right now our guests do pull in here and they do park here and we have onsite parking. We also have this patio area here and that will all stay in exactly the same.

As you can see from the existing and the proposed, we are going from existing lodging to proposed bedrooms but the configuration is exactly the same. We're doing no construction whatsoever. We are going to go from offices one, two, three, four to four additional bedrooms. So we have a total of nine and again, by the new BCT bill, you're allowed to have up to 12 so we will be lower than what is actually permitted under the new BCT Code.

These are our original building permit set that we submitted. They were approved by the Planning Department. It does show the patio area, the tree, all the landscape planting that was required. We had three parking spaces at that time that were required. So this was the original building permit set.

Here you can see that at the time of the approval we had five bedroom lodging units, a house, and over here these are all of the building permits from the DSA that were on this that showed basically this particular type of use. So again, I kinda wanna emphasize that from the beginning when we started this process with the four rooms, this was all approved. It showed the lobby. It showed the inn, it showed the bedroom and the lodging, all of it was on the building permit set and signed off by all of the departments.

This is the, again, the second floor and this is the set, exact set that was stamped, set to be kept on constructed. When we constructed the four offices, lodging, lodging, lodging, lodging. All on the upper second floor. Again, we're not changing any of that. This is all existing and there's no change. Back then we were looking at doing an addition we were considering doing seven rooms, we decided to only add four. We were thinking you know seven plus the existing five would be 12, ultimately we only added four. Back this is back in 2005, back when Aaron Shinmoto was with the Department and our interpretation was that the proposed use is permitted, I'm sorry, the existing second floor and the ground floor retail are determined to be permitted uses with non-conforming parking which we took to mean that there we was no additional parking required for what was existing. We were looking at doing four, seven new rooms which was going to require four parking spaces. Ultimately we did only four rooms which required three parking spaces.

This was the transmittal through ZAED. I'm not sure if you can read it very well, but basically it says, the lodging unit is part of the building and the retail is existing non-conforming parking because it was built in 1927. So the proposed new addition of office shall provide three parking stalls. This is the internal documents signed by Avelina. This basically established that there was no parking required for the building as it is and three for the additional four spaces, four rooms rather.

This is the other document that was part of the ZAED plan check. Basically again it shows 1927 lodging, five units, lodging hotel 1927, art gallery, Paia kitchen 640 square feet, it was determined zero parking, zero parking for the existing and three total parking spaces would be required for the new office addition. There was a roof deck that at the time we said would have no use and that was requiring zero for a total of three parking stalls.

Even though we had the parking the Planning Department determined that we would need some offsite parking which we agreed to. Here's a letter from the Planning Director so right down the street we have an additional parking lot. And here it is today. And many of you may have driven by. We're fortunate again to have parking, and again, I realize that parking is a huge thing and I hope to have more parking in the future but at the moment at least we have all of the parking that is required for our project and more. And so at the moment here is our offsite parking.

Just to give you a sense of the area, you know the uses. I mean there is a tattoo parlor across the street. There is multiple different uses in the town. Next slide. These are new buildings that have all gone up in the time that we were doing our...since we're actually done our application these have been constructed so the new building here, new building at the town center, new building next door. This particular building just completed right next door the tenants are all moving in. If you've driven by you remember the Chevron gas station here we are located next door to it, so this entire building has gone up right next to us. This will all be retail shops and we are located right back here.

In and around the surrounding areas there are quite a few vacation rentals. So there is quite a bit of activity certainly in terms of in the town and we'll get to another map, but what you have is the Kuau Inn, you have the Paia Surf which is just next door to us, you have the Nalu Kai Lodge Mama's Fish House, and the Paia Paradise right next door so these are all that we're not involved in vacation rentals or inns nearby to us.

This shows some of the lodging in the vicinity so you can see where we're located right here and these that you see that are marked in green are all permitted vacation rentals. So you can see where we are here. Right here is with Mrs. Aarona who is here today her property is located. So there's quite a few vacation rentals around in the area besides the Paia Inn.

This again is historical uses, we'll just go through it in terms of the building. Back in 1929 it was a fish market and office. 1945 stores. We actually have some maps that we're gonna look at in just a minute that shows some of the historic, but this is basically showing that throughout this period of time there were lodging components. I'm sure if you're familiar with the Sanborne maps but they basically deal with...they date back all the way pre to the building, but this one here is back to I believe 1914. So these maps from the Sanborne maps were done at a time to basically they were concerned about fire and they wanted to know where all the buildings were located and particularly anybody that was sleeping so they did all of this work. Go to the next one. Back in 1929 Sanborne map it shows lodging and rooms. So basically this building

was built with that intention back in 1927. And you know if you do a little bit of research you'll find that Paia actually, the town of Paia back in 20's and 30's was more bustling than it is today. Around the plantation era and the building of the mill there was quite a bit of activity and from what I understand there were more inns and theatres and different things. This building it appears to us was built as an inn back in 1927. So we have evidence of that here and we'll go through additional Sanborne maps that show a continued indication of that. So back, so 1975 it also shows lodging. 1990 it shows lodging.

So in terms of the definitions of what lodging means it's gone through different changes over new ordinances that have come into play so I just want to quickly go through what that is. And the definition of...in 1960, a lodging house or room house meant any building or group of buildings or portion of 20 or less sleeping. And in 1967, a lodging house also had another definition, can you go to the next slide, and then in...a lodging house in 1991 means a long-term residential use of any building. And the next one, and then of course in our process of getting agency comments, with this went out to all the agencies to determine whether or not they were behind the change of use from the four offices to four accommodations. Is there any way to get that a little larger? Maybe you can read it for me?

Unidentified individual: The property was traditionally used as a boarding house lodge and the proposed change of use does not affect the historic property.

Mr. Baskin: So the State of Hawaii determined from the State Historic Preservation that basically this had traditionally been used for lodging purposes and so this document from them in our view is very important and they had no concern because of the previous use.

I wanna talk a little bit about the impacts. So essentially it's already built. It's two years. It's well constructed. It's fully permitted and it has a C.O. We are looking at converting office use to accommodations and I can tell you that my options at this point are to rent out those rooms to let's say an attorney, let's say to an accounting office or to a real estate office and they could potentially have four people with desks in those rooms. They could have people coming every hour if it was an attorney or a therapist and those clients could be looking for parking, they could be...their staff could be looking for parking. You know basically four times potentially people coming every hour could be, you know, as much as eight people coming, 32 people a day coming to a...to those four rooms versus one person or two person sleeping in that room. And we think that that's quite a bit less impact, less impact in terms of traffic. Less impact in terms of staff. So the other thing that's interesting is that parking for offices is a higher amount than for lodging. So for offices we're required to have three parking and for four rooms we're required to have two parking. Less parking is required, therefore, less traffic and then there would be less people. Now some of the rooms would be vacant. They wouldn't always be booked. There would be some vacancy. So when you consider that we think that essentially you're gonna have less impact, less parking, less traffic circulation and of course there'll be more economic activity to the surrounding businesses. And what I mean by that is, people staying in the Paia Inn that are walking around, they're shopping in the shops, they're eating in

the restaurants, they're contributing to the local economy there and so we think that that's actually something that is needed. And we're proud of the fact that this will be in the Business District versus being in the residential area which is I think what it was intended when it passed by Council 8 – 0. Thank you.

Here's some statistics. Since we're opened in 2008, we've had over...approximately 15,000 people. We did a little research before today to figure out how many were local, local meaning coming from Lanai or Molokai or Oahu or Hana or Lahaina. I'm not sure if you have had friends or relatives stay with us but we have a lot of local people that come even from the island who want to experience Paia. They want to stay in the town and we're fortunate to have about 13 percent of our people staying with us. We are 92.5 percent full. That's really a function of how small we are and the location. We did a survey that we just...we sent out a copy to everyone, no it's there, can you distribute them. We sent out...we did a survey and we asked our guests if they would be in support of us adding additional rooms and more than 2,000 people responded to that in support of us adding some additional rooms and we're gonna distribute that report around to you.

What you're gonna get is a copy of our support letters from the local community, from the Paia Youth and Cultural Center to Terry McBarnette who has the property adjacent to us, to Flatbread Pizza, the Nagata Family who is directly across from us, and 50 other people who have written in in letters of support for the Paia Inn. Basically we're at least reaching out to quite a few of the people in the community. We definitely understand that there are some people that don't wanna see Paia change and I get that, and hopefully I can answer direct questions related to what we've done to reach out to the community and when we're done with the presentation.

Right now the Real Property Tax Assessment Office it taxes us at hotel rates. Just showing that just so that you see what the County has at least assessed our property at. We've been paying those hotel rates for the past several years.

So in all if we look at the positive community impacts we believe of course by having some additional rooms it's going to increase economic activity to the surrounding businesses. It will provide some affordable accommodations to the local and outer island visitors. We're less expensive than if you stay in a resort hotel. We are not a resort hotel and so we think that that provides. We of course donate to many things. We have a list of those pretty much every school on the island. If you contact the Paia Inn and you ask for a free night to be part of your silent auction. It's always a yes. So we encourage anybody that needs to or wants to do that to do that. We provide some needed transient accommodations in the Business District thereby relieving pressure on the residential neighborhoods to provide guestrooms. I think this last, this point is extremely important. What we're looking at today is that the Council passed a bill that essentially was to provide for accommodations in the Business District and that's exactly what we're doing. We provide for reliable long-term employment. We have over 35 people now working at the Paia Inn. Our location is ideal for international surf community and we support

lots of local vendors. This is just a small list of some of the people that we provide donations to on a regular basis. Next slide.

This is what the rooms, the common area upstairs look like. Next slide. This is what it looks like today. Ave Curiouti is an artist from Haiku and he's featured throughout the whole property. Next slide. These are what the rooms looked like before 2008 and this is what they look like now. Again, that's the one on the video where I was looking look that's the old room, that's what it looks like today.

So I've kept this a little bit brief today because I realize that there's a lot of people here to testify and I think we wanna hear from them and I just want you to know that we are very much in favor of trying to work with the community and the people around us and so you'll find that our entire staff is interested in doing that. Turn the lights off again. Sorry, there's a little bit more and I'll try to go through it quickly. Again, the office use on the left and right these are what the rooms look like. These are what the offices look like. They're basically small rooms of about 160 to 200 square feet. They're well-constructed. Stop there for just a minute and go to the patio one. I just wanna share with you because in the staff report there's some reference to the café and whether the Paia Inn Café you know existing. The photo on the left is straight out of our Urban Design Review Board presentation which I actually gave in this room myself back in 2010, six years ago. So that photo is there. At the time that we gave the presentation and the Urban Design Review Board voted unanimously in favor of the four-room addition at that time before we constructed it. That's the one on the right is the same it's exactly the same fence identical. We have not changed the fence. The tree on the left is a Hau tree and it's gotten a little bit bigger today on the right. The tables are the exact same tables. We actually stored those tables during construction, the teak tables, we brought them back out. So I just wanna emphasize that there's some questions about the café and the patio. Currently we have all of the permits, we have the signoff from the Health Department for what's referred to as the deli but the patio area has come into question as a result of that and whether or not we have enough parking. So in terms of trying to work with the Planning Department we have applied for an additional C.O. for just the patio area. We have all the C.O.s for the kitchen and the restaurant components but rather than debate whether or not we have sufficient parking we have gone ahead and filed for a...basically for a C. O. as well as BVA for the patio.

This is just one of our awards that we won from the Paia Main Street Association when we renovated the building back in 2010 both for interior and exterior. We're rated very high on Trip Advisor. We're actually the highest rated in all of Hawaii, all of the accommodations in terms of guests saying that they would come back and stay with us, 2012, 13, 14, 15, and 16 we've received a Certificate of Excellence. This really states a lot in terms of guest experience. If you look online we're rated extremely high. This is thankfully our guests that are doing reviews. Some of the reviews of course, great service, amazing staff, paradise found at the Paia Inn. There are hundreds and hundreds I believe of 700 reviews online that talk about the Paia Inn and it's a cute little place. You know most of our guests say that it's a hidden gem. It's small and they don't wanna stay in a resort. This is our staff. So that's pretty much my presentation.

I'm available to answer any questions. I just wanna emphasize a couple, a couple of things before closing out. We understand that Paia is changing and we're a part of that. We understand that the community is concerned and we want to address the question about whether or not in the community plan that a hotel resort development is permitted or allowed. And I think that some people have testified and you can see that in there. In fact, the Governor Neil Abercrombie is part of the testimony. I believe he's the second or third page in there. He has written in as well. I mean we think this is a small inn, we don't it's a hotel resort development. The whole building is a 5,000 sum square foot lot. It's 4,700 square feet. Total of the building it's gonna be nine rooms. It's a very small inn and we're proud of the construction that we have done. Next year this building will be 90 years old and the great thing about this is that we have basically preserved a building that was built for that purpose the purpose of being an inn. So it was built long before the community plan in 1995 was written and of course we all that that's 21 years old and that that community plan at this point should have been updated at a minimum of two times and it has not. So my view on that is that this property was built for the purpose before that. It's had that historic use. The state has determined that as well and we are asking today to be allowed to convert four offices which in our opinion would have much greater impact if it were being used as offices than it would be used as accommodations. So the five rooms that are existing and the four rooms that we will be adding, we are asking for your approval to allow for us to have a total of nine rooms. And the bill which passed long after the community plan and was vetted through the community that's what was passed by the Council and signed by the Mayor. Thank you.

Chair Tsai: Thank you.

a) Public Hearing

The following testimony was received at the beginning of the meeting:

Mr. Mark Sheehan: Good morning Chair and Commissioners. My name is Mark Sheehan. I'm in favor of granting this Special Use Permit. By way of disclosure I had a real estate office in Makawao for 20 years and office in Paia. While I was in the Makawao office there was a major remodel of that entire complex up there on the northwest corner, northeast corner and no citations were, no violations were implemented or given and so I think this way in which the planning commission has handled this whole matter is really suspect. It's been very arbitrary, capricious and sort been like a vendetta the way in which it's been handled. I think the permitting process has been dragged out so that the permits have not been handled in a timely fashion and I think that this particular inn which is not a hotel, it's an inn, it's a small currently five units and they're asking for four more units that have already been permitted as offices, I think the impact would be much milder if those rooms which are total just over a 1,000 square feet were allowed to be part of the inn and occupied by guests who are there rather than offices that would have much higher traffic. I think the enforcement has been very selective and I think the fines have been excessive. Nobody has ever been fined \$500,000. In fact there's been more fines and citations accumulated in this particular property than in all the resorts from

Kapalua to Makena and I think that says something about the approach of the Planning Department that has...and how they've approached this. I think that this particular...Mr. Baskin has been very patient. Many other people in his situation would have sold out and left town but as somebody who's from this island he's been very persistent in trying to get permits for his process. Currently I read in the paper that were 30 violations and I actually went to the premises to look at what these violations were, many of them were extremely minor and trivial presentations. So I'm just speaking in favor of granting the special use permit. Thank you.

Chair Tsai: Thank you. Nicole Hokoana?

Ms. Hokoana: I'll wait.

Chair Tsai: Commissioner Hedani?

Mr. Hedani: Is there a reason why the podium is set up so that his back is facing commissioners?

Chair Tsai: Well, we can turn it.

Mr. Hedani: Is that an Akaku thing or...?

Mr. Wollenhaupt: Actually the reason was that this seemed to be a little bit more user friendly because more people, the audience can then have a sight line and the commissioners could have a sight line. So there was discussion about why this might be more user friendly.

Chair Tsai: Can we just turn it slightly so that they're actually facing us, the podium? Thank you. That will be good. Yeah, that's better. Thank you.

Ms. Tiare Lawrence: Aloha Members. Just a quick question, if I'm talking on behalf of two agenda items should I wait for the next one or just...it's okay to just?

Chair Tsai: You can go now.

Ms. Lawrence: Okay. Well, I wanted to testify on C-2 today in support of the bypass. I, as many of you know we were actively involved in stopping the seawalls from happening in Olowalu and I believe if this doesn't push forward that we could possibly lose those funds and it would be a big blow. I think the West Maui Greenway is a beautiful that can be dealt with, but we really need this to move forward so that we're not waiting another four years or delaying any project because as Mark had mentioned there's multiple areas on Honoapiilani Highway that is falling into the ocean and we desperately need to get this going and implement the Pali to Puamana Parkway. It's 20 years behind, would open up vast amount of park space for our community and I believe with the P to P Plan that we can implement this beautiful greenway as well with all of this open park space that comes available. So I wanted to testify on behalf of that.

And then I also wanted to testify on C-3 in denial of the Special Use Permit for many reasons and I think many of you know but I just kinda wanted to bring this to attention the sales brochure that this was for the Paia Inn and we can pass it around, but it looks to me as I go through it that he had intended to build 50 rooms and as the community...in the Haiku Community Plan it clearly states that the community did not want a TVR, any TVR for that matter. So I wanna request that you deny the Special Use Permit especially since he owes a \$190,000 to the County and I think it be...I mean I think the media would just have a field day with this if you guys give it to him today and I'd hate for this body to be blasted by the media for allowing somebody who owes that much money more permits. So I wanna request that you deny his permit and I'd be happy to, if you wanna see his sale brochure?

Chair Tsai: We have that already.

Ms. Lawrence: Okay, so as you can see the plan was to build more TVR units in Paia and I just you know, the community is here today and I'm sure a lot of them are gonna say the same things that they do not want more TVR in Paia. I was at Auntie Mopsy's house a few weeks ago and I can tell you that you know these guys come they just wanna party, they're traveling, they're tourists and all these TVRs surrounding people's homes and it's a nuisance you know. These people partying till late at night and I was there sitting down, talking story with her and next door hear all these people partying next door and I can understand why the community is frustrated and irritated with the amount of TVR in Paia. So I just request that you deny the Special Use Permit today. Mahalo.

Chair Tsai: Fabian Penty?

Mr. Fabian Penty: Good morning everybody. My name is Fabian. I work at the Paia Inn. I've been working there for since they opened pretty much eight years and I'm just here to say that we are always really concerned. I do all the maintenance there.

Mr. Tabisola: Could you adjust the mic?

Mr. Penty: Hello?

Mr. Tabisola: Thank you.

Mr. Penty: Yeah, you're welcome. So I do all the maintenance there and I know we are always really concerned about all the needs of our neighbors and we're trying please them and you know to do what is right. And on the other hand I do the night manager and I'm aware that there was some issues at night with our neighbors but that was like maybe five times in eight years. And I never receive a phone call from Ms. Mopsy our neighbor. But I would be more than happy if I hear from any of our neighbors saying that there's a party to go over there and shut it down because we just want you know everybody to be happy. So that's all I wanted to say. Thank you to everyone.

Chair Tsai: Thank you

Chair Tsai: Okay is there anyone else wish to testify at this point if you haven't signed up? Yeah, you may.

Ms. Gloria Madden: Good morning, my name is Gloria Madden. I am actually for the bypass and I think that the bypass is a wonderful thing for our community. And adding a greenway into the bypass for Lahaina is...I just think is a very good way to foresee the future.

And this is what I think Paia needs as well. You need to foresee the future of Paia and adding a special permit for a gentleman who does owe already \$190,000 to the community and I'm not aware of him adding three parking stalls for his café because we do need more parking in Paia. Paia is getting built up at a very fast pace. I live in Paia and I have to leave 20 to 30 minutes early to get through traffic. Adding more people to our community will add more traffic and more needs around our community which is growing at an alarming rate. With all of the vast property going up for sale on the north shore we have to be protecting our small communities and it's very important to foresee the future because being born and raised here I've seen the future grow very fast. Haiku School has 400 students. Paia School needs more space. Adding these little inns special use permits will just allow more people to take advantage of our community and living in Paia I understand the ohana, the factor that people watch out for each other. They are born and raised there. I'm the only renter on my street. I appreciate that. And people watch out for one and other. When we have many people in our community who do not live here, they do not care about it. They do not portray aloha. I walk down the street, I wanna smile, I wanna wave, people growl at me and say this is my parking spot. Where are we supposed to park? When you add too many visitors in a local community you add a lot of rage and anger to people who already feel betrayed. Please think about this before you give any special permits to people who already have mistreated the permits they've been given. Thank you very much.

Ms. Canto: Chair?

Chair Tsai: Hold on a second, ma'am. We have a question from the Commission. Commissioner Canto?

Ms. Canto: So I need to be clear. So you are not in support of C-3?

Ms. Madden: I am not in support. No. Thank you very much. But I am in support in the bypass, please.

Ms. Canto: Right, right. Thank you.

Ms. Madden: Thank you.

Mr. Fabio Valedio: Good morning, my name is Fabio Valedio and I own a small gardening business. I've been working for Mr. Michael Baskin for over 10 years and I've been working at

the Paia Inn for over eight years. I'm just here to say that we've always been nice to all the neighbors and all the staff at the Paia Inn is very nice with you know customers, with our neighbors. I just wanna make sure to you know say that for the past few years Mr. Michael Baskin sent me and my crew to the neighbor property making sure that we clean the mess coming from our side so we would go there every Wednesday raking leaves making sure it's clean. I was reading on the you know paper that the article was say that staff members was sitting on the you know property of the you know neighbors and I just wanna make sure to say that me and my crew members if we go to the neighbors we just go for work, we don't sit around...(inaudible)...a job, so we work. Yes, and we always happy to you know help any of the requests from the neighbors and we will continue to do so if they ask us to. That's about it. Thank you for your time.

Chair Tsai: Thank you. Hold on. Commissioner Higashi?

Mr. Higashi: Yes, I have a question. You mentioned that you work at Paia Inn for 10 years?

Mr. Valedio: Eight years, but I've been working for Mr. Michael Baskin for ten years.

Mr. Higashi: For ten years?

Mr. Valedio: Yes.

Mr. Higashi: As what?

Mr. Valedio: Landscaping.

Mr. Higashi: Landscaping.

Mr. Valedio: I do the ground work.

Mr. Higashi: Oh, so you're in landscaping.

Mr. Valedio: Yeah.

Mr. Higashi: So you don't know anything about the rental of the rooms?

Mr. Valedio: No, I'm just a gardener.

Mr. Higashi: Okay, thank you.

Mr. Valedio: I do the gardening work and I'm gonna go work now. Thank you so much.

Chair Tsai: Thank you. So Hiilei Kolt? Okay, Rory Frampton? Oh, are you Hiilei? Okay, come forward.

Ms. Hiilei Aiwohi-Kolt: Hi so I'm against.

Chair Tsai: Can you speak to the mic please Hiilei?

Ms. Aiwohi-Kolt: Oh sorry. I'm against—

Chair Tsai: And identify yourself?

Ms. Aiwohi-Kolt: I'm Hiilei Aiwohi-Kolt. I'm against Mr. Baskin asking for special permits. I just think allowing him when he already owes this much money just shows that like...it just sets precedent that you can just come here to make money because that doesn't help the community at all. So it's like I have family in Paia already and it just shows that like you're allowing people from other places to come here and the person who's like providing this facility doesn't even take care of where he lives and how he's making a profit. And it just shows that like disregard for anyone over here and I'm just like...I just think it's kind of insulting for our community and like as a Hawaiian to see support for this action. And yeah, so I'm against that. Thank you.

Chair Tsai: Thank you. Christine Borge? And also can I ask everyone to please speak to the mic when you come up. Thank you.

Ms. Christine Borge: Hello, my name is Christine Borge. I was born and raised on Maui and I was a merchant in Paia Town for 30 years. And one of the buildings that I rented for 10 years was the building where the Paia Inn is. I rented it from Betty Bersamin through Commercial Properties of Maui. I also had a 10-year and 10-month extension because here was a problem getting a Certificate of Occupancy signed for that building because the building was very old and you could poke your finger through the wall and it was all termite ridden. The second floor you couldn't live up there and it's also stated in my lease if you'd like to see the copy that it is in unusable condition. The building was not occupied for three years. It was empty. Bugs were living here. So I believe there's a law that if you have a building that's empty and not used for more than a year you have to obtain a new set of Certificate of Occupancy. So I had to put a new roof on the building because it leaked really bad. I never used the second floor for any rental. Let me repeat, the second floor was always empty. I stored things that imported from Bali. We never rented one room for one night to anyone. And I just wanna say if there are any pictures that say that I rented it prior they're a lie. I have gone to court with Mr. Baskin. He will lie because he loves money more than he loves life or these local people here. That's their community, support them. He's already got millions. Why do you need to support him? He lies, he cheats, he steals to make a dollar and he hurt me when I was there. He took all of my storage out from the second store, brought it down, threw it away, hired some guy called Carlos who was not a licensed contractor to illegally turn that into a hotel. After the fact he goes and gets permits. What does that say about doing business on Maui? These are Native Hawaii people, they're the ones that should count. They've been trashed for too long. Thank you.

Chair Tsai: Hold on a second Christine. We have a question for you. Commissioner Carnicelli?

Mr. Carnicelli: Thank you, Chair. Thank you, Christine. Chair I would just like a copy of the lease that she referenced to be put into the record.

Ms. Borge: Here is it. I could read you the paragraph too if you want. Lessee accepts the premise as a—

Chair Tsai: We just need a copy. That's fine. Thank you. Thanks, Christine. We'll give it back to you. We're gonna have copied. Thank you.

This concludes the testimony received at the beginning of the meeting.

Chair Tsai: At this point we're gonna open the floor for public testimony. I have some signed up from this morning. Francine Aarona? Please identify yourself for the record and you have three minutes.

Ms. Francine Aarona: Let's see, because I'm directly involved in this situation I would like to ask the Commission if they would allow me at least two more minutes just to give my profile of how I met Mr. Baskin. We met each other when he bought the parcel 23 Nalu. And his big intention was to make this parcel a place for his parents to move because they lived up at Ulupalakua not Kuau, Ulupalakua so that it would be warm for them. He gave all this big sign, song, dance. Well, two weeks after that I meet a visitor. It's a rental. So the saga begins from that point on, his lies, everything. I sat there and I listened to everything. Usually you get nervous when you get up to speak to somebody but my stomach was turning. It was turning because of things that I've...I was listening to.

You know my grandmother and my mother taught me something. When you're heavy your heart is heavy. You start your day off. I opened the bible this morning and it took me to Isaiah 40:1-31 and that set the tone today for December 13th, 13th is not a lucky number, but it's lucky for me because God said I go and comfort the people. So that's what's in Isaiah. Read it sometimes it might work for you too.

But for you is an application for Special Use Permit submitted by Mr. Michael Baskin. Unfortunately he doesn't show you the videos that incorporate the three vacation rentals. He is the owner for Paia Inn and three vacation rentals that tie in to the Inn's operation. If you view the videos on the media you can see that you have it in front of you. I urge the Committee to deny this application. It is against the community plan that says no hotels from Paia-Haiku District. No hotels. No resort. Now if he wanted to do something about it then he should have gone and ask for an amendment to the community plan. That's where it all sits, community plan. He has operated illegally for more than four years and has intimidated people. Just like how you heard this morning, intimidated people in the process.

He continues to refer to the Inn at being historical and the sites around it. Here, 1930 fire. Is this historical? This building is down. There's no historical about Paia Inn. We've lost that historical building. It bears no historical feature whatsoever. It was rebuilt yes.

Chair Tsai: Francine, will you please conclude?

Ms. Aarona: That thing that hurt me the most, I'm sorry, the thing that hurt me the most are the videos on the web that refers to the beach as Paia Inn's private beach. Not even we, how live on A'e Lane refers to the beach as ours and only ours. We are blessed to have it as our backyard. Baby Pond by bomb shelter where we release the pikos of our babies. We have scattered ashes of our family members, our cousins who continue to watch over us. They swim out there and they watch over us. How dare, how dare you call it your private beach. Please deny this request and allow the people of Paia to restore its town to its simplicity. Our visitors come to our town for that specific reason. Help us protect Paia. No hotels. This says, e malama ke one hanau o na kupuna, care for our birthrights of our ancestors. So think about it. I thank you so much.

Chair Tsai: Thank you. Ma'am, Francine we have a question from the Commissioner.

Mr. Carnicelli: Mr. Chair, I'm just requesting that that picture that she showed be entered into the record please.

Ms. Aarona: I also have this book of violations from the County if you want to review.

Chair Tsai: Okay, I'll allow that. Okay.

Ms. Aarona: You must...(inaudible)... Yes.

Chair Tsai: Give it Kurt. Can he make a copy or just to distribute? Commissioner Hedani?

Mr. Hedani: Could we have the book of violations circulated please?

Ms. Aarona: Sure.

Chair Tsai: Thank you.

Ms. Aarona: This is not like what you folks see. This is from the community members, the people that live—

Chair Tsai: Commissioner Robinson?

Mr. Robinson: Aloha.

Ms. Aarona: Aloha.

Mr. Robinson: Could you expand on your contact with the applicant please?

Ms. Aarona: He's very smooth talker, very nice. He wanted to meet with me one day and my husband told me because I'm a Christian that I should meet with him. So he and his girlfriend came over brought a little cake. I could not, I could not be a hypocrite because it's like going back to the Pilgrim days where the Indians came and how the Indians say you talk with a crooked tongue. That's what he does. He butters you up. He makes you feel good. He gives a good presentation. That's a beautiful presentation, but he failed to include all the three vacation rentals that these visitors, that's the beauty, the response that you get in the papers that they love this place, that's what they're remarking on not the Paia Inn. If you ever came and look at the old Chong Kee house he redid it, 40 A`e where my cousins lived, 23 Nalu, in the paper he talks about the beautiful trees and everything that surround the place that look like Bali. This is not Bali, this is Hawaii, this is Paia. We wanna hang onto. It hurt when I saw the video. He took the video off, but we got a picture of it. Of his private beach. That hurt, that really hurt. So my encounter with him, the gentleman this morning, bless his heart he's the landscaper this morning. We are very dear friends. He comes and he does the best he can. Every time I tell him when is he gonna cut down all those palms cause they touch my roof of the house? Well November 28th I have pictures he didn't do anything up until then. I come home from my vacation two days ago, and my husband said, mom look they're all cut, they're all nice, 40 A`e. What he supposed to restore the garage in the settlement oh, it's all broken down. All of a sudden he's doing all the things that he's supposed to do in the settlement. A`ole, no can, no can. This is very disheartening for us. Unfortunately, people didn't understand on the testimonies this morning because they had to go back to work but there were many of us this morning as you could see. But he talks smart, he does things good, he butters you up, and I can tell you we protested the building. He invited the community to come to his open house for the rooms that he built. We came from 4:00 to 6:00. We came, all my family, friends, we came with signs, no hotels. We chanted no hotels. Protect Paia, keep Paia, Paia.

Chair Tsai: Thank you.

Ms. Aarona: He said Mopsy I came. Yes, I came, but to oppose you're trying to do. So...

Chair Tsai: Thank you.

Ms. Aarona: Thank you.

Chair Tsai: Moses Kane? Please identify yourself again for the record.

Mr. Moses Kane: My name is Mose Kane, Jr. Good afternoon Commissioners. I'm kind of at...Francine is my cousin and I just wanna say mahalo to her. I've never testified at all in any

meetings, all and the DOI and everything, Hawaiian Nation, I've never testified, but when she asked me to testify today, I said yes because Paia like you mentioned it will never be the same but what we can do is make it better. And what is better? I don't know the answer. The community is what we should listen to, what their concerns are, and that's what my testimony is for today is to please deny the application from Mr. Baskin. Thank you.

Chair Tsai: Thank you. Nicole Hokoana?

Ms. Nicole Hokoana: Aloha, mahalo Council Members for allowing testimony. I am here to request that you deny the Special Use Permit. My name is Nicole Hokoana. I was raised in Paia. I have ohana living in Kuau and the iwi of my kupuna are buried oceanfront in Paia. Like my tutus before me I am a member of the Paia Hawaiian Protestant Church. Born and raised on Maui tourism has always been a part of our lives. I never questioned the role of tourism or its importance in our economy. It was only through age and traveling that I came to understand the impact tourism has upon us. Whether fall, winter, summer, spring tourist never take a break from vacationing on Maui. This affects us. We don't have the space to practice our culture and evolve our identity as a people. We have respite from visitors. But shouldn't our homes, our towns, our communities be the place where we have reprieve from hosting, accommodating and making room for guests from abroad. We live on the north shore. We live in Paia because it's a place for us, for us the people of this aina to live, to raise our children, to be. Tourism is flourishing on Maui and it has its places to be Kihei, Lahaina, Kaanapali, Wailea, Makena all of the south and west shores have been designated for hotel industry much to the heartbreak of local people. I strongly oppose any expansion of the hotel industry to the north shore.

Baskin's aggressive acquisitions conflicts with the character of our people, the intent of the properties he acquires and it upsets the quality of life for residents of the north shore. The Paia Inn is nothing special, I mean, think of the all the five-star properties and accommodations visitors can have when they come to Maui. The unique feature of the hotel is that it's the only hotel in Paia. Therefore what Baskin offers his guests is Paia Town itself. He said it himself, it's a gem because nobody is there. These tourists feel special because they're the ones that are allowed to stay in this place, right? He offers our town, our beaches, our community for his gain. Paia is not his to offer. And it is the kuleana of this Council to intercede on our behalf. Baskin has disregarded the County through his operations and he disrespects his neighbors by filling our homes with tourists rather than families. His operation contributes to a degradation of the town's sense of community and he causes a deep sadness that Paia Town is no longer a place for us. If Baskin wants to operate a hotel on Maui there's a plan and there's a community for that—

Ms. Takayama-Corden: Three minutes.

Ms. Hokoana: -- refer him to Makena, Wailea, Kihei, Lahaina or Kaanapali instead. In Paia he is a successful businessman who's been able to bully his way to the top. But if he is truly the savvy entrepreneur who offers a product let him take his in to the south and west shores where hotel operations are both legal and welcomed. Let's see how well he prospers when his

competition are actual hotels not local families. I urge you to protect the residents of the north shore from his ambitions, defend the community plan, and insulate the local spaces we retreat to and call home. Hotels, TVRs and his vision of development are not welcome in Paia or anywhere on the north shore.

And my response to his presentation is this for me, his presentation was enough misinformation to distract this commission from its purpose. I felt his presentation seemed so benign. It's just a conversion of office spaces. There's no construction taking place. My question is when does it end? How many years before Baskin's next special use permit? The truth is that it won't. He'll continue to acquire and build and come in for permits to build, to pave, to expand. It's not a hotel and resort not yet, but he is in escrow for 340 acres across the street.

Chair Tsai: Please conclude.

Ms. Hokoana: In response to comparative impacts seriously Michael what business would rent your office spaces above the Paia Inn? Be realistic.

Chair Tsai: Thank you Nicole.

Ms. Hokoana: Thank you.

Chair Tsai: Any questions? Martin Brass?

Mr. Martin Brass: Good afternoon Chair Tsai and Commission Members. Before I say my comments did everyone get a chance to get this handout I dropped off this morning?

Chair Tsai: Yes.

Mr. Brass: My name is Martin Brass. I'm testifying today in opposition to the Special Use Permit for the Paia Inn. For the past 11 years I've been an owners of the building adjacent to the Paia Inn as well as owner of the Flatbread Restaurant. I currently am the President of the Paia Town Association for which organization I am not speaking for today. My comments are personal and based on my long and lengthy experience with Mr. Baskin, his tactics and, and being his neighbor.

You know I'm a simple person. I deal with facts. So I've seen the facts unfold over the years and I've seen how Mr. Baskin has presented them. This is a very smooth presentation. When you start pushing your finger on it it becomes very soft. There's a history and a pattern of methodical and consistence, manipulation, disregard of the County Code, the violations and the rules in which the rest of the community follow and Mr. Baskin has not. 2005 he paid a \$50 thousand fine for an illegal seawall. 2010 he paid a \$9 thousand fine for numerous interior and exterior building violations of 93 Hana Highway which were the improvements that he was showing in his video. That building was the Maui Home Grown Market which was a one-room

retail space that sold Hawaiianna memorabilia. Chris Borge testified this morning that that's all it was. Her lease prevented her from occupying anything upstairs. For 10 years upstairs was vacant. There is no historic use. There is no lodging. There is no vacation rentals upstairs. The only historic use that Michael Baskin has paid attention to is the shoreline access that he blocked from all these community members that have lived and grown up in Paia.

The facts are that Paia Inn is not legal and has never been legal. There is no grandfathered status. There is no C.O. It does not follow the community plan. And the facts are that the Paia Inn in is not a five-room operation looking for four offices to be converted. How do you have 15,000 bookings since 2008 with a five-day average stay with five rooms? How do you have 35 employees staffing five rooms? How does a landscaper landscape 93 Hana Highway here when there is no landscaping other than potted plants? His operation are the three short-term rental houses that are 40 A`e, 95B Hana, 23 Nalu Place and to Governor Abercrombie's testimony 65 Hana Highway is on his website and is listed as a wedding venue. They are interlinked. The whole thing has been presented as one package. Perhaps in form they're different entities, but in function he owns and controls every single property. He speaks for it. He's on the trust agreements. He's on the LLC agreements, and I would ask the banks who's on the mortgage and what has cross...(inaudible)... the financing for these properties. He is in control. This is what runs the business.

This is not a five-room TVR. It's not a nine-room TVR. Today it's 16 rooms. It does not qualify for a Special Use Permit no matter what you say or hear when you look through all the clout and understand the truth of the scope of this operation it does not qualify for a special use permit.

Ms. Takayama-Corden: Three minutes.

Mr. Brass: His plan is to build, if you look at this, 50 rooms across four different properties. He has identified 50 transient vacation rentals. 2014, the Planning Department went and obtained a District Court order to shut down his short-term rental housing. He went to the State Supreme Court and obtained a stay for due process. Where's the due process for the community? Due process for the community is community plan amendment. You wanna introduce hotels into the community then let the community discuss it, let them debate it, let them have the public hearings, the public meetings, and let County Council make the decision. With all due respect, this is not the forum for you to decide. I don't believe you have the authority to issue a special use permit for what he's proposing. The scope of his operation goes far beyond what was presented. This is a hotel in every aspect, the way it's publicly presented, the way it's marketed, the way it's listed on the website. The only person that says it's not is Michael Baskin. Everyone else in the public from TripAdvisor to all the PR that's been developed—

Ms. Takayama-Corden: Four minutes.

Mr. Brass: --looks at it as one single operation.

Chair Tsai: Thank you Marty.

Mr. Brass: Thank you for your time and consideration.

Chair Tsai: Bruce U`u?

Mr. Bruce U`u: Good morning everyone. Good afternoon everyone. Chair, I was here from the morning, e kala mai. Lucky had lunch. First of all, thank you guys for serving on such a prestigious board and I glad we got a stop here to wala`au little bit. My name is Bruce U`u. I`m a life-long resident of Paia. Been there for generations. My mom is here. All blood. I sat on the planning commission.

Special use permit we granted some, me and Wayne Hedani never to a hotel. Never to a hotel. It was never made for hotel. It says refer to the community plan when you read the special use permits. Refer the community plan which is us the community. The lifers of Paia. Long before the business leave or get burnt, one other owner come in regardless who you are we still here.

Under the special use permit compliance require the special use permit shall comply with the provisions of this section and the policies and objectives of the General Plan and community plans of the County. That`s what states in the special use permit. Criteria for the permit is again subject to the community plan. Under the community plan which I have in front of me under land use, under objectives and policies, I going skip to No. 3 for time constraints, Prohibit hotel resort development within the region. Under 13, Limit visitor accommodation to owner-occupied bed and breakfast establishments that are residential in both scale and character, residential in both scale and character, and any proposed bed and breakfasts should not be situated near the shoreline as to avoid the proliferation of this use and subsequent change in the character of this region`s coast. Hence the community plan. Not the Business Country Town which is business. The business people some of them wrote in support not the community. The community should supersede the BCT. There is a reason. This is not the venue. When I sat there as a planning commissioner years ago, I would always look at if it lined up with what they asking for. The second thing I would base `um on is character. What type of individual is requesting a special use permit? They call `um special for a reason. Special use not anybody can use `um, you gotta be special. So you gotta meet the criteria of special. The definition is the mental or moral qualities distinctive to an individual. Again, the mental or moral qualities distinctive to an individual. Does this person meet this critiera? That`s you guys for decide. You guys should know the answer. But don`t put the burden on our community is what I`m asking. We going have to live with it. We`ve been dealing with this for years. The first time we came before us I was on the commission in 2005 that fine. That was the first fine, violation ever for an SMA. I was a part of this commission. This will set precedence planning commissioners. If it gets approved today this will set precedence for every other person coming up, coming together, grouping TVRs, bundling them and saying hey, give me the okay. You guys going set the precedence for anybody else coming after him.

Ms. Takayama-Corden: Three minutes.

Chair Tsai: Thank you, Bruce.

Mr. U`u: In closing, I wish that you deny the intervention so Aunty no need pay. It's costly and please deny the application. Thank you for your time. Aloha.

Chair Tsai: Commissioner Robinson?

Mr. Robinson: Bruce?

Mr. U`u: Yes, sorry.

Mr. Robinson: No run.

Mr. U`u: Almost dinner, ...(inaudible)...

Mr. Robinson: I know. Bruce, I'm asking you this because you sat where I sit.

Mr. U`u: Okay.

Mr. Robinson: And the question I have is when you were on this commission did you grant any of these STRHs or...

Mr. U`u: Brah, a lotta acronyms. No we did not. Nothing...what the funny part is two-fold, no and I've never been at a community meeting about any of this what's upcoming. So both as a resident, no. As a commissioner, no.

Mr. Robinson: Thank you, Bruce.

Mr. U`u: You're welcome.

Chair Tsai: Thank you. And just to note for all the testifiers, we got still almost 10 people to go through here. I understand this is a very emotional topic. I ask everyone to be courteous for everyone else's time and keeping to three minutes. Thank you. Cody Wallace.

Mr. Cody Wallace: Hi, my name is Cody Wallace and thank you for having us. It's a great platform for I think the community. And I'm a...I was born and raised in Paia. My family still lives in Paia. You know so Paia is a very special place to us. So I strongly ask that you deny this special use permit for his TVR. You know, first off, he has unpaid fines. It was in the newspaper the other day. We all saw that. You know and what he's proposing in his TVR like everyone's been saying the Paia-Haiku Community Plan already says that that's illegal. There's

another thing. And he has what he calls a deli, but if you go, and it's basically a restaurant which is also an illegal operation on his property. So you know he's got of activities going on that are illegal and he was so proud about his building permits that he had, but if you look it up a lot of those permits are after the fact. So just in closing I would strongly recommend that you deny the special use application. Thank you.

Chair Tsai: Thank you. Sara Sparks?

Ms. Sara Sparks: Aloha Chair Tsai and Commission Members. I appreciate your—

Unidentified Speaker: Cannot hear you.

Ms. Sparks: Oh, I'm sorry. I appreciate your service to our community. My name is Sara Sparks and I'm Michael Baskin's wife and together we operate the Paia Inn while raising our two children. Over the past few years we've endured difficulties with the Maui Planning Department and have experienced firsthand how discretion by the Department can be arbitrary can capricious. We've been told that permits which were issued previously to us were no longer considered to be acceptable and that the Director was choosing to revoke them. We have been issued permits with certain requirements and then at the moment before issuance of a Certificate of Occupancy additional requirements were then suddenly required. We've been told by many employees of the Planning Department and other departments that they could easily process our permit but had been told not to or they didn't know why the County was sending them out for another inspection because this was already approved or they're not sure why the County was treating us this way. We've also been told by professionals such as architects, engineers, contractors, and permit expeditors that they have never seen anyone else go through this kind of thing with the County or that the Planning Department was being unusually hard on us. We've been blamed for blatant disregard of the permit process, however while we've drudging through it ironically we have seen blatant disregard for the permitting process by others in Paia go completely ignored by the entire County system even when it's brought to their attention. Still we work diligently to protect and preserve the Paia Inn because we care about this town, its history and its future as well as the community surrounding it.

To add fuel the seemingly never ending fire recently this small group has begun using social media to gain support against the Paia Inn and us personally. I have followed many of the posts and have watched how false and misleading information have been posted, liked and shared. The power of social media is real and is it very scary to see how misinformation is spread and believed creating anger and hatred. I believe this is the reason there is so many people here today opposing this matter. I think if people actually take the time to look at the reality of this special building, this special small run family business and the role it plays in our special town and the negligible impact of this small, four-room change of use they will realize that they are fighting against something really great.

Paia Inn has preserved a small part of the history of our plantation town. We have provided a place for visitors and residents to stay. We help support the other local small businesses in town and we donate to countless community groups and we hope to endure this madness so that the Paia Inn building doesn't become another t-shirt shop.

Members of the Commission I sincerely hope that you see the value that the Paia Inn gives to the character of our town and I hope that you vote to approve this four-room change of use. Mahalo time for your time and thoughtful consideration.

Chair Tsai: Thank you. Rick Brandt? Followed by Kimberly Chong Kee.

Mr. Rick Brandt: I just wanted to give I guess everybody a little bit of info. The Paia Inn has been in controversy with permit issues and I wanted to set the record straight. I've been able to work on that project helping remodel start to finish as well as the neighbor, Flatbread I worked on that project too, start to finish. And the Paia Inn has gone through everything that the County permit everything required, they have done that. Every change that's been come up six months after it's been approved they've done that. They've bent over backwards in my opinion to fulfill all these requirements that they keep changing on them. And so much to say, I'm a little bit nervous here. I'm just glad that they actually did the proper way to do all these permit and do all the issues which I kept telling them to do everything right, you don't have any worries. Whereas the neighbors, owner of Flatbread Pizza, they've always said, oh we're gonna get after-the-fact permits they never have. They've changed their bar from one side to the other, plumbing problems, but never had. They've added bathrooms. They never filed for after-the-fact permits. They've actually redone the whole thing and never filed. You know, is there special interests or is there a reason why one neighbor gets violation after violation and then does it? And then the other one doesn't even get any violations. And then a incident was the Plumbing Department came by and said there was no violations at Flatbread and the question was well the bar was on this side and they reopened it's on the other side, there was work and they said no, there wasn't. And I'm here to say there was 'cause I actually shifted it over. So I can testify to that. And the question is why is there favoritism for one neighbor over the other? And I'm just saying Paia Inn has done everything it's been required and on the other side there hasn't been done anything and there hasn't even been any response from the community and the organizations responsible for violations. There's been no response to the neighbor, but on Paia Inn they just look at 'em every which way. Same thing on the neighbor on the other side, there's a couple issues, not going to bring that up. But this guy has done everything as far as permits required and you know what, in my point of view he deserves a chance because he's done everything that the community and the...everybody asked him to do, he's done it whether it's change after they got approval and six months later and they gotta change it, they do it. So you know what I'm glad he got after-the-fact permits because you know what these guys most of them don't even do that and he's done everything he can to do that. And if anybody has any questions I can testify that building it from start to finish the remodel and yeah, you can ask me anything you want about that and that's about it.

Chair Tsai: Thank you.

Ms. Canto: Chair?

Chair Tsai: Commissioner Canto has a question.

Ms. Canto: I have a comment for you. We're not here to discuss Flatbread Pizza or any other business you know in parameter to Paia Inn.

Mr. Brant: Sure it was brought up with the other guys. They brought up their character on that.

Ms. Canto: I want you to understand that. Just a moment, what capacity were you in when you assisted Mr. Baskin? Are you the contractor?

Mr. Brant: No, I was just a laborer.

Ms. Canto: You're a laborer?

Mr. Brant: But I was there from start to finish on the remodel.

Ms. Canto: Okay, fine. Thank you.

Chair Tsai: Okay, thank you, Rick. Kimberly Chong Kee? Followed by Allan Tabisola?

Mr. Tabisola: Tabisola. Ta bi so la.

Chair Tsai: Tabisola.

Ms. Kimberly Chong Kee: Good afternoon. My name is Kimberly Chong Kee. I was born and raised in Paia. Our address was 95B Hana Highway. I'm the youngest of five children. My dad, oh gosh, basically the reason I'm here is there's been a lot of changes going on. You know the sad thing about is my dad was...he's 86 now. He was born and raised, youngest of 11 kids at the same property and you know it came down to the point where because of all this going on we lived right directly behind where the Paia Inn's going up my dad suffered a heart attack so you know because the driveway was always being blocked you know we told my dad the best thing to do is sell the property, you know move because of his health issues. The sad thing about what's going on in Paia is that you don't realize that growing up we had the best childhood. You know we had the beach. We opened our back gate we get to go to the beach. You know we walk out our front gate we can go to the stores you know and so forth. But a lot has changed and I cannot see one thing that anybody can benefit by this. We no longer can get to the beach even through the sides. You know all the access has been blocked and a lot of us were born and raised there. People that are here testifying today you know born and raised, grew up there and so forth and I don't think that it's social media that is making people turn out, but I think that people are just starting to...they don't wanna sell their place, they wanna stay

there you know. And we had to sell our place because we had to just for my dad's health issues but I just think that this would be really bad for Paia because once you start this the next person is gonna do it, the next, the next. I live in Haiku. It takes me 35, 40 minutes to get to work in the morning. I leave at 6:30. Coming home from Wailuku, it takes me an hour and a half to get home because of all the traffic and so forth. But I'm just here to say that I'm against this permit and I hope you folks will see and vote against it. Thank you.

Chair Tsai: Thank you. Allan?

Mr. Allan Tabisola: Chair and the Board, good afternoon. Thank you for having me here. Out of curiosity where do you guys live? Give me, give me, where do you guys live?

Chair Tsai: Please just limit your testimony.

Mr. Tabisola: Okay, I was born and raised in Paia. I mean I'm not born there but I lived there since I was ten years old. And you know when you're entering Paia you see a sign. It says welcome to the old plantation town of Paia. Okay, if you look in the whole State of Hawaii there's not another town like this. You know it's a very unique special place. And we go to Paia because it is a very special and unique quiet place. The people there are all interconnected. They all know each other, they all support each other. We're like one big ohana in the little plantation town. And we like it that way, you know, it's our home. It's our home for our families, our children, our grandchildren, our great grandchildren. It's a very, very special place and that's why you know I asked you guys where you guys live because Paia there is no other Paia in all of USA and it makes it unique. Okay, and we like to keep it that way all right. And you should listen to the people that live there because they know what's going on. And when you have somebody coming over to Paia Town and bully his way through and cheat, lie and steal to the local people I mean that's out of character, that's out of our character. We don't do things like that in Paia all right. So no, no, no, no, no. Thank you.

Chair Tsai: Dana Hall?

Ms. Dana Naone Hall: Good afternoon Commission. My name is Dana Naone Hall. I am one of the 13 members of the Paia-Haiku Citizens Advisory Committee who during the course of 21 committee meetings all of which were attended by members of the public and by various interested property owners developed a plan that is in effect today.

In the interest of brevity there are two thing worth noting about the Paia Community Plan, Paia-Haiku Community Plan for this discussion. First, the CAC's version of the plan update remained relatively intact through reviewing recommendations by the Planning Commission and final review and adoption by the Maui County Council becoming effective in May 1995 and remaining in effect today. Second, I believe that the Paia-Haiku Community Plan was the only one of the Maui Island community plans that contained the specific prohibition against hotels in its community plan region. We were concerned about the effect of tourism accommodations

altering the historic character of Paia Town and old-time residential neighborhoods in particular. We did not act out of an...(inaudible)...of development. A & B made it known through Stan Kuriyama and Chubby Vicens that it wanted language in the plan that would it to build an all-suite hotel which it characterized as a lodge. There was no such use in Paia at the time but the Citizens Advisory Committee recognized that without an explicit provision in the plan there would be others who would attempt to introduce hotel resort development in the future.

I have never met Mr. Baskin and I do not wish to attack him personally. I do however attack the use applications he seek because the special use permit and the SMA assessment applications are required to be consistent with the applicable community plan which they are not and cannot be absent in a community plan amendment I urge the commission to adopt alternative No. 4 on the last page of the Planning Department's report and deny the permit request.

Mrs. Aarona should not have to go through any further time, effort and expense to protect her right to peaceful neighborhood.

Ms. Takayama-Corden: Three minutes.

Ms. Hall: Okay, I'm ending. In my ...(inaudible)...of my testimony to the County Council that was years ago about the adoption of the community plan I find myself having to call once again on Hamakuapoko and Hamakualoha, from the sands of Kanaka ...(inaudible)...to the sea cliffs of Kaulahau, from the wind and waves of Hookipa to the depths of Maliko and Kikipi, from Kauhikoa and Kuiaha, to Ulumalu and ...(inaudible)... we are bathed in the waters of Hoolawa we stand in under the shadow of Haleakala where do you stand? Thank you.

Chair Tsai: Anyone wish...else wish to testify at this moment who haven't testified already please come forward? Seeing none, no? Seeing none, public testimony is now closed. We'll take a 10-minute recess, reconvene 3:20 and we're gonna take on the Petition to Intervene.

A recess was called at 3:11 p.m., and the meeting was reconvened at 3:25 p.m.

Chair Tsai: Maui Planning Commission is called back to order. We're going onto the next agenda item.

Mr. Spence: The next agenda item is Communications...we're taking up the Petition to Intervene....Petition to Deny and Petition to Intervene and normally procedure is the intervenor has made the motion to intervene, to deny and to intervene or just to intervene. They have the first presentation to the commission, then there's a rebuttal by the applicant and then there will also be a rebuttal by the petitioner. Do we know how long each side will take in their discussion?

D. COMMUNICATIONS

1. **ISAAC HALL, attorney for FRANCINE AARONA submitting on November 29, 2016 a Petition to Deny Applications because the proposed uses are prohibited by the Community Plan or in the alternative to intervene on the following:**

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) (CTB 2015/0009) (SMX 2015/0522) (K. Wollenhaupt)

The Commission may take action on this request.

Should the Commission grant the Petition to Intervene, then they may also take action on the following:

- a. **Selection of the Hearings Body/Hearings Officer**
- b. **Selection of the Mediator**

Should the Commission act to deny the intervention request, then they could act on the application requests.

Ms. Deborah Wright: I don't have, I don't think I have a lot.

Chair Tsai: Can we have a introduction of the parties please? First of the all the intervenor, will you please come forward and introduce? And the other party being represented please come forward also. Please state your name on the record, for the record please?

Ms. Deborah Wright: I'm Deborah Wright. I'm here representing Francine Aarona.

Chair Tsai: Okay.

Ms. Pam Bunn: I'm Pam Bunn. I'm here on behalf of Seashore Properties, LLC.

Mr. Tom Kolbe: And good afternoon, my name is Tom Kolbe and I'm the attorney for the Department in the event that intervention is granted.

Chair Tsai: Thank you. So how much time do you guys need?

Ms. Wright: I don't even know if I'm gonna need 10 minutes frankly. I have a pretty focused presentation that I wanted to do and a lot of the points were covered by people who gave public testimony. So I'm gonna hit on some of those same points and then kinda move on.

Chair Tsai: Okay. So we'll have you do the first presentation and then we're gonna have—

Mr. Giroux: Yeah, and again I think the statements we need from the lawyers should be focused on the issue of intervention whether the body should be granting or denying the intervention if we can focus on that issue first?

Ms. Wright: Well, the petition includes other aspects so I'm going to just try and lead into that if that's okay?

Chair Tsai: Okay, just go ahead.

Ms. Wright: Are we ready?

Chair Tsai: Yes, please continue.

Ms. Wright: You know I find...good afternoon Commissioners, Chairman Tsai and Commissioners and also Director Spence and Staff and Corporation Counsel. My name is Deborah Wright and I'm here representing Francine Aarona as I told you who has been a 70-year resident Paia Town and Paia Bay.

I find as I get older I am sounding more and more like my parents so you'll have to bear with me because first thing I wanna say is that this application is pretty much the cart before the horse which is what brought up the Petition to Deny or in the alternative our petition is alternative to intervene. And the problem, the cart before the horse portion has to do with the fact that the reason Ms. Aarona felt the need to file something and to take this position today was because the fact that this particular petition has so many outstanding things that should be taken care of before you get to a special use permit. For example, there are outstanding requests for service, there are outstanding violations, there are outstanding elements of a Settlement Agreements, fines and conditions such as a full-time manager, things of that nature that haven't been met yet that those types of things needs to be taken care of before you do a special use permit.

You know we saw in the presentation where Seashore Properties said yeah we have a Certificate of Occupancy for our deli, our take away deli, but it's not a take away deli anymore it's a restaurant and it doesn't have a Certificate of Occupancy for that. And if it's a restaurant it doesn't have the parking that's needed for a restaurant and that's what there is an application for a variance right now. Well, all of these things should have been taken care of before you were approached with regard to a special use permit. And not having the appropriate Certificates of Occupancy for these things, not having the appropriate variances granted yet, they got an SMA Minor Permit for the four office spaces that they're now talking about they want to convert to transient vacation rentals but there are appeals still pending on the SMA Minor Permit for those four spaces. So there's all these things that are out there that are loose ends where this shouldn't before you.

And the most important one which was mentioned several times is the community plan. The community plan is not something optional. It doesn't matter if the community plan is 20 years old. It doesn't matter if you think it should be updated, it's ...it is required to be complied with by the Commission and by the Planning Department. It's not an optional thing. Under Maui County's own Code we cite to you in our petition the provisions that say that is part of...the community plans make up the General Plan and it has to be complied with. It's not optional. And we also cited to you the case that says this is not something that the Planning Director or the Planning Commission can vary from. They don't have the option to say well you know it's 20-years-old, times have changed, we think that this should be okay. And the portions were already cited to you most of them there were three portions that were important and that is that talks about that hotel uses are prohibited in the Paia-Haiku Community. It flat out prohibits them. Secondly, it says that there's not gonna be hotel or resort development. And the last one is where it says the objective is to limit visitor accommodations to owner-occupied B&Bs that are residential in character. So it talks about all these things and Ms. Aarona says I'm not getting any of that right now. We have situation where things keep plowing ahead on the Paia Inn and they keep doing things and then trying to fix them after-the-fact but in the meantime it's all progressing without the specific permissions, without the specific acts that need to be done, and one, the most important is that there needs to be an application for a community plan amendment before this special use permit can come before you. And that really is the fact of the matter. The argument is well this is not a hotel, it's an inn. Well, there's no definition in the Code for an inn that somehow qualifies it to be treated differently than a hotel. It is a hotel. It is referred to as a hotel by the Seashore Properties. They have a hotel entrance, they have 35 employees and as someone testified that's not just for five rooms right here it's because there are other rental properties that are tied together in the same community and it is all part of the same thing. Now it's not part of the same thing when they want it to be like in this application but it is part of the same thing when they're advertising, when they are going to sell it and they send out a brochure. So you know going to another old saying if it looks like a duck and it walks like and it quacks like a duck and all of that kind of stuff, and that's what you got here it's a hotel. Okay, it says it's a hotel, it advertises itself as a hotel. It has the staff for hotel, it has baggage handling and maid service and now a café even if that's not permitted.

So the real fact of the matter is hotel uses are prohibited. They're not part of what's supposed to be going on in the Paia community under the Paia Community Plan and that's not something that's just optional. And so this should be denied and a community plan amendment required before the special use permit comes before you.

With regard to intervention, our request for intervention was specifically couched as an alternative. You know, I would prefer that the intervention be decided afterwards because that's how it was couched, is deny the petition or allow us to intervene if this is going forward. But as to the intervention aspect itself we are going to rely on what we have on our briefing to you and one thing I would point out is that when we put this in the alternative Seashore Properties then said, we...first they objected and then they said we're talking away the objection, fine, send us to mediation, do a contested case because they want this delayed or deferred. But the fact of

the matter is it's not whether they object or not, it is the Commission who has to make the determination under the standards as to whether intervention is granted or not. So you know, it's easy to say well they didn't object to it but at the same time that doesn't mean that intervention necessarily goes forward especially when the determination hasn't been made on the granting or denial. That's all. Thank you.

Chair Tsai: Thank you. Corp. Counsel?

Mr. Giroux: Just procedurally. That's why I wanted you to focus on the intervention because technically the...what's happening is that this is turning into a contested case. Now what the law says is it doesn't matter how we treat it, it becomes a contested case. The issue is who is a party and who's not a party. That's why we have the three-minute rule and yada, yada, yada. So you're filing a petition or motion to deny doesn't make you a party until the issue of intervention is decided. Our rules say we can't act on anything until the issue of intervention has been cleared. So it's your motion that we're trying to determine and if we don't determine it, then you're not a party. So by our own rules we can't ignore the issue that you filed a petition to intervene and we need to clarify that and then we can move forward.

Ms. Wright: And I do understand that. I was saying that this is a difficult situation because of the way the petition was filed which I understand why it was filed, why Isaac filed it the way that he did. But it puts everyone in kind of a difficult situation because of the way that is. And while I do understand that I know that what Ms. Aarona doesn't want is deferral or delay or things of that nature. So that's why I'm telling you that I'm relying just on our petition on that aspect.

Mr. Giroux: Okay, but just to clarify there is a filing for a petition to intervene and the request is is that Ms. Aarona be allowed to intervene as a party to a contested case.

Ms. Wright: There is a request for that, yes.

Mr. Giroux: Okay, so I'm just clarify for the board is if that's what's being asked then that's what we need to address and I need the two other attorneys to give me their position on that.

Ms. Wright: Okay, thank you.

Mr. Giroux: Kolbe will remain silent until(inaudible)...I'm sorry.

Ms. Pam Bunn: Good afternoon, Mr. Chair, Commissioners, Staff. As the Commission may know the applicant has withdrawn its opposition to the intervention petition for the primary reason that this is obviously an issue that has invoked strong feelings in the community. The applicant would like the opportunity to address the concerns with the petitioner for intervention and with the rest of the community. The applicant had requested and some of you may have seen it a postponement for that purpose to see if he could meet with the petitioner and try to understand and address her concerns. That request was denied.

The applicant here is obviously not responsible for Paia becoming a tourist destination which appears to be what has invoked a strong reaction among a lot of the members of the community. I can understand that. The town I grew up in 60 years ago is not the same town as it was when I was a child. Paia I'm sure is not the same town at it was 30 years ago, that's change and that's not something that can be laid at the feet of the applicant. But while the applicant can't reverse the changes in Paia, it believes that it would promote community harmony to attempt to work together to see if there is a way to accommodate change while still preserving what is the essential character of Paia and the applicant has tried hard to do that.

It would like the opportunity to mediate with an objective third party which is an opportunity that is afforded through intervention. Under your rules that the first step in any intervention proceeding. In the event that mediation is unsuccessful this does appear to be one of those cases where an intervention might nonetheless make for a more full record. I think this is the type of case where having a hearings officer and evidentiary rules will help in narrowing what the issues are that are really applicable to the conditional use or the County special use permit before you. A lot of what we heard today while very heartfelt and very sincere is not entirely relevant to the considerations that are before you with the permit. I think having a hearings officer to help weed through some of that information first and presented in the form of proposed findings and proposed conclusions the issues that are before you might actually make for a better record and without broadening the issues. So for that reason we have withdrawn our opposition to the intervention. We do not oppose it.

We would like very much to have the opportunity to try and address some of these concerns because I think we are able to. I think the applicant is able to. I think he's sincerely made an effort and will continue to make an effort. I did want to and it was something Corporation Counsel has raised just procedurally I haven't really and wasn't intending to address very much the petition to deny the application because I think that is an example of the cart before the horse. I don't believe that your rules would allow you to consider and deny an application or...and then say okay well we're not gonna deny it so we'll give you intervention. I think as Corp. Counsel pointed out the intervention petition has to be decided before this body gets to the merits of the petition and votes up or down. So I think there is that element of the cart before the horse.

I did though wanna just say because I've been hearing a lot about it today, I just wanted to point out something in the community plan. I understand that it is still in effect. We all know that it's well overdue for an update but it is still in effect. In the very, very first sentence of the Paia-Haiku Community Plan where it's talking about the purpose of the plan, it is to advance planning goals, objectives, policies and implementation considerations to guide decision making in the region through the year 2010. That's what it was designed for and that was its purpose.

Let's look at what's happened since 2010. I mean part of the community plan deals with only visitor accommodations being bed and breakfasts and let's not put them near the shoreline and let's have them owner-occupied. Well, in 2012 the City Council adopted an ordinance allowing

short-term rental homes and I think as you saw from the map there are many of them in Paia. There are many of them on the shoreline and those are not owner-occupied. And then as the applicant pointed out in 2014, the Council adopted the ordinance that now allows for TVR units in the Business Country Town. So if...I understand that the plan is still in effect. The plan was intended to guide decisions through 2010 and certainly the County Council is no longer adhering to this and what we're hearing is about the prohibition on development of hotels and resorts. There are no definitions in the community plan, but if you take the definitions of development from elsewhere for example in Chapter 205 or in your SMA Ordinance you know development has to do with putting physical gases or liquid onto a property or increasing its use are the two intensity of use. Those are two primary definitions we talk about. As the applicant pointed out there is nothing physical being put on the property. There is no construction. The building is there. It's permitted. It was permitted. As far as intensification of use that's also been discussed. It's really the use of those five rooms has continued for quite a while. That's not going to be intensified and so the question is does changing four rooms from offices to sleeping rooms is that an intensification of use? I think it's a pretty close question. I don't know. So if you have any questions for me I'd be glad to answer them but we do not oppose the intervention petition and would welcome the opportunity to try and bring about the community harmony by trying to work with some of the community members who have such strong feelings.

Chair Tsai: Thank you. Ms. Wright you want a rebuttal?

Mr. Giroux: And again, can we focus on the issue of intervention because as a body we really need...that's the core of our time right now. We need to get to that issue.

Ms. Wright: I understand that, but she addressed other issues. I understand what you're saying and I appreciate that and I'll keep it very brief. But the fact of the matter is that she said that the five rooms have been used for quite a long time for these uses, but they haven't been used with proper permits for quite a long time for these uses.

Additionally, I do believe the community plan defines hotel. I think there is a definition in there which is a transient vacation rental. And I would simply point out that the reason that Ms. Aarona brought this petition to start with is because another thing is that the application before you we believe is incomplete. It doesn't have a traffic analysis. It doesn't have the beach access info and it certainly didn't have community meeting information as well as the SMA information being incomplete.

With regard to the intervention, Ms. Aarona is not adjacent to Paia Inn. She is adjacent to certain of the other properties that we talked about as being part of this overall hotel venture. She does however have the problem of people walking across her property or guests and workers coming onto her property and things of that nature. And as I said before, for the rest of it, we rely on what's in our petition. Thank you.

Chair Tsai: Okay, thank you. At this time, I'm gonna open the floor for questioning from the Commission? Oh, we have the Department's rep to speak.

Mr. Tom Kolbe: Thank you. This is Tom Kolbe again for the Department of Planning. Obviously just for the record we don't oppose the Petition to Intervene. It appears Ms. Aarona has interest which are clearly distinguishable from the members of the public and so to that extent we don't oppose the petition. I would join the comments from the Corporation Counsel advising the Commission as well as Ms. Bunn's comments that we really shouldn't be taking up the issue of a Petition to Deny this until we determine who the parties to this action are. So in this particular case I think you know it's the Department of Planning's position that you should take up the Petition to Intervene, vote it up, vote it down and then at that point we know whether or not Subchapter 4 which contains the provisions on what happens where intervention is granted and determine then whether we need to go into mediation or do any of those other procedures and with those other evidentiary rules.

The only other thing I would just like to put out there is if intervention is granted to any party and obviously that's Ms. Aarona then by operation of Rule 201-41(e), upon admission of any intervenor, the Department of Planning shall automatically be admitted as a party to the contested case. And so to that extent we would be participating in any further questions of the contested case or a mediation. So thank you

Chair Tsai: Okay Commissioners, any questions for any either party regarding the Petition to Intervene. We're here to question and decide whether to grant or deny the petition. Commissioner Carnicelli?

Mr. Carnicelli: So I actually had one. So we've got the opinions of two different attorneys that say if we grant the Petition to Intervene we're pretty much done with this. That we don't then go to the Petition to Deny? We gotta go through other procedures before we can get to the Petition to Deny is that correct?

Mr. Giroux: Yeah, the fact that—

Chair Tsai: Corp. Counsel.

Mr. Giroux: Oh, thank you, Chair. James Giroux, Corporation Counsel. Yeah, procedurally because what's happened is that somebody's filed a Petition to Deny. Well if they're not a party to the case and we don't know if they're a party until we've gone through our intervention process. In an intervention you could have multiple parties. You could have five parties and that's why we have in our rules an intervention petition process and we have an intervention when granted process. So you don't wanna be fielding 4,000 petition motions and not who you're dealing with because that's basically what's happened is somebody has attached a motion to a petition to intervene. You're able to deal with a petition to intervene. That's it. I

mean, you can see the logic behind that, right? Right, I'm not crazy, right? You don't wanna be...you don't want it 400 petitions to deny on every permit that's filed that's deemed a contested case, right

Mr. Carnicelli: I understand, thank you.

Mr. Giroux: So talk about starting a precedent, let's start a precedent that says if there's a petition to intervene we deal with that issue.

Chair Tsai: I think Corp. Counsel he's also referring to, Commissioner Carnicelli's referring to if we do grant the petition to intervene then we basically are not gonna go to the special use permit. That will be decided beyond us.

Mr. Giroux: Well, let me explain the whole process to the dismay of some of the members. Okay, I'm not gonna read all the rules. This is the nutshell. If you grant the intervention. Our rules state that there's a mandatory mediation. That means the parties actually have to talk to each other, figure out if are there issues that they can agree on that make would make it go away or that would settle it. If they can't, a hearings officer is appointed and then they hear both sides, they hear the case. So it basically looks more like a courthouse hearing where you have an attorney, he presents his case. The other side gets to cross examine. The other side presents their case, the other side gets to cross-examine. Documents are filed into the record and then there's report made by the hearings officer and that's presented to you and then you're the ultimate decision maker or as Bush used to like to say you're deciders. So just for a nutshell that's kind of the process. You know, sort of reading all of the rules in the record.

Chair Tsai: Commissioner Robinson?

Mr. Robinson: Motion to deny.

Ms. Canto: Second.

Chair Tsai: Motion by Commissioner Robinson, second Commissioner Canto. Discussion regarding the motion?

Mr. Spence: Just for clarity, motion to deny the petition to intervene?

Mr. Robinson: That is correct.

Ms. Canto: Right.

Mr. Spence: Okay.

Chair Tsai: Discussion regarding the motion?

Mr. Giroux: Is there a second on that?

Chair Tsai: Yeah.

Mr. Giroux: There was a second.

Chair Tsai: Yeah, we got like two, three seconds.

Mr. Giroux: I'm just wondering if the body would like to go into executive session to decide, I mean not to decide but the discuss the duties, liabilities of that motion?

Chair Tsai: But we do have a motion on the floor so we gotta vote on that first before we can go into executive session.

Mr. Giroux: A motion to go into executive session would trump the motion on the floor.

Mr. Spence: Okay.

Mr. Hedani: Move to go into executive session for purposes of discussing the liabilities, et cetera, et cetera, et cetera of the Commission.

Mr. Carnicelli: Second.

Chair Tsai: Okay, we have a motion by Commissioner Hedani to go to executive session. Second by Commissioner Carnicelli. All in favor.

Mr. Spence: Six.

Chair Tsai: Opposed?

Mr. Spence: One opposed.

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

Mr. Giroux: And for the record again this is just for the purposes of discussing the duties, responsibilities and liabilities in what was in the proposed motion.

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

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

The Commission went into Executive Session at 3:54 p.m., and the Executive Session adjourned and the regular meeting was reconvened at 4:17 p.m.

Chair Tsai: Maui Planning Commission is called back to order. We have a motion on the floor to deny the Petition to Intervene. Discussions regarding this motion please? Seeing none...wait, Commissioner Robinson?

Mr. Robinson: I would like to share my reasoning for the motion I proposed. I believe in intervention of all persons who have a property interest in the land subject to commission action. I don't believe the petitioner does and that is my basis for denying this intervention. Thank you.

Chair Tsai: Thank you. Any other discussion regarding the motion? Seeing none, Director would you please repeat the motion on the floor?

Mr. Spence: The motion is to deny the petition to intervene.

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

Mr. Spence: That's seven ayes.

Chair Tsai: Motion carries. Petition is denied.

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

VOTED: To Deny the Petition to Intervene.
(Assenting – K. Robinson, P. Canto, L. Carnicelli, L. Hudson,
W. Hedani, S. Castro, R. Higashi)
(Excused – S. Duvauchelle)

Chair Tsai: We're now going back to public hearing item Number C.3. It's the requesting County Special Use Permit.

Continuation of:

3. 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)

Chair Tsai: Does the Commissioners have any questions regarding this agenda item? Commissioner Hedani?

Mr. Hedani: Somewhere I saw a document that showed properties owned by the Baskins and that identified single-family residences outside of this particular area along the seashore, four single-family homes adjacent to each other next to the ocean. Is that, is that property owned by the applicant?

Chair Tsai: Director?

Mr. Spence: I think that's more properly answered by Mr. Baskin, but...that was a part of his—

Mr. Hedani: ...that showed it in yellow.

Mr. Spence: I recall it was part of his illustration to show that there were more vacation rentals around in that area.

Mr. Hedani: But not his?

Mr. Spence: Not necessarily his. Again, I don't wanna put words in the applicant's mouth and make representations that aren't true, so...

Mr. Hedani: So can I ask the question directly?

Mr. Spence: Yeah you should ask him.

Chair Tsai: Yes, please.

Mr. Hedani: Mr. Baskin?

Mr. Baskin: Yes.

Mr. Hedani: Do you own any property in Paia other than, other than what's before us today that is already part of a transient vacation rental?

Mr. Baskin: I'm not sure what you're looking at. If I could take a look at whatever it is you're looking at?

Mr. Hedani: I think it was one of the exhibits that you had shown us that showed in yellow properties that were TVRs.

Mr. Baskin: I was showing in there all of the TVRs in the town of Paia not just mine.

Mr. Hedani: So you do not own any of the properties that are operated as a TVR?

Mr. Baskin: No, that's not correct. I do. I have a TVR in Paia that I own and also my...yes, I do have one TVR that I own, and my mom has one, and my dad has one, and I manage them. I'm not sure what you're looking at there but I can take a look at—

Mr. Hedani: And the TVR that you currently own is not part of the Paia Inn?

Mr. Baskin: So we have an STRH, a permitted STRH in Paia that is all permitted. Is your question do we do bookings for it? I'm not sure what the question is.

Mr. Hedani: My question is somewhere in the back of my mind there's a rule that says need to have only one TVR, one short-term rental home.

Unidentified Speaker from audience: We can't hear you.

Mr. Hedani: And I'm asking if you have, I'm asking if you....I'm asking if you already have a TVR?

Mr. Baskin: Yes. We have one...

Ms. Sparks speaking from audience: No, we have a ...(inaudible)...

Mr. Baskin: Oh, I'm sorry. We have an STRH. That's what we have. Is that the question?

Mr. Hedani: But it's operated as a transient vacation rental home.

Mr. Baskin: We have...you're asking me if I have a permitted STRH?

Mr. Hedani: So you have three actually?

Mr. Baskin: So we have—

Mr. Hedani: One that you operate, one that your dad, that your dad owns, and one that your mom owns?

Mr. Baskin: Yes, that's correct.

Mr. Hedani: So three.

Mr. Baskin: Well, one is owned by my dad.

Mr. Hedani: And you operate all three?

Mr. Baskin: Yes. One is owned by mom her name is Naomi Hillinger and another one is owned by my father, Walter Hillinger and so my dad is 84-years-old, my mom is 77. They live in Kuau and I am the manager of those properties there in their names.

Mr. Hedani: Did you have an exhibit that you can show us those properties?

Mr. Baskin: Sure. Yes, I'd be happy to. Are you able to pull something up from the staff report? We just didn't include it in...

Mr. Carnicelli: It was in here.

Mr. Baskin: Okay, yeah.

Mr. Wollenhaupt: ...(inaudible – not speaking into mic)...

Mr. Baskin: Exhibit 8. This is fine here. I can use this one right here if you like. It's not a very good map in detail. I do notice that in Exhibit 8 in the staff report there might be a little bit better but let me try to see if I can. So basically...okay, the Paia Inn is located right here, there you go, thank you. So Ms. Aarona is located right here and all of these that you see are all vacation rentals. These are all permitted ones that we know of.

Unidentified Speaker from Audience: Show yours.

Mr. Baskin: So ours, Ms. Aarona is located right here and mine is right next door to her right there. Right next door is 23 Nalu and she is right here.

Unidentified Speaker from Audience: 40 Ae.

Mr. Baskin: And so, and my mom owns the one here at 40 Ae and my dad, Walter Hillinger owns the one right behind us here. And I'd like to comment just for a minute about 23 Nalu, the one that is next to Ms. Aarona. I bought that property before the Paia Inn. It was a home that I purchased in 2001, and when I bought it it was a vacation rental. I bought it from Mr. Bonner, Richard Bonner and it was a vacation rental. It had a Conditional Use Permit application that was in process when I purchased it. I paid and had it put into my name. For many, many years the application for that vacation rental was open and in process and when the new ordinance took place and came into play for the STRH I was asked by our Planner Jeffrey Dack if we wanted to go ahead at that point and convert the Conditional Use Permit to the new ordinance. We did that and we were one of the very first people to apply for and get a permit for that vacation rental. It is permitted. It's always been permitted since the ordinance. I believe we were number 3 or 4. And so, just for clarity, it was a vacation rental before I bought it. And has been for more I guess, you know, more than 16 years. When we sent out the notice to the community within 500 feet of us, Ms. Aarona would have received a notice. When my mom's notice went out and my dad's did for the 500-foot area, three times the notices went out, Ms. Aarona would have received that. We never received any...no one disputed, questioned our application which was done I believe in 2012. However, the beach property, that property had been a vacation rental for 12 years up until the application was done. So just for a point of clarity we did get it permitted. We had always up to that point during the entire 12 years that we operated paid all of our TVR taxes, operated. We have testimony from the manager of the Paia Inn, and we have testimony today from two of the staff that came up. We've never received a phone call from Ms. Aarona.

Mr. Hedani: Thank you. I think you've answered my question.

Mr. Baskin: Okay, I just wanna clarify that. We've never received a call.

Chair Tsai: Thank you. Commissioner Robinson?

Mr. Robinson: Mr. Baskin, on that map that we see there with the rentals in Paia, do you manage any other properties besides the ones you just pointed out?

Mr. Baskin: We don't manage, but we do bookings for other ones.

Mr. Robinson: So with...okay, so how many of those you do bookings for?

Mr. Baskin: We do bookings for other vacation rentals that come up. I don't know the answer to how many, but we book some for example on Stable Road and in the area. So if we should...we have a travel agents license so we do some bookings for other vacation rentals.

Mr. Robinson: so Seashore Properties has a travel, has a travel agency license and real estate license?

Mr. Baskin: The Paia Inn does.

Mr. Robinson: Seashore Properties do they have that license?

Mr. Baskin: To be honest with you I'm not sure if it's Seashore or Paia Inn or both of them. But I know we're licensed to operate as a travel agent. I believe it's Paia Inn.

Mr. Robinson: Okay. On that map do you, can you give us your best guesstimate of how many of those properties you are booking for please?

Mr. Baskin: The ones that we book that are outside, the other...the three that are in the town of Paia are in Stable Road primarily.

Mr. Robinson: I'm sorry, I don't know where Stable Road. I apologize.

Mr. Baskin: It's just out towards, towards the airport.

Mr. Robinson: Towards the airport.

Mr. Baskin: Yes.

Mr. Robinson: Just a follow up question as part of your services of bookings do you guys also do housekeeping and landscaping as well?

Mr. Baskin: So yes we do as do most vacation rentals.

Mr. Robinson: And may I ask where do you guys do the laundry for all these rentals that you book for?

Mr. Baskin: So at the Paia Inn we have laundry onsite. And at the STRH we have laundry onsite.

Mr. Robinson: And then how about the other ones that you do booking for that's not your short-term rental home? You're saying that each individual location you guys do the laundry there, it never goes from one property to another is that what you're saying?

Mr. Baskin: In terms of the laundry I believe that each of the locations have their own laundry onsite.

Mr. Robinson: So its onsite. It's never taken to a central location and then processed?

Mr. Baskin: I don't believe that it's taken to a central site. Its location has its own laundry facility.

Mr. Robinson: Okay, thank you.

Chair Tsai: Commissioner Hudson?

Mr. Hudson: What year was that office extension made?

Mr. Baskin: I'm sorry, can you say it again?

Mr. Hudson: The office extension, the extension that you put onto the Pioneer, I mean Paia Inn. Where the building with the four offices when was that building made?

Mr. Baskin: That building was constructed and we finalized the construction two years ago?

Mr. Hudson: When you made that building, you made that building as office for office space, right?

Mr. Baskin: At the time, yes we built it 'cause...yes, correct.

Mr. Hudson: Okay, what changed between now and then? Why are you taking away offices and want to put in bedrooms or was it originally bedrooms as you wanted?

Mr. Baskin: When we did the Urban Design Review Board presentation I was asked that question and the answer at that time was that at some point we did plan for it to become accommodations rooms but there was no ordinance that had passed yet to allow for it. At that time it was gonna require a different permit process so we waited. And once the bill passed which we had been following and that's what we showed you, it passed about two years ago at that point in time we applied for this permit.

Mr. Hudson: So you just got around it, right?

Mr. Baskin: No.

Mr. Hudson: I understand. Thank you.

Chair Tsai: Commissioner Higashi?

Mr. Higashi: Mr. Baskin?

Mr. Baskin: Yes?

Mr. Higashi: I'm surprised that you have so many support letters about your character and your care and sincerity. What concerns me is that when I read some of these things you have so many violations that you had to pay fines on. Could you explain why that occurred?

Mr. Baskin: Yes, yes sir I would be happy to explain. That is an excellent question. I will say that all of the properties that I own in Paia they all date back to the 20's and 30's. Everything was built prior to any building permits and so the difficulty has been the permitting process is very challenging. So all of these properties may not have been in compliance as if you walk into many properties built in Haiku or in Paia and just about everything in the town was built with no permits. And so the challenge is that if there's a complaint then a neighbor makes a complaint and you are in the complaint process then the County has an enormous amount of ability to basically make you go through a process of permitting everything and it's a real challenge to prove what was existing, what was not existing and so we had to go through a very difficult process but we basically said if it's not...if we need to get an after-the-permit we will do that. We don't think an after-the-fact permit is a bad thing. We think it's a good thing. That means that we're complying and we're working with the...to make sure that everything is in compliance. In that process you can be fined and so that's what happened to us essentially. We received fines. At times we did not agree with it so we filed an appeal to protect ourselves and we went through a difficult process of an appeal, but ultimately we reached a settlement and we agreed to make a payment and settle so that we were, we had a good relationship with the County and that is true and heard testimony that we still owe some money. That is true and it was agreed with the Department that we would get an extension to make that payment and that payment is not yet due. When it becomes due we will pay it.

Mr. Higashi: Till January.

Mr. Baskin: Correct. Yes, sir.

Mr. Higashi: 2017.

Mr. Baskin: Yes it's coming up soon that is correct, yes. And one of the thoughts I had is that if the Department wanted to make a condition of approval for this then that might be a reasonable proposal to say well, to you, you know is to put that as a condition that would seem like a possible reasonable thing since it's come up and it's soon anyway.

Mr. Higashi: The other part is your particular business—

Mr. Baskin: Yes.

Mr. Higashi: --is it certified for a deli or is it certified for a restaurant?

Mr. Baskin: Right now the...it is...you wanna use the word, certified, we have a Certificate of Occupancy that says, deli.

Mr. Higashi: Right. Are you operating as a restaurant?

Mr. Baskin: Well, yes we are.

Mr. Higashi: You are?

Mr. Baskin: If you wanna call it operating as a restaurant in terms of...yes, I would just say, yes.

Mr. Higashi: So you are in violation?

Mr. Baskin: Well...

Mr. Higashi: Yes or no?

Mr. Baskin: There's a discrepancy and if you'll...if I can, if I can elaborate I would like to. As I showed you we have a photograph that shows that the patio...the only area that's in question sir, is the patio area. On other words, we are allowed to have a kitchen and operate and have a business.

Mr. Higashi: ...(inaudible)...

Mr. Baskin: Yes?

Mr. Higashi: Are you in violation or not as a restaurant or a deli that's the question.

Mr. Baskin: At this moment the County considers us to be in violation.

Mr. Higashi: Correct. Thank you.

Mr. Baskin: Yes.

Chair Tsai: Commissioner Carnicelli?

Mr. Carnicelli: Yeah, I have actually a couple of questions for staff. I was kinda hoping that Public Works was still here. So the definition of non-conforming as I understand non-conforming it's just like okay it's something that, you know, put in ahead of time and it's you know to use the word, grandfathered in, but it's legal because even though it's non-conforming with current codes. It's kinda like saying it's not illegal, it's just non-conforming.

Mr. Spence: That's right.

Mr. Carnicelli: Okay. So if I have a non-conforming...let's just say I have a non-conforming wet bar in my house and my house burns down I can't put the wet bar back in is that correct?

Mr. Spence: No.

Mr. Carnicelli: 'Cause it was non-conforming but now I can't.

Mr. Spence: Okay, we're talking about two different things. We're talking about uses and structures or part of a structure.

Mr. Carnicelli: Okay.

Mr. Spence: So I see James busily looking it up, but in short, you have a use that was established at some time when it was legal or when there was no zoning at all.

Mr. Carnicelli: Okay.

Mr. Spence: And so there was nothing controlling the land use. Time goes on, zoning changes, laws change, whatever that use is is no longer legal. The laws change it says it...you know you can't do this. It becomes a legally conform...a legally established non-conforming use.

Mr. Carnicelli: Got it.

Mr. Spence: So that use can continue as long as there isn't one-year break in that use. So...

Mr. Carnicelli: Okay, so where I'm going with it then is zero parking stalls allowed for this building. The applicant when in his presentation he went through and said okay, this particular

part gets zero parking stalls and the new part gets, you know, three. So I'm going...I'm just going okay was there a break at any point in time in the use of parking that the applicant's calling non-conforming use?

Mr. Spence: Yeah, I can't answer that in that particular way.

Mr. Carnicelli: Okay. So I'm gonna ask the applicant then can you prove continuous use of that parking lot to then validate your assumption that it's still, what is it, valid non-conforming. I'm gonna put the burden of proof on you to say you need to prove that that actually happened that there was no break 'cause we have a lady that gave us a lease agreement that I don't know if she used it, I don't...you know I mean it's just like so I'm asking you can you prove it?

Mr. Baskin: Is the question can I prove that the parking has been used continuously?

Mr. Carnicelli: Yes.

Mr. Baskin: It's a parking lot. You're talking about the parking space behind the Inn if it's been used as a parking? I would assume that it has been used as parking and since I've owned it since 2002, 2003 it has been parking yes, and it has been on every plan that we have ever had that was approved by the County. And I wanna just add one other thing. When we got—

Mr. Carnicelli: No, hang on, you answered my question and that's what I...so, basically prior to that you cannot, you cannot speak to the use of that prior to you owning it?

Mr. Baskin: I cannot speak to the use of the parking area prior to my owning it.

Mr. Carnicelli: Thank you.

Mr. Spence: Mr. Chair, I—

Chair Tsai: Director?

Mr. Spence: Just to be fair, you know we've gone through extensive analysis with Mr. Baskin on what parking he needs and what he does not need and what was you know, lawful non-conforming and everything, I've never...we have never looked at it in the way that you're looking at it now. So I can't comment whether it's legal non-conforming or if anything has been lost. I don't know.

Mr. Carnicelli: Okay.

Chair Tsai: Commissioner Canto?

Ms. Canto: One quick question for you. So you're in arrears right now with the County. You owe a \$190,000 is that correct?

Mr. Baskin: It's not in arrears. It was agreed to that we would have an extension to pay that until January.

Ms. Canto: January.

Mr. Baskin: Yes.

Ms. Canto: So are you prepared to make that payment next month?

Mr. Baskin: Yes.

Ms. Canto: You are? Okay, thank you. Thank you Chair.

Chair Tsai: Commissioner Hedani and then Commissioner Castro. He raised his hand first, sorry.

Mr. Hedani: Mr. Baskin?

Mr. Baskin: Yes sir?

Mr. Hedani: I'm a fisherman.

Mr. Baskin: Yes.

Mr. Hedani: I push for beach access whenever I can.

Mr. Baskin: Yes.

Mr. Hedani: Talk to me about the gates that you put up on the access that was traditional and customary in this area to the beach. Why did you close it off and have you discussed access to the beach with any of the people that kinda fill this room today and are upset at the fact that the gates were put up?

Mr. Baskin: Well, I think the beach access is very important and we are open to providing that to, you know to people. The people that are here live on the beach. Their house is on the beach and so I don't think they're here to talk about us blocking them off from any beach

access. Ms. Aarona's house which is adjacent to our property on the ocean has beach access. But in terms of that there really hasn't been any beach access through our property that I'm aware of since 2002. And I'm not aware of any beach access that's been provided. It's a private residence?

Chair Tsai: Commissioner Hedani?

Mr. Hedani: I've heard testimony that said people have been living in the area for 57 years and they've traditionally used this access to get to the beach for everybody that's in the area. You're saying that didn't happen?

Mr. Baskin: I don't have any testimony from anybody saying that to me. At the moment, no one is coming to us and saying that they want to have beach access.

Mr. Hedani: Why did you close it off that was my question?

Mr. Baskin: Well, there's a—

Mr. Hedani: Was it to make the beach private?

Mr. Baskin: No, and I think this notion of private is not accurate. I think it may be that somewhere we have an advertising on the STRH that just says private beach access that's all. It just says, private beach access meaning that once you're there you have the ability to get to the beach.

Mr. Hedani: Which you've gated off. What was the reason for gating it off?

Mr. Baskin: Well, part...okay, if gates have been installed over the last 12 years there is a definite concern about security in Paia as well. So for example, at 95 Hana there is a gate. That property is located directly behind a gas station. So at one point in time a gate was put up for security reasons. If you've ever been to Paia and downtown Paia you'll know that there's security issues. So there has been gates that have been put up over the last 12 years and so that's true. But we're located just a few hundred feet down away from the public beach access. We're not that far away from it. You can go down and get to the beach access nearby.

Chair Tsai: I have a question here. From this exhibit I believe one of the testifier, Marty did you provide this one? Can I ask the testifier to come forward and maybe explain this note here, historic shoreline access now blocked? This is one of your...

Mr. Marty Brass: Yes, sir?

Chair Tsai: Yeah, just looking...I assume this is one of your exhibits, can you please speak to that historic shoreline access now blocked.

Mr. Brass: So my understanding is there's property labeled No. 5 which is 23 Nalu and there's a property labeled No. 4 which is 95 Hana Highway and traditionally shoreline access came from Hana Highway down Nalu turned left...Nalu splits, it goes straight to the beach which since been closed off. It was all, my understanding is it's all rocky, where he went left, and at the end of that left, end of that lane there was access along property No. 5 to the beach and that property was owned by Richard Bonner which is the seller to Mr. Baskin when he bought the property in 2001. Richard Bonner set up an easement to the benefit of the property which is directly across from No. 4, and I don't have the dates exactly but as I think 2001 or at some time he had set up an easement maybe it was 2001 maybe in contemplation of selling his property he wanted to do his neighbor a favor and set up an easement for the benefit of his neighbor, Christopher Arian. Subsequent to Mr. Baskin buying the property, he filed a new easement which by the way I think 23...you know, again this is an example of an entity, it's a legal entity but he's the signatory to a legal entity. He's directing what's happening here. That granted that Mr. Arian agreed to allowing Mr. Baskin to build an electronic key gate where the two red lines meet. So the gate was installed and he agreed to the maintenance of that...Mr. Baskin agreed to the maintenance of that gate and effectively closing off access from Nalu Place. Fences were built, this pathway was created and then subsequent to that second easement, a third easement was filed which granted beach access to property No. 4 which Baskin, Mr. Baskin subsequently purchased and gave property No. 4 deeded beach access to the beach. So this historic shoreline access comes from the neighbors who I'm told Annie McNeil is one of them she has a rental property just east, just to the right of property 4, the Horiuchi Family, the Kunichika Family, I'm not sure who else, Quinsaats I believe. I don't know who else was on that road, there's about three or four families that had provided you, I think you've seen the testimony where historically they've had access along Nalu Place, along that red, that red line to the beach which is now closed off actually by several gates. There's a gate at the corner and there's a gate at the beginning of Nalu Place that's been built as well. And I think in one of the testimonies that I saw there's four or five gates in total that have been installed.

Chair Tsai: Okay, thank you. And according to your exhibit here, so properties 1, 2, 3, 4, 5, 6, 7, 8 are owned by Mr. Baskin?

Mr. Brass: They're all part of a portfolio properties which were marketed by Colliers and Mr. Baskin is the owner and they were sold as a portfolio and as a group. And he has language in here that talks about development potential, architectural renderings and plans, financial projections on what could be done with these properties, what they're currently doing. He describes the Paia Inn as a hotel, describes all these properties as part of that and these additional properties that support that operation. And I think that entire I don't know whether it's admissible at this point, but that entire marketing brochure was part of the petition that Ms. Aarona submitted and I think it may even be in the staff report all the pages from that. So what I had handed out were excerpts from part of that brochure.

Chair Tsai: And just for the record, you're currently the owner of which property?

Mr. Brass: I own the property just to the left of No. 1.

Chair Tsai: Okay.

Mr. Brass: So I have a partners in the ownership of that property and I am a partner in the business and I have three partners in the business, my restaurant business, Flatbread Pizza.

Chair Tsai: Thank you. Commissioner Castro?

Mr. Baskin: I have it in front of me now if you want me to comment on that brochure?

Chair Tsai: Yeah, please. I would definitely...

Mr. Baskin: First of all this...none of these properties are for sale. This is a very old...this is an old brochure. Just so you know it was dugged up from years ago. And it's not anything actually that was ever used. All right, it is, it is I'm not sure how he got it, but this not an accurate portrayal of something that we ever used. This was a draft of something that we were looking at using but it wasn't actually used. None of these properties are for sale at this time just so you're aware. Okay, just want to do that. And there was a time that I was looking to raise capital to bring on a partnership and this was...that's what this was originally intended for. So Colliers does not have a listing on the property and the properties are not for sale just so you're aware.

Chair Tsai: But you do own these properties?

Mr. Baskin: So they're all owned by separate entities. Some of these are owned by my mom and my dad and some of them I do not own.

Chair Tsai: Okay. What about the gates or the shoreline access that's stated?

Mr. Baskin: Yes, I'd be happy to comment on that. There has never been a historic shoreline access where he has indicated there. That is private property. There's never been to my knowledge since I've owned the property in 12 years any shoreline or historic access through that indication. That's a fabrication on his part. He owns the property right next door or part owner and he believe it or not through his brokers have been making offers to try to acquire some of my properties. He has an agenda. And in addition to that if it's okay with you I would like to pass out a map of the area that shows Ms. Aarona's property and shows where access to the beach goes through her property and where she grants beach access to a number of vacation rentals that are right around our area. She has an arrangement with a couple of vacation rentals nearby—

Unidentified Speaker from Audience: Excuse me.

Mr. Baskin: -- and if it's okay with you I'd like to pass it out.

Chair Tsai: Order please, order please. Mr. Baskin, so are you denying the fact that he gates were put on those areas whether it's private or not?

Mr. Baskin: When you say those areas could you be specific there's a number of properties.

Chair Tsai: The easement that's on the map right now.

Mr. Baskin: Are you talking about the red one?

Chair Tsai: Yes.

Mr. Baskin: Am I denying that there is an easement?

Chair Tsai: No, denying you put gates on them as stated whether it's private property or not.

Mr. Baskin: This is no public easement. We do provide an access for one of our neighbors and we may have installed a gate over the last 12 years if that's what you mean, yes.

Chair Tsai: Thank you.

Mr. Baskin: Yeah.

Chair Tsai: Commissioner Castro?

Mr. Castro: Mr. Baskin—

Mr. Baskin: Yes sir.

Mr. Castro: --there was a gentleman that testified earlier Rick.

Mr. Baskin: Yes.

Mr. Castro: That he said he did the work start to finish. And he was asked if he was a contractor and he said he wasn't. So with that being said, do you know if he has any type of license to do the work that—

Mr. Baskin: I'm not sure. I believe he's a carpenter, a skilled carpenter and he worked under the direction of a contractor that we had at the time that we contracted with and he worked for them.

Mr. Castro: Was he supervised in doing the work?

Mr. Baskin: Yes.

Mr. Castro: And you also have supposedly a deli which is being operated as a restaurant, do you have a grease trap or a grease interceptor?

Mr. Baskin: Yes sir we do. It's fully permitted and when we did the Certificate of Occupancy for the four rooms we had a complete inspection of the restaurant and the patio area and it was signed off by DSA. And recently when we have gone back to obtain a C.O. for the patio area of the restaurant, the department, the DSA Plumbing, Electrical, all departments have signed off on it. They basically came back out and said, we're not sure why we're here again, we already signed off on it. And on the day of the final inspection for the patio, dining seating area for the deli they asked me to go out and put up a sign showing the occupant load which they said we'll come back the next day and we'll sign off which we did. It was 49. They came back the next day, I've been in communication with DSA. They do not understand why we are having to do a C.O. for the patio area when they already signed off on it. So rather than dispute it we have gone ahead and filed for that. We will be required to have some parking. We believe we have parking already in our offsite parking lot that will qualify for that. We're going through the process of cooperating, working fully with the County to do that. And another suggestion or idea is in passing this today if you wanted to make it a condition that we had the parking set up for that that would be fine with us.

Mr. Castro: Okay, another question. You said he's a skilled carpenter so was there any plumbing and electrical work done to those offices up?

Mr. Baskin: Yes. Yes, sir. Yes, there were four bathrooms installs.

Mr. Castro: Okay. And who did the work for those?

Mr. Baskin: Who did the plumbing work?

Mr. Castro: Yes.

Mr. Baskin: Everything was done under a contractor and so the contractor would have hired subcontractors to do the plumbing work. And I believe that the plumbing work was done by Upcountry Plumbing if memory serves me correctly. They are a licensed plumber and they did the work, yes.

Mr. Castro: And who did your electrical?

Mr. Baskin: The electrical work was done by RZ Electric.

Mr. Castro: RZ?

Mr. Baskin: Yes, I believe that that's correct. I believe I have that name correct, RZ Electric. It was fully permitted, inspected obviously. All of the four-room addition was fully done with contractors and done correctly and permitted.

Chair Tsai: Commissioner Hedani.

Mr. Castro: Thank you.

Mr. Baskin: Of course.

Mr. Hedani: Mr. Baskin?

Mr. Baskin: Yes sir.

Mr. Hedani: Are you open to reestablish...well, let me ask the question a different way, are you open to dedicating a public access for the public to access the beach adjoining your property or on your property?

Mr. Baskin: The one thing that comes to mind in all honesty is—

Mr. Hedani: A simple yes or no would be—

Mr. Baskin: -- that the neighbors around me would not support it and I have vacation rentals and people come through there and I don't think my neighbors would support the public coming through that residential area keeping in mind that there's beach access just a few hundred feet down.

Mr. Hedani: So the answer's no.

Mr. Baskin: I would consider it if it's something that you suggested.

Mr. Hedani: It wouldn't be a suggestion.

Mr. Baskin: I'm sorry?

Mr. Hedani: It wouldn't be a suggestion.

Ms. Sparks: I actually don't understand—

Mr. Baskin: Sit down.

Ms. Sparks: --why public beach access in the Paia area would—

Chair Tsai: Ma'am you need to speak to the mic and identify yourself first.

Ms. Sparks: I'm sorry. Hello, I'm Sara, Michael Baskin's wife.

Mr. Hedani: I'm sorry, I wasn't asking a question to you.

Ms. Sparks: Well, we are in this project together so I feel like I can also testify.

Mr. Hedani: But I'd like to hear the answer from Michael.

Mr. Baskin: Yeah, you can sit down. Can you repeat the question?

Mr. Hedani: If we were to establish a condition that public access be established at the traditional access point adjoining or on your property would you agree to that?

Mr. Baskin: So would you be specific as to which property and where? I mean I'm just not sure where you're talking about providing that.

Mr. Hedani: That's okay, I've already got my answer.

Mr. Baskin: Okay.

Chair Tsai: Just to be fair. Since I called a testifier up before—

Mr. Baskin: Yes.

Chair Tsai: I'm gonna give him a chance to actually speak to what you just spoke to and I'm gonna give you one more chance too as well to be fair.

Mr. Baskin: Thank you. And I do have a handout if I can that we've made copies if we can distribute that?

Chair Tsai: Please come forward. Please note I don't normally allow this but given the circumstances I'm gonna have you guys fair chance.

Mr. Brass: And I'll be really quick. Thank you I don't wanna get into a tit for tat. The Collier's brochure was distributed by Mark Bratton and the notion that it was never public or that he never supported it is completely false. You could Google Paia Inn sale Pacific Business News there's a specific article where he's quoted about the sale of all the properties as a portfolio. So it's a pretty extensive document to be making up and just keep in your back pocket. That's my one comment about that. And then with the other respect to agenda, well that's just talk, so okay, anyhow...thank you.

Chair Tsai: Michael you want to...

Mr. Baskin: There was an article in the Pacific...in the news that talked about us having properties for sale and looking for a joint venture partner. It's not the same map as this. It's a different map.

Chair Tsai: Okay. Commissioner Robinson?

Mr. Robinson: Aloha Michael. You talked earlier about having a testimony from the Governor I believe.

Mr. Baskin: Yes.

Mr. Robinson: And I believe in that testimony in that testimony it said that you guys worked together in doing weddings?

Mr. Baskin: We have not worked together, but we have recently talked about doing a business together where we would be doing weddings, correct. It's not at the Paia Inn.

Mr. Robinson: Did you read the letter?

Mr. Baskin: Yes I did.

Mr. Robinson: 'Cause the letter states that.

Mr. Baskin: Yeah, I have a copy of the letter. I can read it out loud if you like.

Mr. Robinson: Well, but you know what, I'll do it for it.

Mr. Baskin: Okay.

Mr. Robinson: I am a partner with Michael Baskin for the use of his property located at 65 Hana Highway. Our intention is to offer wedding events to the general public.

Mr. Baskin: That is correct. Yeah, so it's 65 Hana. I don't own that property. I have a lease on that property and the intention is to partner with the Governor and we are looking forward to doing weddings and events at that location.

Mr. Robinson: Have you done anything prior to now any type of wedding events that would, that would want you to get into the business? Did you try it out anywhere?

Mr. Baskin: No. I have not done any weddings yet.

Mr. Robinson: 65 and...could you please show where that is on the map please?

Mr. Baskin: Which map would you like to look at? Okay...

Mr. Robinson: Anyone.

Mr. Baskin: Sure, 65 Hana is located right here. It's this parcel right here and I have a lease on this property and we have done some events there in the past and we plan to do some weddings there in the future.

Mr. Robinson: Is it a vacant parcel?

Mr. Baskin: No there's a building on it.

Mr. Robinson: Does it have a special use permit for events?

Mr. Baskin: No, it does not. We don't intend to do any weddings until we have all the permits. We have not begun doing any.

Mr. Robinson: You want to chime in?

Chair Tsai: Director?

Mr. Spence: We actually met with the former Governor and advised him and he explained he wants to do weddings on the property. I didn't quite understand the partnership thing but we advised him that you need to get a conditional permit to do commercial weddings on that property or change the zoning. And...how long ago was that? It sometime earlier this year and we haven't seen an application or anything as yet.

Chair Tsai: Go ahead.

Mr. Robinson: Director, if you can refresh my memory is when somebody has a short-term rental home they're only allowed to have one and not two is that correct?

Mr. Spence: That's correct.

Mr. Robinson: But a way around that is they could probably say it's their mother's house, their father's house, their mother's other house, their whoever it is, that's a way around a certain way then you could also lease a property. Now can a lease a property and since you don't own it can you also then turn that into a short-term rental home?

Mr. Spence: I'm sure every lease has different terms in it, but there are commercial leases that I've had opportunity to look at usually has a clause that you have to follow all of the State and County laws. Whoever the lessee is would have to obtain a permit.

Mr. Robinson: But as a STRH you leasing a home but a person owns the permit is that correct?

Mr. Spence: That's correct.

Mr. Robinson: Okay so a person couldn't lease a property and turn it into a short-term rental home is that correct?

Mr. Spence: If, if...potentially yes.

Mr. Robinson: Yes, okay. Mr. Baskin is it for us to understand that you lease this large property that have a home, you're in the lodging business and you do nothing with property and you just tried a couple events?

Mr. Baskin: The property at 65 Hana does not have a home on it.

Mr. Spence: Right.

Mr. Robinson: So what you're stating is that you don't use this property all it's just sitting there?

Mr. Baskin: At present, that is correct. We are planning to do...we have...there's two buildings on it. One was a restaurant if you're familiar where Johnny Bs was and then there's a building located behind it. We did some renovations to it. We got a Certificate of Occupancy to use it for retail and at present it's not, we're not operating or using it at the moment. We plan to in the future.

Mr. Robinson: And have you applied for any conditional use permits to do weddings or events there?

Mr. Baskin: We have not begun. This is sort of a new thing, the Governor, former Governor has writing in support of the Paia Inn and we have recent agreement with him that we've entered into and it is our plan to apply for all the proper permits to do weddings at that location.

Mr. Robinson: Thank you.

Chair Tsai: Commissioner Higashi?

Mr. Higashi: Mr. Baskin, were you on Maui when former Elmer Cravalho was mayor of Maui?

Mr. Baskin: Yes.

Mr. Higashi: You were?

Mr. Baskin: Yes.

Mr. Higashi: Do you remember his master plan of where hotels and motels, et cetera should be situated?

Mr. Baskin: No I don't believe that I remember that.

Mr. Higashi: Like in Lahaina, Kaanapali, Wailea, but not in Central Maui except for Maui Beach and former Maui Palms. You know the reason for that? Was to keep Central Maui local and that was to eliminate any kind of things that you are proposing and that is to have multi-dwellings in one particular location especially Paia because Paia is so inundated with vehicles

that there's no parking. And for you, your inn is right on Hana Highway which means that you tenants can actually park right on that street 'cause it's a public parking. The community plan for Paia also dictates although it's not updated that they do not want any type of hotel. One of the testifiers mentioned that. And according to your testimony to the Commission you are very, very conscious of community input, et cetera. So knowing that this particular area, Paia is central and not conducive for a hotel type operation would you be willing to withdraw your application in that particular area knowing that you have so many local people who are concerned about this particular area having this?

Mr. Baskin: It's a good question. The answer is no. I would not be interested in doing that and let me give you a little background.

Mr. Higashi: Okay.

Mr. Baskin: When I bought the building in 2002 I went to the County during the due diligence process and back then Mac Aquinde was the planner that worked back then and he was very excited about the idea of this property and said hey, you should make this into in a great inn and that's what inspired me to do that. And he said you don't have any parking requirements for this building but you have space behind it. You can add onto this. So for many years that was my dream as to renovate this property and to make it into a nice inn and that's exactly what we've done. We've put our heart and soul into this. We opened it up in 2008 after doing an extensive improvement to it, but we preserved the building. The building was built in 1927 as a Japanese inn. That was the purpose when it was constructed. So I'm proud of the fact that I have refurbished this building and that's what its uses and that's what its use will be going forward and we hope to do a very good job at running it which we are.

Mr. Higashi: So did you know that that particular building that you're occupying now was the former Kakiuchi Market and the family lived upstairs as their dwelling?

Mr. Baskin: No, I'm not too familiar with that.

Mr. Higashi: Well, that's what it was. So you're converting it to now a hotel type operation.

Mr. Baskin: I think the proper thing to keep in mind here as I showed in my presentation is that we bought this property, we went through all of the permitting process of renovating it. The Planning Department and the Building Department has already issued us permits for improvements and at every permit that we've had and we've had probably 10 they all show lodging on this property. So this is a, this is a use that has been established. We have relied upon that basically. We've relied upon the County issuing us those permits for it being lodging. Now we are coming in and we are trying to comply with a new bill that passed two years ago that allows for accommodations, 12 rooms in the...in this community. And while the community plan was written 21 years ago a point was made that there had been at least two occasions now

where the Planning Department and the Council has now provided for TVR use even after the community plan was written. Those are now STRHs in the residential area and now this is a new ordinance, we are the first to apply under it for TVR in the Business District. That's what we're here to apply for. We believe that this conforms exactly to that exact bill, and I'm not sure if you were there but it went through a tremendous amount of vetting by the community. Everyone had a chance to come out and discuss do we want this in Paia and people did come out and the Council still voted 8-0 to support this bill and the Mayor signed it, and we're simply applying an application under the current code of what's allowed as a use. It's a requires a special use permit that's what we're here to ask for.

Chair Tsai: Commissioner Hedani?

Mr. Hedani: Mr. Baskin, on Exhibit 11, I'm sorry, on Exhibit 13 of your application, Exhibit A attachment, at the bottom paragraph, paragraph 12, and this is an application that was filed by a Mr. Michael J. Ryan which I assume was the predecessor of yours for a variance in order to allow transient living quarters and office space which was not permissible at the time and he's applying for a variance to the Board of Variances and Appeals and it says, the property is unable to be used for its original purpose which is a dwelling and housing transient plantation workers with the influx of persons in the Paia area accommodations are limited and a return to the previous use is warranted. So from the standpoint of being a Japanese inn it was in your words a Japanese inn, it was a dwelling so the people lived upstairs and it was actually dwelling and the additional bedrooms were used to house transient plantation workers. So it essentially was employee housing for the plantation. Is that your understanding?

Mr. Baskin: Do you wanna comment on that? On the dwelling aspect? I might need help on that question from—

Mr. Hedani: I mean, that's what it says in your exhibit.

Mr. Baskin: Yes. Are you looking at the staff report or our application?

Mr. Spence: Yeah, that ...(inaudible)...

Mr. Baskin: I think you're looking at a staff report.

Mr. Spence: That would be the staff report.

Mr. Baskin: Okay, yeah that's different than my...it's not in my application, it's in the staff report.

Mr. Hedani: So you're not aware of that history of the building?

Mr. Baskin: I am aware of the history, yes.

Mr. Hedani: So you agree with this that it was actually employee housing for farm workers?

Mr. Baskin: I don't agree with that, but if I can bring up one of my consultants to help comment on the use and that that would be helpful for me. Can you do that?

Ms. Michele Cockett: Hi my name is Michele Cockett. Hi, good evening. Hi, in doing research upon this, with this document and preparing for the application we did extensive research with the Sanborn maps specifically and with the BVA in regards to the how it was proposed with Michael Ryan it was actually using it for TVR during that time. And that he was gleaning information from what he was told as well too. And it was used as housing throughout time. In other words, how do I explain this, during a course of its existence it had been used not only as housing but for non-durational time periods. If you look at the times that they use it it was for lodging and tenements and tenement areas earlier. And that during those times people would come and go and there was...that's why there was no in definitions of the lodging house didn't actually state how long that person needed to stay there as long as they were not related to each other and that was one of the...within the presentation it stated in 1960 there was no durational time period on how long they stayed there and also in 1967. It wasn't until 1991 that—

Mr. Hedani: My only question was whether or not you acknowledged as housing for transient—

Ms. Cockett: Yes, I'm very...yes.

Mr. Hedani: --plantation.

Ms. Cockett: It was for dwelling and they served meals there. Yes, it was an actual dwelling yes.

Chair Tsai: Commissioner Carnicelli?

Mr. Carnicelli: Okay, since we have a little bit of he said, she said on the...or he said, he said on the record, I went ahead and Googled Pacific Business New Paia Inn and I came up with a headline that reads, Hawaii investor puts part of Maui north shore town up for sale. It's dated August 7, 2015 which happens to be eight days after the settlement agreement was signed by Mr. Baskin. In this it says, a Hawaii investor with a background in architecture...eight properties including two beachfront residential parcels, blah, blah, blah, quote, it's really strategic timing for us at this point we have acquired enough properties in a growing market in Paia Town. So just for the record, Pacific Business News. Thank you.

Mr. Baskin: I did say it was in Pacific Business News.

Chair Tsai: Okay, Commissioner Hedani?

Mr. Hedani: Mr. Baskin?

Mr. Baskin: Yes, sir.

Mr. Hedani: When the question of transient vacation rentals came up I had a concern that there was so much money being generated by transient vacation rentals that it would be easy for the person that obtained the permit to use the proceeds from the profits from the operation to purchase the property next door or somewhere in near, close proximity and turn that into a transient vacation rental and then make so much money from that operation that you take profits from that and purchase another property. I was told they can only have one property as a transient vacation rental so that shouldn't be a concern. What I've seen since then is that people would do the transient vacation rental, generate so much money that they purchase the property next door, put it under their father's name or their brother's name or their wife's name or their mother's name and operate as a transient vacation rental from that perspective. Use the profits from that, turn around and purchase another property and put it under another relative's name. Is that you've done?

Mr. Baskin: No, not essentially, no.

Mr. Hedani: You deny that that didn't happen?

Mr. Baskin: I would deny that it...that, yes, I would deny that that's correct, I would deny that that happened.

Mr. Hedani: So your father's property is a transient vacation rental, your mother's property is a transient vacation rental but they came up with the idea brilliantly by themselves? Yes?

Mr. Baskin: They worked with me and I manage the properties.

Mr. Hedani: Okay.

Mr. Baskin: And they have other properties that are long-term rentals as well.

Chair Tsai: Director?

Mr. Spence: Just a comment. And this is by way of history so the Commissioners are aware. When the short-term rental home permit and I really have two comments. First, when the short-

term rental home permit ordinance came out, I believe it was 2013 there was a provision that the Council put in there so to try to encourage people to come in and apply and come in and get legal, and that one provision that said, if you come in before this certain date you don't have to appear before the Planning Commission because you know there's that trigger that if you're within 500 feet of another vacation rental you have to, you know, you have to go get a permit. So the application by Mr. Baskin, his mother and his father all came in at the same time.

Mr. Baskin: That is true. Thank you for pointing that out.

Mr. Spence: So there was no...one there was no requirement for a hearing before the Planning Commission, yes we did process all those three concurrently. The second reason, I just...I have to correct the record a little bit. The reason we're here today for a special use permit is because of the terms of the settlement agreement. That's what brought the application. Yes, the Council did pass an ordinance, you know, that said you need to get a special use permit, you know, from one to whatever it was, 12 rooms I think, but really what prompted the application was after we went through this mediation process with Mr. Baskin he was required to file a special use permit. We had a dispute where he believed that these rooms should be grandfathered in and we believed that they shouldn't and so we said okay, let's go to the Planning Commission and you know apply for a permit and alternative say to get legal.

Mr. Baskin: That's correct.

Chair Tsai: Thank you, Director.

Mr. Baskin: That is correct. Yes, correct except for we believe that it is grandfathered, yes.

Chair Tsai: ...(inaudible)...thank you. Commissioner Hedani?

Mr. Hedani: Mr. Baskin?

Mr. Baskin: Yes sir.

Mr. Hedani: I've never seen an application, I've been on the Planning Commission for 10 years, this is my 10th year, I've never seen an application come in to the commission asking for a permit with 92 Request for Service against it. That's a complaint basically against the property. And –

Mr. Baskin: Can you say that 92 what?

Mr. Hedani: ...(inaudible)...of those complaints still open which is—

Mr. Baskin: I'm not aware of 13 complaints against the property, against 93 Hana?

Mr. Hedani: In this particular report that was submitted to us all of—

Mr. Baskin: Against 93 Hana, against the subject property?

Mr. Hedani: It's against the subject property.

Mr. Baskin: Okay.

Mr. Hedani: These are Requests for Service against the subject property and my question if I have to ask the question was why wouldn't you resolve the 92 complaints and the 13 open items before you come to this commission to ask for an approval?

Mr. Baskin: The only thing that I'm aware of that is open right now is there was an awning of which we've now removed. There was a sandwich sign showing where the deli is which we removed and the only thing I'm aware of that's open at this time is the question about the parking for the deli patio area which we've applied for a C.O. and we believe we have the parking off site for. As far as I know there are no other RFS that are open, everything's been closed.

Mr. Hedani: Okay, this is dated 11/28/2016 and I count 13 items that are open on this list of complaints against your property.

Mr. Baskin: I'm not sure if that's accurate, I'd have to see it.

Chair Tsai: Director?

Mr. Spence: Just for the record, I don't know how many of those numbers are redundant 'cause they'll show up in KIVA as numbered the same item because it gets sent to different agencies. One goes...one copy goes to the Planning Department, another to Public Works, Wastewater, et cetera, so some of those might be redundant.

Chair Tsai: Well, Director I just wanted to point out that I see duplicate RF numbers but the 13 that are outstanding are highlighted by you Department's report saying that's still outstanding, taken out all the redundant ones.

Mr. Spence: Okay, then.

Chair Tsai: Commissioner Hedani?

Mr. Hedani: Mr. Baskin?

Mr. Baskin: Yes sir.

Mr. Spence: Kurt can explain that a little bit.

Mr. Wollenhaupt: Oh sure, be happy to.

Chair Tsai: Kurt, come on up.

Mr. Wollenhaupt: I believe that there as, there was a request by one of the commissioners to look at RFS over the last two years, so that being the case that's what was included into the staff report and indeed, you're looking at all of them that have been filed for this property, but the open ones went from 2014 to 2016. Now I want to make clear that an RFS can be something as generic as I'm requesting a building permit from my neighbor 'cause I have a question. So an RFS when we say it's always a complaint it's a request...can be a request for more information. So in the staff report I did say some of these documents are simply requests for information, where other RFS is address specific issues of concern regarding operations on the subject property. So that...some of them are merit a larger sense of concern, i.e., the parking with regards to the café, others of them were simply requests for information, but the direction that I had was that we're now requested to put all the RFSs from the last two years into a report so I think that solves that question.

Chair Tsai: Thank you, Kurt. No more questions?

Mr. Spence: Just one more comment on that.

Chair Tsai: Director.

Mr. Spence: Okay, I don't know how many of those are actually complaints, how many of those are...I think summaries were included in the staff report. I don't how many are complaints or requests for information. You know somebody will file a Request for Service saying please give me copies of all the whatever, so those could be document requests as well.

Chair Tsai: Commissioner Hedani?

Mr. Hedani: I'll make this last one.

Mr. Baskin: Okay, but I'm happy to answer any questions you have at all.

Mr. Hedani: I've never seen an applicant come before the commission previous to this with a \$190,000 worth of outstanding fines not yet paid. Why wouldn't you pay it before you come to us and ask for permission?

Mr. Baskin: Because in our mediation process, we went back to mediation and we felt that there were things that the County had not processed in terms of timeliness for our permits. So we had a mediator meet with us and through that process it was agreed that we would be given an extension for us to make that payment and that's why. So there was a date that was set in January for us to do that and we plan to do that and as I said if you felt that that was a condition that needed to be addressed here we could make that a condition I think is a natural thing.

Chair Tsai: Commissioner Hedani?

Mr. Hedani: I guess I lied. It wasn't the last question.

Mr. Baskin: I'm happy to answer as many as you have.

Mr. Hedani: What prompted the settlement agreement?

Mr. Baskin: So the settlement agreement was prompted over multiple properties that I own and again, it was prompted from complaints and we had to go through a process of getting after-the-fact permits for those properties which we did and have been working diligently in difficult, you know, to do but we hired consultants and again, all the properties had to be brought into, you know, to get after-the-fact permits. So the process of that was such that there were some violations that were issued. There were daily fines that were issued by the County. You heard my wife testify about how unfair we felt that that process was, but ultimately we went through and got a settlement and in that settlement we had hoped to resolve everything. We had hoped that the County and us would be on good terms and work together towards a better future essentially and we agreed to pay what is what we think is a very large sum. During the settlement it was too much for us to pay and so we agreed to do it over a period of time and that's what was agreed to. And so it was initially a 12-month period of time to pay that and once the 12th month came up we felt that there were still permits that the County had not processed. We requested a meeting and we went back to mediation and it was agreed upon. So we are not in arrears. We have a date set of when we need to make that next payment and that's our plan to do so. I would like to point out that this was a large, a large amount but it affected many properties it was not just one property. And so all of the properties in Paia as I explained earlier they're all old properties that date back for a very long period of time before any permits were given.

Chair Tsai: Director?

Mr. Spence: Just for the record Commissioners I have to disagree with Mr. Baskin that we agreed to extend based on the County's untimeliness to issue permits. I cannot say why the reasons because that was in mediation and we cannot discuss that, but it is not because we were untimely in issuing permits.

Chair Tsai: Commissioner Carnicelli?

Mr. Carnicelli: I actually answered my own question.

Chair Tsai: Okay, Commissioner Robinson?

Mr. Robinson: I'd just like to say something. I'd like to, I wanna give you some credit today, you know, you've taken a lot of questions—

Mr. Baskin: Thank you.

Mr. Robinson: -- and you've been very poised but then I wanna take it right back.

Mr. Baskin: Okay.

Mr. Robinson: And the reason why I'm gonna do that is because I have, I have opened, built, operated four different locations in Maui and I don't have one fine. I have done everything right. I've done everything ahead. I've hired the right people. I've never thought that oh, you know what, I'm being a good citizen because I'm now gonna come in compliance. I mean, to think that oh we should pat you on the back because you are now coming into code is not how we want people to think. That's called chaos. When everybody thinks that way and everybody just goes and does whatever they wanna do, you have no structure. You have no community. You have no care of your neighbor, you have chaos. And I'm not gonna let somebody stand and try to get credit for be chaotic. It's not hard for a person like me to go ahead and do it four times. I did it four times. It's not that hard. You walk into the department and you ask what do I need to do to get this, this, this, and this done and they give you list and you check it off one by one you go to the next department, you check it off again. And you hire contractors, you hire contractors that actually have licenses. I used RZ, RZ is fine, you know. And it's not hard to follow the County law. It's not hard to get building permits. It's not hard to get C.Os. It's not hard to get any of these things that you have been fined for. Thank you.

Chair Tsai: Thank you.

Mr. Baskin: These conditions existed when I bought the property.

Chair Tsai: I'm sorry, Michael I don't think that's a question. Do you have a question for the applicant?

Mr. Baskin: I just wanted to point out they existed when I bought the property.

Chair Tsai: Okay. Commissioner Hedani?

Mr. Hedani: We had testimony today that said that at the time you were purchasing the property a representation was made that it was to allow your father to move to a warmer climate away from Kula so he could have a more comfortable place to live. Is that true?

Mr. Baskin: I don't recall it that way that would have been 12 years ago and I do not recall that conversation that way, no.

Mr. Hedani: You never said?

Mr. Baskin: I don't recall that. My parents did live in Ulupalakua. That is true. They've been there for 40 years and they did move down to Kula a few years ago. The house when I bought it was a vacation rental and again, I wanna stress one thing which I know is Ms. Aarona's property which is adjacent to that has other vacation rentals going through her property currently today even just a couple of days ago. Wedding people, there are a number of vacation rentals right in the area that goes through her property.

Mr. Hedani: I'm sorry, that's not the question.

Mr. Baskin: Well, I just wanted to add that, I'm sorry. I don't recall saying 12 years ago that my parents were going to move into that property.

Chair Tsai: Commissioner Higashi and then Commissioner Castro.

Mr. Higashi: I just—

Mr. Baskin: Yes sir.

Mr. Higashi: Hi, I just wanted to make you aware that you know this settlement that you had—

Chair Tsai: Commissioner Higashi can you speak to the mic please?

Mr. Higashi: Oh, excuse me.

Chair Tsai: Thank you.

Mr. Higashi: Sorry. I just wanted you to be aware that the supplemental settlement agreement between you and the County Exhibit 2, No. 4, general provision reads, the County will stay any enforcement action regarding the parking and/or disputes at 93 Hana Highway while the owner's CUP application is being processed and until a decision is rendered by the Maui Planning Commission that becomes final. In other words, whatever agreement you had with the County does not affect the Commission. So you might be anticipating getting a permit, but you

have to go through the process and according to your agreement you are now with the commission which is the approval or disapprove.

Mr. Baskin: Yes sir, I'm aware of that.

Mr. Higashi: So what you are telling original was you were pretty much anticipating getting the approval based upon the fact that you had a supplemental agreement with the County is that right?

Mr. Baskin: I don't believe that I said it that way, but can you ask me the question and I'd be happy to answer it. I'm not sure I understand the question. Just please ask me the question.

Mr. Higashi: Yeah, but anyway that the supplemental agreement you have.

Mr. Baskin: What is the question?

Mr. Higashi: The question is did you know that that was part of the supplemental agreement that the Planning Commission make the final decision on rendering whether you get an approval or disapproval?

Mr. Baskin: Yes, I'm aware of that that's why...we're here for that reason today.

Mr. Higashi: I just wanted to ...(inaudible)...

Chair Tsai: Commissioner Castro?

Mr. Castro: Yes Mr. Baskin earlier there was a photograph that was passed around, 1930 there was a fire and it seemed like it burned down most of that block that you're on, a lot of—

Mr. Baskin: Can I see it? I've never seen that photo before.

Mr. Castro: And I would hate to see that happen again. So has any sprinkler system, smoke detectors, smoke alarms been installed?

Mr. Baskin: Yes sir, the entire building has fire sprinkler. It was not a requirement. We put it in anyway because we thought that it was an appropriate thing to do with people sleeping there. We did put a complete fire protection system, sprinkler and of course every room does have smoke detectors as well.

Mr. Castro: Thank you.

Mr. Baskin: Yes. Good question. Thank you.

Chair Tsai: Commissioner Robinson?

Mr. Robinson: That is a good question. Is the fire sprinklers connected to a fire suppression system or is it part of your water line?

Mr. Baskin: In order to put in the fire sprinkler system we had to put in a new connector across the street of Paia which went across the state highway. It cost us about \$100,000 to do it and so we had to put in a new water meter. We put in a one-inch main water meter and then we did a complete fire sprinkler system throughout the whole property even though it wasn't required, we did it.

Mr. Robinson: But the fire sprinkler system isn't on your one-inch meter it's connected to the Department of Water Supply.

Mr. Baskin: It's a separate connection. Correct, yes.

Mr. Robinson: Yeah, thank you.

Mr. Baskin: Yes, it's a separate connection.

Chair Tsai: Commissioner Castro.

Mr. Castro: So your front desk or area where you check in people is there a annunciator panel there?

Mr. Baskin: Is there a what?

Mr. Castro: Annunciator, a panel that will show location for fire?

Mr. Baskin: I'm not aware 100 percent, I would have to get back to you on whether or not. I know that it was fully permitted and it was installed just a couple of years ago when we did the construction for the four rooms, we modified the five existing rooms and put in the complete fire protection system throughout. So it was done obviously by permit.

Mr. Castro: And the only reason I ask that is because they need to go where to go.

Mr. Baskin: Okay.

Mr. Castro: And it would display that where the fire is at.

Mr. Baskin: I don't know the answer. I can find out about that. I don't know the answer to that. That's a good question. I'm not sure.

Mr. Castro: Thank you.

Chair Tsai: Any more questions from the Commission? Entertain a motion please?
Commissioner Hudson?

Mr. Hudson: Move to deny the permit.

Chair Tsai: A motion to deny from Commissioner Hudson.

Mr. Higashi: Second.

Chair Tsai: Second from Commissioner Higashi. Discussion regarding the motion?
Commissioner Hudson?

Mr. Hudson: Based upon the input of the community which include businesses and residents that chose to come out here and offer testimony it is my opinion that the approval of the special use permit will have a significant adverse impact on the social welfare of the community. The approval will be deleterious to Paia.

Chair Tsai: Commissioner Higashi?

Mr. Higashi: I seconded the motion because of the fact that when questions are asked to the applicant, the applicant should be straightforward in giving answers yes or no and not beat around the bush which is very, very suspicious about the kinds of things and comments that we get from the community about his character.

Chair Tsai: Commissioner Canto?

Ms. Canto: I support the motion based on the community plan, Paia-Haiku Community Plan and secondly because of the strong support of the community I will be supporting the motion. Thank you.

Chair Tsai: Commissioner Hedani?

Mr. Hedani: Yes, I will be supporting the motion. I believe the applicant currently is operating in violation of County Codes in relation to the operation of his restaurant with a deli permit. I believe there were 92 Request for Service that were filed on this particular property with 13 of those that are reflected as open. I believe the applicant has taken affirmative action to close a traditional beach access that existed on his property and will not consider reestablishing that public access which is one of the things that the Commission is tasked to do in terms of establishing beach accesses where we can, reestablishing them where we can for the benefit for the public. I also feel that he has failed to comply with the community plan prohibition against hotels. You're either a hotel or you're not a hotel and he's saying yeah, I'm an inn, but I should be able to operate as a hotel. You're either pregnant or you're not pregnant and that would require a community plan amendment. I believe noise complaints were a consideration. Littering from landscaping onto neighbor's properties was a consideration. I believe that the

applicant already has multiple short-term rental homes. He has one under his name, one under his parent's names or several under his parent's names and he has a transient vacation rental operation already existing in the Paia Inn. So it's not like we're denying him the ability to operate. We're denying him the ability to expand that and further make the community crazy. I believe the property's not zoned for hotel use and I share concerns about the 27...a building that was built in 1927 relative to fire safety for the guests.

Chair Tsai: Commissioner Robinson?

Mr. Robinson: A surprise to many is I'm not a very big proponent for short-term rentals. I know that might be a surprise, but I think unfortunately this what happens and I hope that the Council will see this and maybe look at this and try to change this. We have the cluster laws in, but I believe what happens is when somebody sees the volume of money that they make and then they get two, and then they three, greed takes over and somebody who may be never had the intention to have three vacation home rentals, somebody who ever meant to make a lot of money and start...it changes them. It changes them as part of the community. I mean, Mr. Baskin might have started off with the best intentions when he first bought it, but God money can change you. And you know, this is a reason why short-term rentals should be limited to one to two years and done. Give them a short-term and never in perpetuity or forever. If they gonna get it, they get it for short-term to get them to that bridge to where they have to make some money or fix their home but not for 10, 15 years not when you got three, four family members. This is, this is not what residential communities were made for. That's what resorts are made for. And that's another reason why I'm not a proponent for short-term rentals. Mahalo.

Chair Tsai: Commissioner Carnicelli?

Mr. Carnicelli: I, too, will be supporting the motion. I mean I got a page in notes here. I don't know how much I'm gonna say but I guess the first place I'm gonna go is, you know the applicant kinda like you know when you go to buy a car, it's like oh it's a I don't know a \$30 thousand car, and they say well how do much do you wanna pay per month and it goes down to oh, it's \$300 a month and then you know, oh I can't afford \$300 a month, and say I can afford \$280 and so suddenly they talk about \$20 instead of a \$30 thousand car. So the applicant's talking about oh it's just four office spaces, but it's not just four office spaces that's not what this is. Like you said, you're either pregnant or not. He's also operating the hotel in conjunction with his property, his mother's property, and his dad's property. You know he said that. So it's what is it 16 rooms not 12. So it really is a hotel even by definition. So that's part of my issue which so then you know we're not in compliance with the community plan or zoning.

You know the other thing too is you know I have planning commission dreams now and I woke up in the middle of the night and the word, nefarious came, popped into my mind and I had to Goggle it just to make sure I kinda knew that I thought it was what it was and it just seems as though the applicant in the way that he goes about his business can be nefarious and that plays into this for me because it has to do with the effect that me makes on a community. He's a very

good businessman in certain sense. He's made a lot of money and...but he has a skillset that I don't have and he's good at what he does. However, when the mode of operand, you know, your mode of doing business is to beg for forgiveness rather than ask for permission and then you come to us and ask for permission when you didn't in the first place or you're coming to us to beg for forgiveness and asking for permission I look at the STRHs 'cause I want illegal vacation rentals to come forward. I want people to let's make it legal. What you're doing illegally I want you to come forward. However when you come forward and you fight everything all along the way it has a...I have to look at it at a different way. Like in the mediation the fine still isn't paid. The restaurant's being run illegally. His application wasn't even...as part, he had to fill out an application and the first one wasn't even complete. It's like okay, I just don't, I don't understand that part. So you know, I can feel just even the way that the applicant's wife jumped up and wanted to jump in, that's what the neighborhood feels, and so I can just get that same sense right now. So it's just like is there gonna be an adverse effect, deleterious effect or is there adverse impact, deleterious effects. Yes, yeah there is in this and so you know, I don't think that this particular application meets the objectives of the community plan. It just doesn't. I kinda like the concept of a cute little boutique in the middle of Paia. I mean, conceptually it kinda makes sense, but that's not what the community wants and that's not what this is.

And then the other part too that I just...I'll go back to is on the record the applicant said that he never put it for sale and then he got he called out on it and we found out that it actually was and then he said oh no, I said that it was on Colliers. So even to us in this short time that he's been here it's just like that's the same thing that the community feels. So I would will supporting the amendment, no I'm sorry, supporting the motion.

Chair Tsai: Commissioner Hedani?

Mr. Hedani: One thing I'd like to put on the record is that when you get a violation notice from the County it's after a very long drawn out process. They have a warning that they send you, they send you second warning, then they send you a Notice of Violation, and then when you ignore all of the above you end up with a Notice of Violation with a fine and the fine accrues on a daily basis. And I've never seen an applicant come forward to us with a \$190,000 worth of fines that have been accrued on violations for the property. It's just mindboggling.

Chair Tsai: Commissioner Castro?

Mr. Castro: I, too, am gonna support this motion. For the life of me I can't see how anyone can continue to operate. Can you hear me now? Okay, too am in support of this motion and the reason is I can't see how anyone can continue to operate illegally and be in arrears of \$190,000. I just don't, I don't see it and I don't see why they should be privileged to continue to operate.

Chair Tsai: Okay, no more comments, discussion? Commissioner Hedani?

Mr. Hedani: Jim, do you have enough ammunition if we get called out on appeal?

Mr. Giroux: I think Kurt's gonna be writing the findings of facts, conclusions of law.

Chair Tsai: Leave it to the staff. Okay, no more discussion. Director would you please repeat the motion?

Mr. Spence: The motion is to deny the permit.

Chair Tsai: So let's call for a vote. All in favor of denying the permit?

Mr. Spence: That's seven ayes.

Chair Tsai: Motion carries. Permit denied. Thanks, gentlemen. Next item on the list?
Commissioner Hedani?

Mr. Hedani: Can we ask the Chair to vote on that? Can we ask the Chair to vote on the item?
Can we ask the Chairman to vote on this issue?

Chair Tsai: I don't need to vote.

Mr. Hedani: If you vote then it would be considered unanimous.

Chair Tsai: Oh. I don't need to vote. It's seven. I think for the record the Chair only vote if it actually would make a difference in the vote, in outcome to break a tie or something. So it's unanimous based on the number of the commissioners present. So I don't think I need to vote, so and it won't make any difference anyway. Thank you. So next item on the agenda?

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

**VOTED: To Deny the County Special Use Permit.
(Assenting – L. Hudson, R. Higashi, L. Carnicelli, K. Robinson,
P. Canto, W. Hedani, S. Castro)
(Excused – S. Duvauchelle)**

Submitted by,

Carolyn Takayama-Corden
Secretary to Boards & Commissions II

RECORD OF ATTENDANCE

Present

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

Excused

Sandy Duvauchelle, Vice-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