

**MAUI PLANNING COMMISSION  
ACTION MINUTES  
APRIL 25, 2017**

**A. CALL TO ORDER**

The regular meeting of the Maui Planning Commission was called to order by Chairperson Sandra Duvauchelle at approximately 9:10 a.m., Tuesday, April 25, 2017, Planning Conference Room, First Floor, Kalana Pakui Building, 250 South High Street, Wailuku, Maui.

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

**B. PUBLIC TESTIMONY** - At the discretion of the Chair, public testimony may also be taken when each agenda item is discussed, except for contested cases under Chapter 91, HRS. Individuals who cannot be present when the agenda item is discussed may testify at the beginning of the meeting instead and will not be allowed to testify again when the agenda item is discussed. **Testimony will be limited to a maximum of three (3) minutes.**

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

1. MR. MIKE GOSHI of DESIGN PARTNERS, INC. requesting a Special Management Area Use Permit for the Kamaole Grand project consisting of seven (7) residential buildings comprised of 217 condominium residences, a recreation center, barbecue areas, swimming pool, and associated improvements at 2455 South Kihei Road, TMK: 3-9-020: 007, Kihei, Island of Maui. (SM1 2016/0007) (C. Thackerson)

**It was moved by Mr. Carnicelli, seconded by Ms. Canto, then**

**VOTED: To Approve the Special Management Area Use Permit as Recommended by the Department, as amended.  
(Assenting – L. Carnicelli, P. Canto, K. Robinson, T. Gomes,  
C. Tackett, S. Castro, R. Higashi)  
(Excused – L. Hudson)**

2. MR. KELLY O'KIEF requesting a Short-Term Rental Home Permit in order to operate Hale Kuau, a three (3)-bedroom short-term rental home located in the R-1 Residential District at 749 Hana Highway, TMK: 2-6-012: 012-0001, Paia, Island of Maui. (STPH T2016/0008) (T. Furukawa)

The subject application is being brought to the Maui Planning Commission for review because there are at least 2 permitted short-term rental home operations located within 500 ft. of the subject property.

**It was moved by Ms. Canto, seconded by Ms. Gomes, then**

**VOTED: To Approve the Short-Term Rental Home Permit as Recommended by the Department.**

**(Assenting – P. Canto, T. Gomes, C. Tackett, S. Castro,  
S. Duvauchelle)**

**(Dissenting – K. Robinson, L. Carnicelli, R. Higashi)  
(Excused – L. Hudson)**

3. CHRISTOPHER JOHN MAUNE and SEAN MAUNE, SERGIO SANCHEZ and LILIAN SANCHEZ, FRANCISCO BERRUETTA and SHANELLE G. BERRUETTA requesting a Short-Term Rental Home Permit in order to operate the Hoaloha Hale, a two (2)-dwelling short-term rental property located in the R-3 Residential District at 2505 Halama Street, TMK: 3-9-010: 080, Kihei, Island of Maui. (STKM T2016/0007) (E Aako)

The subject application is being brought to the Maui Planning Commission for review because there are at least two (2) permitted short-term rental home operations located within 500 ft. of the subject property.

**It was moved by Ms. Gomes, seconded by Mr. Castro, then**

**VOTED: To Approve the Short-Term Rental Home Permit as Recommended by the Department.  
(Assenting – T. Gomes, S. Castro, L. Carnicelli, P. Canto, C. Tackett)  
(Dissenting – K. Robinson)  
(Excused – L. Hudson, S. Duvauchelle)**

## **C. COMMUNICATIONS**

1. MR. TOM PIERCE on behalf of THE ASSOCIATION OF APARTMENT OWNERS OF THE ROYALMAUIAN submitting a Petition to Intervene dated April 10, 2017 on the following application:

MR. MIKE GOSHI of DESIGN PARTNERS, INC. requesting a Special Management Area Use Permit for the Kamaole Grand project consisting of seven (7) residential buildings comprised of 217 condominium residences, a recreation center, barbecue areas, swimming pool, and associated improvements at 2455 South Kihei Road, TMK: 3-9-020: 007, Kihei, Island of Maui. (SM1 2016/0007) (C. Thackerson)

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.

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

**VOTED: To Deny the Petition to Intervene.  
(Assenting – L. Carnicelli, R. Higashi, K. Robinson, P. Canto,  
S. Castro)  
(Dissenting – T. Gomes, C. Tackett)  
(Excused – L. Hudson)**

**D. REVIEW OF PROPOSED SETTLEMENT AGREEMENT FOR ALLEGED SPECIAL MANAGEMENT AREA AND SHORELINE AREA VIOLATIONS**

1. Proposed Settlement Agreement between the COUNTY OF MAUI and the ASSOCIATION OF APARTMENT OWNERS OF MAHINAHINA BEACH for the construction of barbecue grills, a stairway, a trellis,, electrical lights, switches and wiring, an eating area, and a seawall within the Special Management Area (SMA) and Shoreline Setback Area (SSA) without first receiving permit for such improvements on property situated at 4007 Lower Honoapiilani Road, TMK: 4-3-008: 001, Mahinahina, Lahaina, Island of Maui.
  - a. SMA Notices of Violations issued as follows: NOV 20150063 (Electrical), NOV 20150065 (Stairway), NOV 20150068 (Trellis), NOV 20150070 (Barbecue grills), NOV 20150071 (Seawalls), and NOV 20150073 (Eating Area)
  - b. SSA Notices of Violation issued as follows: NOV 20150064 (Electrical), NOV 20150066 (Stairway), NOV 20150068 (Trellis), NOV 20150070 (Barbecue grills), NOV 20150072 (seawalls)

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

The Commission may take final action on the proposed Settlement Agreement pursuant to the provisions of Section 12-202-23(d)(3) of the Maui Planning Commission's Special Management Area Rules.

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

**VOTED: To Defer Action on the Settlement Agreement in Order to Receive Further Information Regarding Original NOVs, Accumulated Fines, Photos of the Original Violations, Explanation on Negotiation. Applicant is asked to Provide Information Regarding Contractors, What and When was Built.  
(Assenting – L. Carnicelli, K. Robinson, P. Canto, T. Gomes,  
C. Tackett, S. Castro)  
(Excused – L. Hudson, S. Duvauchelle)**

**E. ORIENTATION WORKSHOP NO. 2**

1. Special Management Area Rules and Shoreline Setback Rules
2. Flood Hazards
3. County's Policy Against Discrimination
4. Update of the General Plan – Long Range Division and Plan Implementation
5. Property Rights
6. Rational Nexus and Rough Proportionality

The workshop will be rescheduled to a future meeting due to meeting running late.

**F. COMMUNICATIONS**

1. Commission Discussion on amending Section 12-201-34 of the Commission's Rules of Practice and Procedure regarding Maximum Time Period for Decision,

The Commission may take action on this matter.

Matter was deferred to a future agenda for discussion.

**H. ACCEPTANCE OF THE ACTION MINUTES OF THE APRIL 11, 2017 MEETING AND REGULAR MINUTES OF THE JULY 26, 2016 MEETING**

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

**VOTED: To Accept the Action Minutes of the April 11, 2017 Meeting and the Regular Minutes of the July 26, 2016 Meeting.**  
**(Assenting – L. Carnicelli, K. Robinson, P. Canto, T. Gomes, C. Tackett, S. Castro)**  
**(Excused – L. Hudson, S. Duvauchelle)**

**I. DIRECTOR'S REPORT**

1. MR. WILLIAM SPENCE, Planning Director, notifying the Maui Planning Commission pursuant to Commission's SMA Rules of the following Special Management Area (SMA) Emergency Permit:
  - a. Approval letter dated April 4, 2017 to ANTHONY GERARD FREDERICO of PENINSULA DEVELOPMENT HAWAII TRUST and BRANDON MURR of CDF ENGINEERING LLC requesting a SMA Emergency Permit to implement temporary repair work to mitigate the impacts of three (3) sinkholes located mauka of the existing seawall at the Maui Sands II property at 3559 Lower Honoapiilani Road, TMK: 4-4-001: 071, Lahaina, Island of Maui. (SM3 2917/0005) (K. Scott)

This is for notification and review purposes.

For the Commission's notification

2. SMA Minor Permit Report
3. SMA Exemptions Report

The Commission acknowledged receipt of the SMA Minor and SMA Exemption Reports.

4. Discussion of Future Maui Planning Commission Agendas
  - a. May 9, 2017 agenda items

Mr. Spence went over the items scheduled for the May 9, 2017 agenda.

**J. NEXT REGULAR MEETING DATE: MAY 9, 2017**

**K. ADJOURNMENT**

The meeting was adjourned at 4:46 p.m.

Submitted by,

Carolyn Takayama-Corden  
Secretary to Boards & Commissions II

### **RECORD OF ATTENDANCE**

#### **Present**

Pua Canto  
Lawrence Carnicelli  
Stephen Castro  
Sandy Duvauchelle, Chairperson (excused at 4:00 p.m.)  
Tina Gomes  
Richard Higashi, Vice Chairperson  
Keaka Robinson  
Christian Tackett

#### **Excused**

Larry Hudson

#### **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