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**MAUI PLANNING COMMISSION
REGULAR MINUTES
DECEMBER 13, 2016**

A. CALL TO ORDER

The regular meeting of the Maui Planning Commission was called to order by Chairperson Max Tsai at approximately 9:15 a.m., Tuesday, December 13, 2016, Planning Conference Room, First Floor, Kalana Pakui Building, 250 South High Street, Wailuku, Maui. A quorum of the Commission was present. (See Record of Attendance.)

Chair Tsai: Good morning everyone. Sorry for the delay. Today is December 13, 2016. Maui Planning is called to order. Want to take a moment and acknowledge the Commissioners who are present. We have our Commissioner Higashi, Commissioner Castro, Commissioner Hedani, Commissioner Carnicelli, Commissioner Hudson, Commissioner Robinson, and Commissioner Canto. Thank you all for being here.

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.

At this point, I'm gonna open the floor for public testimony and this is for anyone who cannot stay for the agenda item when it comes up. So if you cannot stay you may testify now or you may wait till the agenda item comes up. You can pick one or the other, but you can't do both. I have a sign up list and also too is for anyone who might want to testify please sign up right there, you have to sign up and I'm going to call your name and let me know if you wanna wait or you wanna testify now please. Francine Aaronson? You wanna wait or you wanna testify now.

Ms. Aaronson: I'll wait.

Chair Tsai: Mose Kane?

Mr. Kane: Kane.

Chair Tsai: You like wait?

Mr. Kane: Yes.

Chair Tsai: Okay. Mark Sheehan?

Mr. Sheehan: Testify now.

Chair Tsai: Okay, please come forward, identify yourself. You have three minutes.

The following individuals testified at the beginning of the meeting:

Mark Sheehan – Item C-3, Paia Inn, SUP

Cynthia Reeves – Item C-2, Lahaina Bypass 1B-2 Design Build Project, SMA

1 Lee Chamberlain – Item C-2, Lahaina Bypass 1B-2 Design Build Project, SMA
2 Heidi Dollinger – Item C-2, Lahaina Bypass 1B-2 Design Build Project, SMA
3 Dr. Mark Deakos - Item C-2, Lahaina Bypass 1B-2 Design Build Project, SMA
4 Tiare Lawrence - Item C-2, Lahaina Bypass 1B-2 Design Build Project, SMA
5 and Item C-3, Paia Inn, SUP
6 Kris Kasper - Item C-2, Lahaina Bypass 1B-2 Design Build Project, SMA
7 Greg Mebel - Item C-2, Lahaina Bypass 1B-2 Design Build Project, SMA
8 Fabian Penty - Item C-3, Paia Inn, SUP
9 Gloria Madden - Item C-2, Lahaina Bypass 1B-2 Design Build Project, SMA
10 and Item C-3, Paia Inn, SUP
11 Fabio Valedio - Item C-3, Paia Inn, SUP
12 Hiilei Aiwohi-Kolt - Item C-3, Paia Inn, SUP
13 Christine Borge - Item C-3, Paia Inn, SUP
14

15 Their testimony can be found under the item on which they testified on.

16
17 Chair Tsai: All right. Okay, public testimony is now closed. We're gonna go to our first public
18 hearing item.

19
20 Mr. Spence: Is there anybody wants to—

21
22 Chair Tsai: There's more people who haven't signed up? No? Okay. Director?

23
24 Mr. Spence: Commissioners, we are on the first public hearing item, No. C-1. This is Planning
25 Department transmitting Council Reso. 16-100 referring to the Maui Planning Commission a
26 proposed bill to amend the West Maui Community Plan from Park to Business and proposed
27 zoning change from Park to B-2 Community Business District and the Staff Planner this morning
28 is Mr. Paul Fasi.

29
30 **C. PUBLIC HEARINGS** (Action to be taken after public hearing.)

31
32 **1. MR. WILLIAM SPENCE, Planning Director transmitting Council Resolution**
33 **No. 16-100 referring to the Maui Planning Commission a proposed bill to**
34 **amend the West Maui Community Plan designation from Park to Business**
35 **and a proposed bill to change the zoning from PK General Park designation**
36 **to B-2 Community Business District for portions of properties situated at**
37 **TMK: 4-4-001: 010 and 4-4-014: 006, Lahaina, Maui, Hawaii. (CPA 2016/0003)**
38 **(CIZ 2016/0004) (P. Fasi)**

39
40 **The proposed land use entitlements involve an area of about 0.049 acres of**
41 **land.**

42
43 Mr. Paul Fasi: Good morning, Commissioners. Good morning, members of the public. The
44 matter before you are two draft bill resolutions for Community Plan Amendment and Change in
45 Zoning and the purpose of this is to correct a subdivision mapping area that happened back in
46 2008. And the parcel area in question is roughly 2,136 square feet, ...(inaudible-audio

1 interference)...46 x 46 inch square that's basically the area we're talking about. I think what
2 happened...

3
4 Chair Tsai: Paul, hold on a second. Go ahead.

5
6 Mr. Fasi: Okay. So what happened back in 2008 was the Nunes Family owned the parcel that
7 was sitting in the middle of a park and so the County approached them or one or the other and
8 they decided to do a land swap and shift the Nunes property up closer to Honoapiilani Highway
9 to get a contiguous park area and they were gracious enough to agree to that. But in the
10 subdivision mapping process somehow they got shorted this 3,100 square feet so basically this
11 is to correct that subdivision mapping area. Colleen Suyama from Munekiyo Hiraga has a slide
12 show but if you don't need it then we won't have to view it. I know you have a lot of things on
13 your agenda so that completes the Department's report. You have any questions I'll be happy
14 to answer them.

15
16 Ms. Canto: Chair, I have a question.

17
18 Chair Tsai: I think I gotta open it for public testimony. Hold on a second Paul.

19
20 **a) Public Hearing**

21
22 Chair Tsai: We're gonna open the public...for testimony for this particular agenda item. Anyone
23 wish to testify on this item please come forward? Seeing none, public testimony is closed.
24 Comments, questions from the Commission? Commissioner Canto?

25
26 Ms. Canto: Yes Paul I have a question. Is this a perpetual easement?

27
28 Mr. Fasi: Yes.

29
30 Ms. Canto: It's perpetual?

31
32 Mr. Fasi: Yes.

33
34 Ms. Canto: Okay, thank you. Thank you, Chair.

35
36 Chair Tsai: Commissioners, would you guys like to see the presentation?

37
38 Mr. Fasi: You basically have all the slides in your department report.

39
40 Chair Tsai: Okay. Commissioner Robinson?

41
42 Mr. Robinson: Hey Paul. I think this is pretty simple. We just want to move the land over a little
43 bit.

44
45 Mr. Fasi: Yeah.

46

- 1 Mr. Robinson: The question I have is in that area we're changing designations to business. It
2 was a Park to Business is that where we're switching the Nunes' property?
3
- 4 Mr. Fasi: You see that small yellow portion, that strip of land right there below the pink? In
5 between the pink and green?
6
- 7 Mr. Robinson: I must be color blind because I don't see any yellow. Over here, this one?
8
- 9 Mr. Fasi: That's what we're talking about.
10
- 11 Mr. Robinson: That's all we're talking about. Okay, no further questions.
12
- 13 Chair Tsai: Any other questions from the Commission? Commissioner Hedani?
14
- 15 Mr. Hedani: Paul, the question that I have is...well, I have two questions actually. First
16 question is it talks about a one for one property exchange. Where was the property that was
17 exchanged for the one to one exchange?
18
- 19 Mr. Fasi: If you look at Exhibit 2 in your report there's a prior to and following, pre and post and
20 so that's basically the land swap right there.
21
- 22 Mr. Hedani: Let me rephrase the question. If we're changing 0.049 acres park land to
23 commercial which is I guess what we're doing was there 0.049 acres of land that was provided
24 for park purposes somewhere?
25
- 26 Mr. Fasi: I'm assuming it was. I don't think the County would do a lesser for more land swap
27 with the Nunes Family. I'm assuming it's a one for one but because the subdivision process
28 moved the easement from five feet to ten feet they have to make up that area to the Nunes
29 Family to make it equitable in which it was originally agreed to back in 2008. So the square
30 footage I'm assuming back in 2008 was already agreed to but when they did the subdivision
31 they were shorted. So this resolution is to correct that subdivision error. That's all it is.
32
- 33 Chair Tsai: Commissioner Hedani?
34
- 35 Mr. Hedani: Somebody else has a question.
36
- 37 Chair Tsai: Oh, I thought you raised your hand.
38
- 39 Mr. Hedani: Another question that I had was what is the easement, what purpose is the
40 easement for?
41
- 42 Mr. Fasi: It's for MECO, Maui Electric. Yeah, it's a Maui Electric easement.
43
- 44 Chair Tsai: Any other questions from the Commission?
45
- 46 Mr. Robinson: Move to approve.

1
2 Ms. Canto: Second.

3
4 Chair Tsai: Wait. Can I have the Department's recommendation first? I know we all
5 ...(inaudible)...get this going.

6
7 Mr. Fasi: The Maui Planning Department recommends that the Maui Planning Commission that
8 it recommend to the Maui County Council approval of both bills without modification. It has to
9 go back to the Council for further action.

10
11
12 Mr. Robinson: Move to approve.

13
14 Ms. Canto: Second.

15
16 Chair Tsai: Okay moved by Commissioner Robinson, second by Commissioner Canto.
17 Discussion regarding the motion? Director will you please repeat the motion?

18
19 Mr. Spence: The motion is to approve as recommended by Staff.

20
21 Chair Tsai: Okay, call for a vote. All in favor?

22
23 Mr. Spence: That's seven ayes. Motion carries.

24
25 Chair Tsai: Motion carries. Thank you.

26
27 Mr. Fasi: Thank you.

28
29 **It was then moved by Mr. Robinson, seconded by Ms. Canto, then**

30
31 **VOTED: To Recommend Approval of the Proposed Bill to Amend the West**
32 **Maui Community Plan Designation and Change in Zoning to the**
33 **County Council as Recommended by the Department.**
34 **(Assenting – K. Robinson, P. Canto, L. Carnicelli, L. Hudson,**
35 **W. Hedani, S. Castro, R. Higashi)**
36 **(Excused – S. Duvauchelle)**

37
38 Chair Tsai: Next Item?

39
40 Mr. Spence: Okay, Commissioners we're one Item C-2. Mr. Thomas Parker of the Central
41 Federal Lands Highways Division, Federal Highways Administration, U.S. Department of
42 Transportation requesting an SMA Permit for Lahaina Bypass 1B-2. So the Design Build
43 Project and our Staff Planner this morning is Mr. Keith Scott.

44
45 **2. MR. THOMAS PARKER of the CENTRAL FEDERAL LANDS HIGHWAYS**
46 **DIVISION, FEDERAL HIGHWAYS ADMINISTRATION, U.S. DEPARTMENT OF**

TRANSPORTATION requesting a Special Management Area Use Permit and Shoreline Setback Variance for the Lahaina Bypass 1B-2 Design Build Project along the right of way located mauka of the existing Honoapiilani Highway between Hokiokio Place and the former Olowalu Landfill at TMK: 4-7-1: 22 (por.), 30 (por.), 39 (por.), 4-7-003: 32 (por.), 4-7-13: 2 (por.), 5 (por.), 8 (por.), 10 (por.), 11 (por.),12 (por.); 4-7-14: 1 (por.), 2 (por.) 3 (por.), 4 (por.), 5 (por.), 6 (por.), 7 (por.), 8 (por.), 9 (por.), 10 (por.), 011 (por.), and 14 (por.), Launiupoko, Island of Maui. (SM1 2016 /0008) (K. Scott)

Mr. Keith Scott: Good morning Commissioners. Thank you Chair and Commission Members, I'd like to make a few comments before the applicant makes their presentation with respect to the Lahaina Bypass Phase 1B-2. And if you'll give me a moment I need to get this set up for you.

The proposed Phase 1B-2, the Lahaina Bypass will extend the current sections of the bypass approximately 2.7 miles from the Hokiokio Place near Puamana to Olowalu and cost approximately \$38.6 million. Just north of Olowalu Landfill in the vicinity of Cut Mountain northbound traffic will be directed onto the bypass from Honoapiilani Highway. Motorists that wish to utilize the current highway north of this transition will need to turn off the bypass at either Kaiheleku Street or Hokiokio Place as the connector road will be right-in, right-out only. The applicant will be providing more detailed information in their presentation.

After the project report was published, the applicant made the Department aware of three corrections to the project description. The first, Hokiokio Place and Kaiheleku Street will not be improved with this project except in the vicinity of the bypass itself. Second, Punakea Loop is a developer constructed road, however the overpass is being paid by the applicant. And last, Honoapiilani Highway north from the transition with the connector road will accommodate some through traffic particularly traveling north to south.

In reviewing the Special Management Area Use Permit and Shoreline Setback Variance application three areas of concern were observed. These areas signalization of intersections with Hokiokio Place and Kaiheleku Street, location of the connector road transition to the existing highway and location of the transition from existing Honoapiilani Highway to the bypass near Olowalu.

With respect to the signals, the West Maui Community Plan is a document developed with the community that advances planning goals, objectives, policies and implementation considerations to guide decision making in the region. Within the community plan Infrastructure Section, Implementing Action 9, under Transportation states, discourage at-grade intersections along the planned Lahaina Bypass Road in order to maintain safe and efficient traffic flow without traffic signals. Based upon this community implementing action staff recommended to the applicant that a method of traffic control other than signalized intersections be utilized. The applicant commissioned a Traffic Impact Analysis exploring various alternatives and which indicated that grade separation was not warranted due to insufficient traffic volumes. Another factor in requesting at-grade intersections and signals is that there is insufficient budget

1 available for grade separation. Should grade separation be required, Hawaii DOT says that the
2 project budget would be significantly exceeded and the project would not proceed. Staff has
3 recommended that smart signals be used at these intersections to facilitate traffic flow.

4
5 Second area of concern—

6
7 Chair Tsai: Hold on a second. Commissioner Robinson?

8
9 Mr. Robinson: I'm sorry Keith. I can't see that. Is there somewhere in our report that you're
10 following through because I heard changes, then I see different things so I'm trying follow.

11
12 Mr. Scott: Okay, the changes are on Pages 2 and 3 of your staff report. Okay, so—

13
14 Mr. Robinson: Keith, I'm still trying to get there. When you say staff report, help me please? Or
15 any other Commissioners that see it that I'm missing.

16
17 Mr. Scott: Okay, on the staff report under Description of the Project on Page 2.

18
19 Mr. Robinson: Right.

20
21 Mr. Scott: Okay. Number 4 says Hokiokio Place and Kaiheleku Street will be improved
22 between the bypass and existing Honoapiilani Highway.

23
24 Mr. Robinson: Right.

25
26 Mr. Scott: And that is not the case.

27
28 Mr. Robinson: That's what I'm saying so there's no page that says all the changes. We have to
29 follow and mark up ourselves?

30
31 Mr. Scott: That's correct.

32
33 Mr. Robinson: Okay, so No. 4. I'm sorry, 'cause I can't even see those black lettering from
34 here, so I can't read along with that.

35
36 Chair Tsai: Yeah, Keith so we can't see it from here at all.

37
38 Mr. Scott: Okay.

39
40 Mr. Robinson: And could you continue with the other two changes please?

41
42 Mr. Scott: Certainly. Number 5, Punakea Loop, staff report indicates that that is funded by
43 private parties and the Punakea Loop itself is funded by parties, however the overpass is being
44 paid for by the applicant.

45

1 Mr. Robinson: Thank you.

2

3 Mr. Scott: And then No. 6, says that the transition to the bypass from the Kaiheleku Street will
4 be for local traffic only and the point is that it will not be only local traffic that there will be some
5 through traffic.

6

7 Mr. Robinson: Thank you Keith.

8

9 Mr. Scott: Thank you.

10

11 Mr. Robinson: How we're gonna rectify the...us not being able to...

12

13 Mr. Spence: We can't rectify...(inaudible)...

14

15 Mr. Robinson: It's all in this though, just in different form? Okay.

16

17 Chair Tsai: Please continue.

18

19 Mr. Scott: The proposed connector road transition from the bypass to the existing Honoapiilani
20 Highway is within 10 feet of the shoreline which leaves it extremely vulnerable to wave action.
21 Because of that proximity it would not be surprising to see a proposal to build a revetment or
22 seawall in the near future in order to protect that portion of the road. Staff has recommended to
23 the applicant that this transition be moved approximately 900 feet to the north which would take
24 the transition outside the shoreline setback area and to a higher elevation. The applicant
25 through its consultant indicated that the transition might be able to be moved 700 to 900 feet
26 north without having to revisit the EA, Environmental Assessment. The Department has been
27 informed that the applicant is now proposing to move this transition 700 feet to the north.
28 Moving it 900 feet would require crossing Launiupoko Stream and cost about \$800,000 more
29 which represents less than 2 percent of the estimated overall project cost. Moving it 700 feet
30 would make the transition less vulnerable than originally proposed. However, it would still be
31 within the shoreline setback area. If either of these two alternatives are selected a condition of
32 approval should be added to require that a certified shoreline survey be obtained for the area of
33 the relocated transition. In addition, Condition No. 6 should be rewritten to require that the
34 transition be moved to the location agreed to by the Commission.

35

36 And the finally bypass transition to Honoapiilani Highway, the proposed transition is partially
37 within the shoreline setback area and Staff recommended that it be moved approximately 550
38 feet south which would also take this transition outside of the shoreline setback area. The
39 recommended location of this transition is outside of the areas considered in the Environmental
40 Assessment and is close to the closed Olowalu Landfill. Therefore, to move this transition is
41 recommended. Additional environmental review would be required necessitating a significant
42 delay and the project would likely not proceed. So the Department's recommendation does not
43 include a condition of approval to move this transition.

44

45 So in summary while the West Maui Community Plan recommends the signals on the—

1
2 Mr. Carnicelli: I'm sorry, could you go back to that...(inaudible-not speaking into mic)...I'm
3 just...I'm reading slower than you are.

4
5 Unidentified Speaker: The south connector?

6
7 Mr. Carnicelli: Yeah.

8
9 Chair Tsai: Commissioner Carnicelli can you speak to the mic?

10
11 Mr. Carnicelli: I'm sorry. I'm sorry, Keith, could you please go back to that other...that slide
12 there, yeah, I'm reading slower than you are and I know you know this inside and out way better
13 than we do and so I just...I kinda wanna just cover this a little slower. Thanks, that's all.

14
15 Mr. Scott: Okay. If you like I can read the slide directly would that help you?

16
17 Mr. Carnicelli: Yeah, that would. Thank you.

18
19 Mr. Scott: Okay, so the first point is proposed transition is partially located within 30 feet of the
20 apparent shoreline with a shoreline setback of 40 feet. Second is Staff recommended to
21 applicant that the transition be moved approximately 550 feet to the south outside the shoreline
22 setback area. And the third point is Staff recommended relocation site is outside the approved
23 EA/EIS boundary, would postpone the start of construction and current funding would be
24 reallocated to a different project.

25
26 Mr. Carnicelli: Thank you.

27
28 Mr. Scott: So in summary while the West Maui Community Plan recommends that signals on
29 the bypass be avoided the planning commission has wide discretion in evaluating this or any
30 project. For instance, the Commission could determine that at-grade intersections with signals
31 could not be avoided for this project. The Staff has recommended that the connector road
32 transition be moved to the north if there is no delay to the construction of the project. Should
33 the Commission require a relocation of this transition as previously discussed, Condition 6
34 should be written and a certified shoreline would need to be obtained for the area of the
35 relocated transition. And then moving the southern transition from Honoapiilani Highway to the
36 bypass would require additional environmental work, therefore the project would likely not get
37 constructed. So thank you for allowing me to make these few comments. I'd like to now
38 introduce Milton Arakawa of Wilson Okamoto who will lead a presentation for the applicant.

39
40 Mr. Milton Arakawa: Thank you, Keith. As he mentioned my name is Milton Arakawa. I'm with
41 Wilson Okamoto Corporation and also I want to introduce some of the project participants. The
42 applicant is Central Federal Lands. They're a division of the Federal Highway Administration
43 and with us this morning we have Chris Offe and Tim Tam in the back here. And we are doing
44 the project for the State Department of Transportation and with us this morning we have Fred
45 Cajigal and Don Smith from Maui Office of the State DOT. And this project is also a design-

1 build project as Keith mentioned and the contractor for the project is Hawaiian Dredging
2 Construction Company and we have Mike Nakashima, Craig Okita, and Melissa Soares from
3 Hawaiian Dredging Construction Company. And Wilson Okamoto Corporation we are the
4 design engineers and Brian Lock is here and Rebecca Codelasa from our planning group is also
5 here this morning. So that's the project team. Let me just get right into the power point.

6
7 As you know the project has had a long history and the initial Lahaina Bypass alignment was
8 slated to go from Hanakao Point to the area near Puamana Park. And Final Environmental
9 Impact Statement for that was completed in 1991. Subsequent to that the State DOT extended
10 the alignment. The northern extension extended from Hanakao Point to the area near
11 Honokowai and on the southern side it extended from the area of Puamana Park to Launiupoko
12 Wayside Park. And this extension was approved in 2003. And the extension is noted here in
13 green. And Keith provided this graphic earlier but the green area actually extends from
14 Hokiokio Place on the left down to Launiupoko Wayside Park and what we have for
15 consideration today is the alignment in red extending from Hokiokio Place going 2.7 miles to the
16 vicinity of the Olowalu Landfill. And also part of this project is this south connector, and let me
17 just use my pointer, right here, short stretch here which connects the existing highway to the
18 proposed bypass.

19
20 This is the third segment of the bypass to be constructed. Phase 1A extended from Kiawe
21 Street to Lahainaluna Road. That was completed and opened in March of 2013. Phase 1B-1
22 extended from Lahainaluna Road to Hokiokio Place and that was completed and opened in
23 December of 2013. And Phase 1B-2 which is currently under consideration would extend from
24 Hokiokio Place to Honoapiilani Highway near the landfill. And we hope to start construction on
25 that next month and the construction period would be roughly one year. Future Phases 1C and
26 1D would go further to the north to complete the bypass.

27
28 As far as the proposed project improvements as I mentioned the new road alignment is about
29 2.7 miles long. DOT is purchasing a right-of-way 150 feet in width. And it's a new south
30 connector road between the new bypass and the existing highway. And as Keith mentioned if
31 you are proceeding in the Lahaina direction on Honoapiilani you will be forced to go onto the
32 bypass unlike the current situation. So the existing highway at this particular location will be
33 gated. You will have no choice but to go onto the new bypass.

34
35 There are also intersection improvements at Hokiokio Place and Kai Hele Ku Street. There will
36 be traffic signals that are proposed there. At the south connector, connection to the bypass that
37 will be a right-in and right-out only movement. And as was mentioned Punakea Loop, actually
38 the Punakea Loop portion will go under the new bypass and there will be no new connection to
39 the bypass. If we did an at-grade intersection there basically we would have to make another
40 choice as far as the choice of intersection improvements that would be required there. There
41 are also detention basins and other drainage structures which are proposed as part of this
42 development.

43
44 This is a plan view of the Hokiokio and Lahaina Bypass intersection and if you are traveling in
45 the Lahaina direction it's a through lane, left-hand storage and a right-turn decel lane. If you are

1 proceeding toward Olowalu it's a through lane and a left-turn storage lane. Proceeding makai
2 on Hokiokio it's a shared left, through and right-turn lane and if you are proceeding mauka on
3 Hokiokio to the bypass it's a shared left and through and a separate right-turn lane.
4

5 This is the plan view of the Kai Hele Ku and Lahaina Bypass intersection, very similar to
6 Hokiokio. If you are proceeding in the Lahaina direction you have through left-turn lane and a
7 right-turn storage lane. Proceeding toward Olowalu we have left-turn...I mean, through lane,
8 left-turn lane and a right-turn decel lane, proceeding makai on Kai Hele Ku a shared through
9 and left and separate right-turn lane and proceeding mauka a shared left, through and right-turn
10 lane. And I as mentioned at the connection of south connector road to the bypass we would
11 have a right-turn...right in and right out only movement here. That's the restriction that we are
12 proposing.
13

14 The project has gone through a long environmental review process. We went through a State
15 Environmental Assessment process that that process started in 2007. Public meeting in 2012,
16 extensive public review and that Final Environmental Assessment was completed in December
17 of 2015. There was also a Federal reevaluation which is the Federal environmental review
18 portion of it and the Federal Highway Administration concluded that no additional impacts are
19 anticipated and that the existing Supplemental EIS and the record of decision is adequate.
20

21 There are a number of Federal crosscutter requirements that needed to be fulfilled. Section 7 of
22 the Endangered Species Act required consultation with the Fish and Wildlife Service and
23 National Marine Fishery Service and they basically cleared the project. Essential fish habitat
24 was another requirement which was completed. Basically the National Oceanic and
25 Atmospheric Administration concluded that the proposed action would not adversely affect
26 essential fish habitat.
27

28 As far as historic and archaeological resources, an Archaeological Inventory Survey was
29 completed back in 2006. There was a subsequent archaeological field inspection done in 2007
30 which documented no new archaeological sites. There was a finding of no adverse effect by the
31 State Historic Preservation Division in April of 2014. And some of the previous work that was
32 done in the area did require some monitoring of the existing rock piles, but during that
33 monitoring no archaeological sites were found. So SHPD found that no further archaeological
34 monitoring is necessary. And Section 4F relating to public parks, and traffic, and transportation,
35 archaeological sites also was cleared.
36

37 The project is before you today is required to get an SMA Use Permit and the portion of the
38 project within the SMA is the portion noted in purple, noted toward the right of your screen,
39 that's the makai portions of the south connector and the portion where the bypass trends down
40 and meets the existing highway.
41

42 We also required to get a Shoreline Setback Variance. And the portion in blue here is the south
43 connector portion as it comes down and meets the existing highway and no portion of the
44 proposed improvements would proceed any more makai than what currently exists. The line in
45 red here, the makai line is the certified shoreline, and the green line is the average lot depth

1 calculation of the setback. The orange line is the annual erosion hazard rate setback line. As
2 Keith mentioned the certified shoreline actually is a place where a scarp had developed in this
3 location so the shoreline is fairly close to the road so that's why most of the proposed
4 improvements would be within the shoreline...would require, excuse me, a Shoreline Setback
5 Variance.

6
7 This is the portion of the bypass as it trends down to meet the existing highway and again, the
8 red is the certified shoreline, green is the average lot depth calculation and the orange is annual
9 erosion hazard rate calculation and you can see here the shoreline is a little further away from
10 the existing road. But this a portion of the improvements are proposed within the shoreline
11 setback.

12
13 The applicant met with the Planning Department back in October to ascertain any comments
14 and concerns on the SMA Use Permit and the Shoreline Setback Variance. Applicant also held
15 a community informational meeting on November 2nd at Lahaina Intermediate School and the
16 purpose of the meeting was to provide an overview of the project and to gather community input
17 as it relates to the SMA Use Permit and the Shoreline Setback Variance.

18
19 There are a number of people that attended the meeting. There were a number of concerns
20 that were raised and some of the concerns I can cover here today. One of the comments was
21 why the section of the existing highway between the southern terminus near Olowalu and the
22 proposed south connector road need to be closed? And there was a concern raised about
23 maintaining shoreline access along this portion. And the portion we're talking about is this
24 portion in red, this red dashed portion because as I mentioned traffic traveling in Lahaina would
25 be forced to go on the bypass. So the question was whether or not people would be allowed to
26 access this portion of the roadway? And basically the existing highway between the south
27 connector and the bypass will remain open for public access and there will be a driveway
28 connection to the south connector. However vehicular access will be blocked where the bypass
29 meets the existing highway. And as was brought up earlier, the County owns that area noted in
30 green. It's about a 148-acre property which is intended to be used as a public park. So the
31 area in green, encircled in green is owned by the County. The dashed red lines under the
32 jurisdiction of the Department of Transportation and the sliver of property makai of the dashed
33 line are under the jurisdiction of the Department of Land and Natural Resources. So this area
34 will remain in public jurisdiction.

35
36 The inset shows what we are proposing as far as just a driveway access from the south
37 connector onto that portion of highway between the south connector and where the bypass
38 meets the highway.

39
40 Another comment that was raised was traffic signals along the existing highway back up traffic
41 and will create traffic delays which defeats the purpose of the bypass. The intersections are
42 being designed to provide safe access to not only traffic on the bypass but also to traffic
43 traveling in the mauka and makai directions as well. And turning movements also need to be
44 accommodated safely and efficiently. DOT did look at a number of alternatives. A traffic
45 addendum was prepared during the environmental review process that looked at various

1 intersection treatments. And one of the suggestions was why not use a roundabout at the
2 bypass intersections? And the TIAR addendum basically said the roundabouts were
3 determined to not be feasible for the project. First of all, the highway is intended to be an
4 eventual four-lane highway and there is limited capacity of a single-lane roundabout and this
5 would insufficient to handle future forecast volumes and the maximum operating speeds through
6 a roundabout are basically slower than the intended speeds for the bypass. And the bypass is
7 basically designed for a speed of 45 miles an hour. So the roundabout is basically intended to
8 be, to process traffic in a slower and more orderly fashion.

9
10 So most of the volume on the...would be on the bypass and there's low volumes on the minor
11 streets on Hokiokio and also Kai Hele Ku. So what that tends to do is that most people would
12 try to speed through the bypass as much as they can, but makes entry from the side streets
13 more difficult. And the other issue here with the roundabout is that there is a slight slope there
14 and roundabouts work best when it's implemented on a flat area. So if we have to implement
15 the roundabout there we will have to do more extensive earthwork, it's greater cost for
16 construction, there's also land acquisition and there's also visual impact which conflicts with the
17 view shed requirements of the Final Environmental Impact Statement...Final Environmental
18 Assessment, sorry.

19
20 There were also comments about why not put in a grade separated intersection? And the
21 graphic here just shows an example of a grade separated intersection where you eliminate the
22 left-turn at the intersection. So the way this works basically is you...instead of making a left-turn
23 at the intersection here, you would basically make a right turn here and it would go under the
24 bypass and proceed makai. This eliminates one turning movement at the intersection but still if
25 it's warranted a signal would still be required there. And if this is implemented this costs
26 approximately eight time more than an at-grade intersection. We'd have to acquire more land
27 for this new right-of-way and it costs more for construction too. And here again, grade
28 separation requires more earth work and more visual impacts.

29
30 This is a non-signal alternative which was considered in the intersection and the way this works
31 is if you are traveling, say example, moving towards Lahaina, you would go past the intersection
32 and you'd have to make a U-turn here, wait for the traffic to clear and then make a right turn and
33 proceed makai. And same thing if you are proceeding in the Olowalu direction proceed toward
34 Olowalu make a U-turn here and then wait for the traffic to clear and make a right to proceed
35 mauka. With this type of intersection treatment there are safety concerns for pedestrians and
36 bicyclists. There are also additional land acquisition and construction costs and it does cost
37 quite a bit more.

38
39 Unidentified Speaker from Audience: Excuse me, can I—

40
41 Chair Tsai: Sir, you can't ask questions.

42
43 Unidentified Speaker from Audience: Oh, I'm sorry. Never mind. I just wanted to ask
44 something over there.

45

1 Chair Tsai: Continue Milton.

2

3 Mr. Arakawa: Another alternative which was looked at is this jug handle. It's a four-way type
4 ramp and here again, instead of making a left-turn at the intersection, you could just veer off
5 here and make a right. It will be a stop here and you can either proceed mauka or proceed
6 makai but again, it would eliminate left-turn movement at the intersection but if it's warranted
7 you know a traffic signal would still be...still be required. Of course if the signal is put in there
8 would be a phase for a pedestrians and bicyclists to go across but otherwise if there's no signal
9 it does cause some safety concerns for pedestrians and bicyclists.

10

11 So another question was so where are the traffic signals proposed and how would the bypass
12 be any better than current conditions if traffic signals are used at intersections? And the traffic
13 signals are proposed at Hookeiokio and Kai Hele Ku, and as I mentioned the south connector
14 intersection with the bypass would be right-in and right-out only.

15

16 And for traffic signals the long green times on the bypass could be utilized to minimize impacts
17 of traffic signal delay during peak hours. And during off peak hours alternate timing plans could
18 be developed which could maximize throughput on the reduced traffic volumes. And there is
19 also emerging technology where there's...which could further optimize the traffic signal timing
20 and this is akin to having smart cars as opposed to regular cars where they can continually
21 monitor the traffic volume and change accordingly. But the technology is still quite, still in
22 emerging technology, but DOT will continue to look at that, see if the traffic signal timing can be
23 optimized. But generally traffic signals allow for safely crossings for pedestrians and bicycles
24 compared to say a two-way stop intersection in this case where you have a 45-mile-an-hour
25 speed limit on the main line. And traffic signals at Hookeiokio and Kai Hele Ku provide the best
26 balance between optimizing through traffic on the one hand and providing safe and convenient
27 turning movements and access from the side streets on the other.

28

29 There are a number of shoreline issues. As Keith mentioned, the Planning Department is
30 requesting moving the south connector connection to the existing highway approximately
31 900 feet to the north in order to increase the distance between the south connector transition
32 and the shoreline. But this would require constructing a fourth crossing of Launiupoko Stream
33 in close proximity to each other.

34

35 This is roughly where the 900 feet crossing would take place and it would have to cross
36 Launiupoko Stream. There's an existing culvert crossing at the existing highway. There's an
37 existing culvert crossing at the canehaul road. We are proposing a crossing at the bypass and
38 so if we provide the south connector location 900 feet to the north there would be a fourth
39 crossing of the stream. So instead, we would propose to move that south connector connection
40 to the existing approximately 700 feet to the north to avoid crossing Launiupoko Stream and
41 with the exact location based on the final engineering design. And we believe that this can be
42 considered within the study area of the past environmental reviews and will still increase the
43 distance between the south connector transition and the shoreline.

44

1 And sorry for the long presentation, I know the project has had a long history. We believe that
2 this is a much needed project on the West side and we respectfully ask for the Commission's
3 support.

4
5 Chair Tsai: Thank you. Before taking any questions or open the floor for public testimony I'm
6 gonna take a recess for 10 minutes and be back at 10:45.

7
8 A recess was called at 10:35 a.m., and the meeting was reconvened at 10:55 a.m.

9
10 Chair Tsai: Maui Planning Commission is back to order. We're on Agenda Item C-2. At this
11 time I'm gonna open the public testimony for this agenda item.

12
13 **a) Public Hearing**

14
15 Chair Tsai: Anyone wish to testify please come forward who haven't already testified?

16
17 The following testimony was received at the beginning of the meeting:

18
19 Chair Tsai: Okay, going back to the list. Cynthia Reeves? Okay.

20
21 Ms. Cynthia Reeves: Okay, thank you very much. Good morning Members of the Maui
22 Planning Commission. My name is Cindy Reeves and I am the Maui County Administrator for
23 the University of Hawaii, Cooperative Extension Service, but today I'm here to testify in my
24 capacity as Chair of the Nutrition and Physical Activity Coalition (NPAC). I'd like to thank you
25 for this opportunity to request your support for inclusion of a non at grade crossing at the
26 terminus of the Lahaina Bypass in planning for the intersection with the West Maui Greenway
27 for the safe use of pedestrians and bicyclists.

28
29 The mission of the Nutrition and Physical Activity Coalition NPAC of Maui County is to promote
30 health and well-being in a safe and accessible community where people are able to easily make
31 healthy choices. A major part of our focus is on promoting environmental design that is
32 conducive to both health and safety. NPAC cultivates community leaders to improve the
33 community's health and well-being through policy, decision making regarding sidewalks,
34 bikeways and safe routes to school.

35
36 NPAC is aware of and strongly supports an initiative to create a West Maui Greenway. A multi-
37 use trail between Olowalu Town and Lahaina Town along the old abandoned cane road, cane
38 haul road that parallels the highway. However, the southern end of the proposed Lahaina
39 Bypass Phase 1B-2 is currently crossing the existing old cane haul road and if safety measures
40 are not included during the planning phases of the bypass and the greenway now this could
41 result in the potential for injuries or fatalities of pedestrians and bicyclists in the future due
42 having an unsafe crossing at a major high volume, high speed highway.

43
44 Knowing that this bypass is under design all we ask of the designers is to creatively consider a
45 design that could accommodate a simple underpass or overpass thoroughfare at the bypass
46 crossing similar to those found on golf courses that would accommodate bicyclists and

1 pedestrians utilizing the greenway thus keeping them safely away from the bypass traffic. This
2 simple addition to the plan would result in the greenway being much more conducive to
3 providing a safe and comfortable venue for outdoor activities for the children, families and
4 seniors in our community. Thank you very much for your thoughtful consideration of this
5 request.

6
7 Chair Tsai: Thank you. Commissioner Carnicelli?

8
9 Mr. Carnicelli: Cindy I wanna thank you for that. Since you're here and we're doing this and
10 appreciate your request for this is if there's...is there anything in addition to this that you would
11 like? I mean, I'm not saying that you get your wish but I'm just saying is, you know, I think
12 you're being very judicious in saying this is all we need, but is there anything in addition to this
13 that you would also like that we can consider?

14
15 Ms. Reeves: I appreciate your question and I'm not prepared to answer that fully today. I wish I
16 were. I can tell you that are our concerns are primarily for the safety of pedestrians. We are
17 very excited about the potential for the West Maui Greenway and we feel that as long as the
18 designs are being put together now for the bypass this would be a good time to actually include
19 these measures and it's just one of those things I think that can tend to get forgotten you know
20 when we're going through this process. So I thank you for your consideration and if I come up
21 with some issues, some other things I'd be happy to share with the commission at that point.
22 Thank you.

23
24 Chair Tsai: Thank you, Cynthia.

25
26 Chair Tsai: Okay next we have Lee Chamberlain?

27
28 Mr. Lee Chamberlain: Had to put my glasses on since you know it's that time of my life right
29 now so sorry about that. Anyway, good morning everybody. My name is Lee Chamberlain and
30 I'm here on behalf of the Maui Bicycling League and I'm also here in support of the West Maui
31 Greenway project and ask the Federal Highway Administration and the Highway Department of
32 Transportation for proper accommodation with a crossing of the West Maui Greenway.

33
34 The West Maui Greenway project is a very worthwhile project that will be beneficial to the
35 community for safety by saving lives from the risks and injury reducing risk of County liability
36 while increasing economic growth and providing a safe and fun alternative activity for tourists
37 and residents alike that is healthy to the environment and person.

38
39 There wide community support and additionally supported by key landowners and many West
40 Maui unified organizations such as the West Maui Taxpayers Associations, and the West Maui
41 Rotary organizations to name a few. This concept has been included in the State Plan, the
42 Maui Island Plan and the West Maui Community Plan beginning back in the mid-1990's but has
43 never been implemented.

44
45 This pilot project encompassing a public-private partnership of the abandoned lower cane haul
46 road from Olowalu to the sugar mill smoke stack in the Lahaina is exclusive to any other place

1 on Maui and has become known as a hidden gem among the many that I've seen experienced
2 it. Project has received endorsements from Senator Brian Schatz, Lieutenant Governor Shan
3 Tsutsui, State Senator Roz Baker, State Representative Angus McKelvey, Mayor Alan Arakawa,
4 Maui Hotel and Lodging, Rotary Club of Lahaina Sunset to name a few.

5
6 Maui County Council last year awarded the West Maui Greenway \$300,000 for planning and
7 design. It's important that Transportation authorities recognize and respect the great progress
8 towards implementation of a plan that dates back to the 90's. I request Transportation
9 authorities refer to Appendix G of the Hawaii Master Bike Plan which is right here, okay,
10 specifically Pages G15, G17, and Page G20 in Appendix G of the plan. On these pages you will
11 see detail addresses to the West Maui Greenway and the Lahaina Bypass. On Page 20, past
12 planners calculated the West Maui Greenway and the Lahaina Bypass integrate rather than
13 conflict with each other. I request the Highway Federal Department, State DOT, and Maui
14 Public Works not to ignore these plans and respect the vision past planners had by adopting
15 and implementing the proposed list of bicycle facilities in the Hawaii Master Bike Plan. Thank
16 you.

17
18 Chair Tsai: Thank you.

19
20 Ms. Heidi Dollinger: Good morning, my name is Heidi Dollinger and I'm here in support of the
21 West Maui Greenway project and to ask the Federal Highway Administration and the Highway
22 Department of Transportation for proper accommodation of a crossing for the West Maui
23 Greenway. I'm here not just for myself but to express the huge support I see in West Maui for
24 this project. There is lots more people that would love to be here today testify and they're
25 working, taking care of children, cannot make it over here at this time. But the message from
26 West Maui is we need safe bike paths on Maui. Traffic is increasing, the highways are getting
27 crazy, more congested, more dangerous, less reliable. Many people I've spoken to that work in
28 Lahaina would prefer to ride a bike if they had a safe way to ride a bike. Bicycling is less
29 expensive than owning a car, it's healthier, it's safer, well safer if there are the bike paths and
30 it's better for the environment. Something really needs to be done to alleviate our traffic
31 congestion and biking is a great alternative. It is just simply not safe right now to bike on the
32 road or expect to see a growing number of people using bikes when there's no safe place to
33 ride. Developing any transportation infrastructure project on Maui should not ignore the West
34 Maui Greenway project and its potential to have a huge positive impact on the island, save lives
35 and increase the safety of our residents. Please we urge you to consider the project for the
36 West Maui Greenway. Thank you.

37
38 Chair Tsai: Thank you.

39
40 Chair Tsai: Mark Deakos?

41
42 Mr. Mark Deakos: Thank you Commissioners for hearing me today. I'm Dr. Mark Deakos,
43 Executive Director of the Hawaii Association for Marine Education and Research also known as
44 HAMER and I very much support this bypass project and I encourage the Planning Commission
45 to grant the SMA Permit. And there's two main reasons I support this project.

46

1 The first is the existing highway is and will continue to be undermined by rising sea levels.
2 Essentially it's falling into the ocean. The only way to preserve it is to build 10-foot seawalls to
3 keep the water from crashing over like you see at Ukumehame. As you're probably aware
4 seawalls destroy beaches, they destroy critical habitat for sea turtles, monk seals. They take
5 away access to the shoreline for fishers, gatherers, surfers, swimmers and they disrupt the
6 sediment flow. They increase the rate of erosion. And they suspend the energy that crashes
7 onto the seawalls suspends sediment that alternately impacts the coral reef, kills the coral reef
8 all of which we've seen at the Ukumehame seawall. So shorelines is a living, breathing thing
9 and once you sever it with concrete you disrupt that ecological service that that provides. So
10 moving the road is our best option.

11
12 So the second reason I support it is all that land that's makai of the bypass most of it is owned
13 by the County so...and that land is designated open space and park so there's no development
14 that will occur on the makai side. So we have an opportunity to instill the first phase of the Pali
15 to Puamana Parkway Plan which I think everyone in this room would support which is eight
16 miles of public access and open space and park on the makai side of the highway. So the
17 County also owns the property at cut mountain where the connector will occur so they can work
18 to keep that part of the road open and provide access although you won't be able to connect to
19 merge onto the highway on the other side. So in essence I certainly would prefer to see
20 roundabouts that will probably come up in terms of traffic lights. I would love to see the bike
21 overpass, but if this requires DOT to go back and redo the EA pushing this project down the
22 road two to four years, possibly losing the Federal funding, I don't think it's worth it. I think these
23 can be implemented afterwards and I would love to see those things, but I would hate to see
24 four more years of the DOT having nothing...not able to do anything but pour concrete along
25 our shoreline and we lose that. So please approve this permit so that we can start the first
26 phase of the P to P Plan and have that access and park space for everybody in perpetuity.
27 Thank you.

28
29 Chair Tsai: Thank you.

30
31 Ms. Tiare Lawrence: Aloha Members. Just a quick question, if I'm talking on behalf of two
32 agenda items should I wait for the next one or just...it's okay to just?

33
34 Chair Tsai: You can go now.

35
36 Ms. Lawrence: Okay. Well, I wanted to testify on C-2 today in support of the bypass. I, as
37 many of you know we were actively involved in stopping the seawalls from happening in
38 Olowalu and I believe if this doesn't push forward that we could possibly lose those funds and it
39 would be a big blow. I think the West Maui Greenway is a beautiful that can be dealt with, but
40 we really need this to move forward so that we're not waiting another four years or delaying any
41 project because as Mark had mentioned there's multiple areas on Honoapiilani Highway that is
42 falling into the ocean and we desperately need to get this going and implement the Pali to
43 Puamana Parkway. It's 20 years behind, would open up vast amount of park space for our
44 community and I believe with the P to P Plan that we can implement this beautiful greenway as
45 well with all of this open park space that comes available. So I wanted to testify on behalf of
46 that.

1
2 And then I also wanted to testify on C-3 in denial of the Special Use Permit for many reasons
3 and I think many of you know but I just kinda wanted to bring this to attention the sales brochure
4 that this was for the Paia Inn and we can pass it around, but it looks to me as I go through it that
5 he had intended to build 50 rooms and as the community...in the Haiku Community Plan it
6 clearly states that the community did not want a TVR, any TVR for that matter. So I wanna
7 request that you deny the Special Use Permit especially since he owes a \$190,000 to the
8 County and I think it be...I mean I think the media would just have a field day with this if you
9 guys give it to him today and I'd hate for this body to be blasted by the media for allowing
10 somebody who owes that much money more permits. So I wanna request that you deny his
11 permit and I'd be happy to, if you wanna see his sale brochure?

12
13 Chair Tsai: We have that already.

14
15 Ms. Lawrence: Okay, so as you can see the plan was to build more TVR units in Paia and I just
16 you know, the community is here today and I'm sure a lot of them are gonna say the same
17 things that they do not want more TVR in Paia. I was at Aunty Mopsy's house a few weeks ago
18 and I can tell you that you know these guys come they just wanna party, they're traveling,
19 they're tourists and all these TVRs surrounding people's homes and it's a nuisance you know.
20 These people partying till late at night and I was there sitting down, talking story with her and
21 next door hear all these people partying next door and I can understand why the community is
22 frustrated and irritated with the amount of TVR in Paia. So I just request that you deny the
23 Special Use Permit today. Mahalo.

24
25 Chair Tsai: Thank you. Chris Kasper?

26
27 Mr. Chris Kasper: Good morning. I'm just here in support of the Maui Greenway and the Maui
28 Bicycle League and I'd just like to see some consideration for the, you know, a way around the
29 bypass either an under or overpass for the bicycle...for the greenway 'cause it really makes no
30 sense to put the greenway in and then have to cross the bypass you know for cyclists or
31 motorists. So anyway that's all I wanted to say. Thank you.

32
33 Chair Tsai: Greg Mebel?

34
35 Mr. Greg Mebel: Hi, thanks for hearing me today. I think most of what I was going to say is
36 actually said about supporting this West Maui Greenway. I live on the north shore but you know
37 I represent many friends and family, from marathon runners who would use this path to elders
38 who would use it for walking and biking to moms who would use it for strollers. All people who
39 need to be off of highways and onto a beautiful paths. You know, I was just in Kauai where
40 there's a nice path in Kapaa. Tons of people using it. I just think it's something that, you know,
41 as planners I know you can see in the future and see this is something important to our island
42 and the way we'd like to live here. Thank you.

43
44 Chair Tsai: Thank you.

45

1 Ms. Gloria Madden: Good morning, my name is Gloria Madden. I am actually for the bypass
2 and I think that the bypass is a wonderful thing for our community. And adding a greenway into
3 the bypass for Lahaina is...I just think is a very good way to foresee the future.
4

5 And this is what I think Paia needs as well. You need to foresee the future of Paia and adding a
6 special permit for a gentleman who does owe already \$190,000 to the community and I'm not
7 aware of him adding three parking stalls for his café because we do need more parking in Paia.
8 Paia is getting built up at a very fast pace. I live in Paia and I have to leave 20 to 30 minutes
9 early to get through traffic. Adding more people to our community will add more traffic and more
10 needs around our community which is growing at an alarming rate. With all of the vast property
11 going up for sale on the north shore we have to be protecting our small communities and it's
12 very important to foresee the future because being born and raised here I've seen the future
13 grow very fast. Haiku School has 400 students. Paia School needs more space. Adding these
14 little inns special use permits will just allow more people to take advantage of our community
15 and living in Paia I understand the ohana, the factor that people watch out for each other. They
16 are born and raised there. I'm the only renter on my street. I appreciate that. And people
17 watch out for one and other. When we have many people in our community who do not live
18 here, they do not care about it. They do not portray aloha. I walk down the street, I wanna
19 smile, I wanna wave, people growl at me and say this is my parking spot. Where are we
20 supposed to park? When you add too many visitors in a local community you add a lot of rage
21 and anger to people who already feel betrayed. Please think about this before you give any
22 special permits to people who already have mistreated the permits they've been given. Thank
23 you very much.
24

25 Ms. Canto: Chair?

26
27 Chair Tsai: Hold on a second, ma'am. We have a question from the Commission.
28 Commissioner Canto?
29

30 Ms. Canto: So I need to be clear. So you are not in support of C-3?
31

32 Ms. Madden: I am not in support. No. Thank you very much. But I am in support in the
33 bypass, please.
34

35 Ms. Canto: Right, right. Thank you.
36

37 Ms. Madden: Thank you.
38

39 This concludes the testimony received at the beginning of the meeting.
40

41 Chair Tsai: Please identify yourself. You have three minutes.
42

43 Ms. Donna Clayton: Aloha, my name is Donna Clayton. I am a long-standing member of the
44 Na Ala Hele Maui Council and I'm here to speak in support of a West Maui Greenway Crossing
45 to be incorporated in the design for the Lahaina Bypass 1B-2 Design Build Project. Na Ala
46 Hele, the Hawaii Statewide Trail and Access Maui Council was established after Hawaii

1 recognized the people's need for a comprehensive trail and access system back in 1988. It was
2 decided that a successful trail and access system while helping to conserve Maui's environment
3 and cultural heritage will also contribute to Maui's economy by adding diversity to Maui's job
4 market, enhancing Maui's attraction to visitors interested in outdoor recreation, and stimulating
5 recreation oriented businesses and more. Na Ala Hele has teamed up with the National Park
6 Service, State and County, private landowners, community and user groups to plan together as
7 the West Maui Greenway Alliance, the West Maui Greenway Phase 1 Section. At a two-day
8 workshop in February the Alliance discussed this upcoming bypass project which is on the
9 agenda today and agreed that we need to work with the design build group to ensure the West
10 Maui greenway route is not blocked. As project moves forward through the permitting and
11 design finalization we all need to keep in mind the importance of not blocking the West Maui
12 greenway route. The West Maui Greenway Alliance its successful implementation of the West
13 Maui greenway is dependent upon its cooperation with other State and County agencies as well
14 as its ability to work with private individuals and organizations. Na Ala Hele is instructed to take
15 advantage of opportunities which may be lost if not acted on immediately. Kind of a land
16 banking approach to set aside routes awaiting funding or cooperative agreements. The West
17 Maui greenway is such an opportunity. With the cooperation of State, County and landowners
18 along the route we are actually able to begin the design Phase 1. Of course, every section will
19 have challenges and we look to the Lahaina Bypass design team and the State and the County
20 to work with us to overcome the challenge presented by this bypass section. In closing,
21 corridors for walkers and bike riders separated from roadways are the goal to encourage all of
22 Maui to get outdoors, to exercise to provide a safe place to do that. We are working with our
23 community and visitors to change to a less autocratic way of life to healthier lifestyle. And in
24 my years with Na Ala Hele we have seen that if you build it, they will come. People will travel
25 the West Maui greenway. Let's work together to make sure the West Maui greenway route is
26 included in the bypass design. Thank you.

27
28 Chair Tsai: Thank you, Donna. I have a few people from the sign up list. Heidi Dollinger?
29 Saman Dias?

30
31 Ms. Saman Dias: Aloha and good morning Chair and Commissioners. I'm Saman Dias of Maui
32 Bicycling League and I'm here in support of the West Maui Greenway, WMG project and to ask
33 the Federal Highway Administration and the Highway Department of Transportation for proper
34 accommodation of crossing of the West Maui Greenway. Maui Bicycling League our mission is
35 to promote more bike friendly and pedestrian friendly communities here on Maui. In the past,
36 Maui hasn't shined in the bicycle and pedestrian friendly categories because the island has a
37 limited number of designated marker use pathways. West Maui in particular has the fewest
38 alternative routes for cyclists and pedestrians to reasonably avoid riding or walking along the
39 areas on Honoapiilani Highway. An alternative transportation path is badly needed on Maui
40 where our roads is not designed for multiple users and shared by a high volume of local
41 residents and tourists. The visitors are often unfamiliar with the roads and their rental vehicle
42 creating even more of very dangerous situation. West Maui in particular provides the fewest
43 alternative routes for bicyclists and pedestrians and I believe more needs to be done to ensure
44 a better experience for everyone. There's a lot of history around the backdrop of the mountain
45 along the West Maui Greenways. We will be able to preserve the history and share those
46 stories with our children, local community and visitors. West Maui children will have a way to

1 use the path by walking or biking to commute to school and for other activities. We can also
2 use the West Maui Greenway as a emergency route when there are major accidents and roads
3 are closed. And at this point, I ask your support to consider and think of ways that you can
4 incorporate the West Maui Greenway into your plans. And many people call West Maui
5 Greenway as a hidden gem and I sure hope you will help us to highlight this hidden gem and
6 bring to life. Mahalo and thank you for your consideration.

7

8 Chair Tsai: Thank you. Yolanda?

9

10 Ms. Yolanda Dizon: Good morning. My name is Yolanda Dizon from Lahaina. Gotta calm
11 down little bit. First of all, that Cut Mountain my concern about that area is because again our
12 shoreline going be taken away. Again, we cannot go to our refrigerator which is the ocean.
13 Again, we are put second about everything else for our traditional uses of the ocean. Another
14 part of our history gone. Because I understand that yes, she's finally, Kanaloa is taking back,
15 but instead of closing off that area move it the road up, plantation road, the greenway, they call
16 it the greenway now, so that we can drive near the ocean to the shoreline, you know. Please,
17 please consider this because everything is disappearing. You know, yes the greenway for our
18 bicycle users, our families, but at the same time don't forget your original people of this island.
19 How can we practice it when you take everything away? That's one.

20

21 Back in the 90's when everybody was up in arms about this bypass, we know it's gotta come.
22 Yeah, we need it. We need it, but it's been a band aid fix day one. If everybody wasn't on a
23 tunnel vision they would have implemented the old canehaul road which is now called the
24 greenway. Save thousands and thousands of dollars, millions in fact but no because it's piece
25 by piece we're spending more money, our tax dollars are going for what? Again, anyway
26 whatever it's past and gone. Now what? How we gonna do this now? How we gonna fix it
27 now? Kai Hele Ku from mauka to makai people live up there, the subdivisions are up there, it's
28 scary. Now we gotta cross a bypass. Even on Hokiokio, it's scary. How can we make it safer?
29 Originally would have been one underpass save everybody money, safer, but kinda late already
30 yeah it's done. I don't know you know, it's one plus one does equal two not five. If we look to
31 the future, vision the future not a tunnel vision where all these projects that come through for
32 permits please consider what is the effect gonna be for the future.

33

34 And I going squeeze Paia Inn too, it's overgrown. You cannot have that Inn, you cannot have
35 more rentals in that single building and I know I am, I know I'm not supposed, but you know
36 what it's frustrated already, frustrated. Okay, thank you.

37

38 Chair Tsai: Thank you. Okay, I got Rory.

39

40 Mr. Rory Frampton: Good morning Commissioners. My name is Rory Frampton. I'm a land
41 use planner and I previously worked on this bypass project assisting with the environmental
42 review process that Milton went through earlier. I just wanted to make a few comments. The
43 Lahaina Bypass originally was intended to bypass Lahaina Town and Milton showed you that on
44 the slides. As time progressed and looking ahead they realized that they should extend the
45 terminus further south to avoid areas along the highway that were experiencing shoreline
46 erosion and in a nutshell that's what this project does. The idea was to take it all the way to the

1 Olowalu Landfill which is a natural pinch point because you can't go over the landfill and it's very
2 close to the ocean. But really, so it evolved from the bypass around the urban area to really
3 bypassing the coastal areas and that concept has evolved into this Pali to Puamana plan where
4 the regional transportation corridor would get shifted mauka and that actually, the intent is to
5 actually preserve and enhance the coastal experience for people so that you don't have 30 cars
6 a day going a couple feet from the ocean. And so you know, I think long-term this does present
7 an opportunity to enhance the area that I've shown you in those photographs. Those areas are
8 the areas that are with a section of road that's not gonna be through travel way. The County of
9 Maui owns the land behind it and so the County of Maui has an opportunity to turn that into a
10 really special recreational area that doesn't have again, cars running along the shoreline. The
11 County now owns, if this project goes through they'll own oceanfront land basically. The land
12 that abuts this right-of-way. So it does present a huge opportunity to implement park and
13 enhance public access in my opinion.

14
15 The south connector just real quickly, the EA anticipated that that south connector would be
16 pushed and adjusted during the SMA process. I think what's happened with Keith Scott's
17 recommended that the location point be moved further north is a good suggestion. The final
18 photo that I sent you shows the where Milton showed the proposed terminus. It would
19 happen...it would swing mauka just after the Launiupoko bridge and you can see that there's
20 more land at that little area versus those other photos where there's...the highway is ready to
21 fall into the ocean.

22
23 The greenway, unfortunately the greenway, the concept of using the canehaul for the greenway
24 is relatively new. The long-term plan that everybody's always talked about is having a
25 greenway along the ocean on the makai side of the highway. So if you moved the highway
26 mauka then you could have the greenway on the makai side. Unfortunately this canehaul road
27 and where they're starting the greenway it starts on the mauka side of the highway in Olowalu
28 so you gotta cross it and you know one provision that they have in the plans is for a separated
29 bike path from the transition point to Kai Hele Ku. So that's an option and I'll let Milton talk
30 about the other options for how you work with that greenway, but I do believe there's ways to
31 accommodate it. The long-term plan would ultimately to be...move the—

32
33 Ms. Takayama-Corden: Three minutes.

34
35 Mr. Frampton: --further sections of the highway further mauka and then make everything below
36 the highway.

37
38 Just one last point. The community plan language about discouraging at-grade intersections. If
39 you look at the bypass in general they have underpass at Lahainaluna Road. They have an
40 underpass for an ag crossing by Kauula Stream and Punakea Loop which provides access to
41 the mauka families in Kauula Valley that's being accommodated via an underpass. So they
42 have looked at discouraging at-grade intersections and there are two proposed grade
43 intersections but if you look at the whole thing, in my opinion the State has been attempting to
44 try to avoid at-grade intersections. I'll conclude. Thank you.

45

1 Chair Tsai: Thank you. Is there anyone else wish to testify on this agenda item right now
2 please come forward. Seeing none, public testimony is now closed. Questions from the
3 Commission? Commissioner Canto?

4
5 Ms. Canto: The questions I have are for Milton. Is it safe to say that the roundabout is not an
6 option then for consideration at all?

7
8 Mr. Arakawa: Roundabout was considered as part of the environmental review process and it
9 was felt that it was not as feasible as the traffic signal for the reasons that I had specified in the
10 power point. If the decision is to go with a roundabout basically we believe we would have to go
11 for additional environmental review because it would require more land acquisition, specific view
12 impacts were not assessed as part of the environmental review so it would further delay the
13 project, but we believe that the signals are the best optimum choice.

14
15 Ms. Canto: Okay, Chair I have another question.

16
17 Chair Tsai: Okay, go ahead.

18
19 Ms. Canto: One of your slides I think it was indicated a Michigan U-turn, non-signal--

20
21 Mr. Arakawa: Yes.

22
23 Ms. Canto: --turn. What is the speed limit as they approach that U-turn, 55?

24
25 Mr. Arakawa: Well, the design speed for the bypass is 45 miles an hour.

26
27 Ms. Canto: 45.

28
29 Mr. Arakawa: If the Michigan U-turn is actually implemented they might have to take a look at
30 the speed limit again. But the concern here is that if there's signal how do pedestrians and
31 bicyclists get across safely and efficiently that's a concern with implementing that Michigan U-
32 turn type of intersection treatment.

33
34 Ms. Canto: Okay, thank you. Thank you, Chair.

35
36 Chair Tsai: Commissioner Carnicelli?

37
38 Mr. Carnicelli: So a couple questions. I mean, Rory just brought up you know the fact that
39 we're not using at-grade in other spots. So the question that comes up from what
40 Commissioner Canto just asked is you said we have to...say if we go roundaround or
41 whatever...or any way other than lights it's gonna delay the project. How long is it going to
42 delay the project that's the question?

43
44 Mr. Arakawa: Well, the current environmental review process I think I noted in one of the earlier
45 slides that process actually started like around 2007, and the State Environmental Assessment

1 process concluded in 2015. I'm not sure if it will take that long, but we do have to do the
2 additional studies, there's additional land, there's funding requirements. State DOT has to stand
3 in line and the Federal Government gave a commitment earmarked for federal funding. If we
4 are not able to spend the money at this point now we would lose that commitment and we'd
5 have to stand in line again. So it would basically be a fairly long delay.

6
7 Mr. Carnicelli: So one other question just for clarification. When we're talking about this is
8 going to take additional money from the applicant, who exactly is writing that check? 'Cause I
9 just want it for the record to be clear on that as to who's—

10
11 Chair Tsai: Paying for it.

12
13 Mr. Carnicelli: Yeah, who's paying for it?

14
15 Mr. Arakawa: The project is paid for partly by Federal funding and partly by State funding
16 Typically of course, we're talking just hypothetically but typically it's 80 percent Federal, 20
17 percent State.

18
19 Chair Tsai: Director?

20
21 Mr. Spence: Okay, thank you. Just to add a little bit to what Milton was saying. So we go to
22 the back of the line as far as you know, funds coming our way for a project like this. I'll tell you
23 there's a fundamental shift in State DOT taking place that they're not promoting what they refer
24 to as capacity...I think this isn't just a capacity project, I think this is a health and safety issue as
25 well, but they're not promoting capacity projects. They're promoting preservation improvements
26 to existing facilities. So with that shift, even if we had Federal funds come our way we still may
27 not get it for this road like ever. So this...we have a window of opportunity that I think we should
28 take full advantage of.

29
30 Chair Tsai: Commissioner Hudson?

31
32 Mr. Hudson: Good morning Milton.

33
34 Mr. Arakawa: Good morning.

35
36 Mr. Hudson: A couple of clarification questions for me. The gate, you're gonna close that part
37 of the road off?

38
39 Mr. Arakawa: No. The portion between the south connector where it intersects with the existing
40 highway and the portion running south to where the bypass meets the existing highway. That
41 portion will still remain open.

42
43 Mr. Hudson: So people will be allowed to drive on it?

44
45 Mr. Arakawa: Yes.

1
2 Mr. Hudson: And get back to the beach?

3
4 Mr. Arakawa: Yes, yes, yes.

5
6 Mr. Hudson: Thank you.

7
8 Chair Tsai: Commissioner Hedani?

9
10 Mr. Hedani: I have four questions. Well, the first one is not a question. First of all, I appreciate
11 the fact that the State Highways Department is moving forward on this thing at this point. I
12 heard the governor's message that he said we're into maintenance and repair, we're not into
13 expansion, and this looks like it's expansion so it seems like an exception to the rule to some
14 degree so I appreciate the fact that they're moving forward on it. That being said, from what I
15 saw the proposed bypass looks very similar to the existing highway and the existing highway
16 has a bunch of problems that's tied to signalization.

17
18 The existing bypass that I saw looks like it's designed for 65 miles per hour, you know, and it's
19 set up for a four-lane highway, two lanes one way, two lanes the other jury-rigged into a two-
20 lane highway right now as an interim measure I guess until capacity gets to the point where they
21 need four lanes. It works for the short segment that exists today, it works. You move from one
22 point to the other very smoothly, very quickly over 45 miles per hour if you want to, but I works.
23 The reason it works is because it has no signals. It has right turns off, it has left turns off, and
24 there's no signals. That's why it works. Putting signals on the bypass highway is gonna make it
25 no better than the existing highway. The problems with the existing highway are periodic, but
26 when they happen they're severe. To give you an example, from Kaanapali to Puamana is
27 about four miles. It took me 70 minutes to travel four miles. That's not 45 miles an hour, that
28 translates to four miles an hour and we're designing a highway that's equipped to handle a 65
29 mile an hour speed that becomes to me a waste of money if you design it for higher speeds and
30 then put a 45 mile an hour speed limit on it or a 30 mile an hour speed limit on it which is what
31 we have on the existing bypass and it doesn't make sense from a planning standpoint from my
32 perspective or from a fiscal standpoint in terms of saving money. But anything that you can do
33 to avoid signalization I think is a problem. Kai Hele Ku does not generate a lot of traffic. We're
34 told that those are farmers up there and there's not a lot of farmers coming up and own Kai Hele
35 Ku. But what happens when the surf's up at Launiupoko Park or when somebody throws a
36 wedding at Launiupoko Park is they use the parking on the mauka side of the street and they
37 press little button on the signal and it stops the highway 300 times, for a big party 600 times
38 'cause they go both ways and that what causes the 70 minute time frame from Kaanapali to
39 Puamana is people crossing the highway, pressing the little button because the parking is on
40 the wrong side of the street. I think the bypass highway is gonna avoid that because it's further
41 enough away from Launiupoko Park that it's gonna be a long walk from there to the park. So I
42 think we're eliminating the pedestrians pressing the button on that thing, but anything that you
43 can do to avoid signalization I think is a plus. The Michigan thing that you suggested or even a
44 pedestrian overpass it's cheap to carry people over a highway versus digging a hole underneath

1 the highway for automobiles to travel. Well, that was actually a comment. I'm sorry, it wasn't a
2 question.

3
4 The second thing is if you want to try and think outside of the box for a little while, I'm not sure
5 what the plan is for the existing highway whether that's transferred to the County or whether the
6 State maintains it or whether you guys are gonna maintain both the lower highway as well as
7 the mauka highway which is not usually the case for the State. But one thing that I thought that
8 you could consider and this is outside of the box thinking that would eliminate all of the signals
9 and most of the signals in Lahaina is to make the bypass from Olowalu to Kaanapali one-way
10 north and make Honoapiilani Highway the existing four lanes one-way south with connectors in
11 between. And what that would do would be it would eliminate the need for all of the signals
12 from Kaanapali to Puamana or from Kaanapali to Olowalu and you would have right turns
13 off...you would have right turns on, right turns off, left turns on, left turns off for one-way street.
14 You would have to maintain both highways but you would eliminate the lag time and you would
15 increase the safety of both the bypass highway as well as the existing highway with that. Have
16 you folks thought about that?

17
18 Mr. Arakawa: Actually that was...shall I address all of your questions or you just—

19
20 Mr. Hedani: That as actually only one question.

21
22 Mr. Arakawa: Actually one of the comments at the informational meeting we had suggested that
23 one-way option where the bypass would be one-way into Lahaina and Honoapiilani Highway
24 would be one-way out of Lahaina. One of the thoughts about that is similar to like King and
25 Beretania Street maybe in Honolulu where the one-way couplet has worked quite well for a
26 number of years. Actually one-way streets have actually worked well in say downtowns where
27 you have heavy traffic and a lot of cross connections. In this particular case you would have
28 fairly few though cross connections and one of the drawbacks with one-way street is that you
29 would have to deal with driver education issues, if you miss turn basically you have to go all the
30 way around and come back to where you need to go. So it actually results in more trips than is
31 actually warranted. So I guess the drawback of doing a one-way trip. And then the other thing
32 is that you have a lot of expansion options on the bypass portion, but on Honoapiilani Highway
33 you still have the same congestion issues near, for instance near the park. So in the way we've
34 set it up, the bypass would be the main road and the park would have local traffic but still it
35 would be more of the scenic route as opposed to you know, just being the through route and the
36 scenic route. So were projecting that less traffic would occur on Honoapiilani Highway as a
37 result of the bypass.

38
39 Mr. Hedani: So it becomes essentially the equivalent of a four-lane highway at that point?

40
41 Mr. Arakawa: Well, you would have a total of four lanes once the bypass is in operation. And
42 when warranted you'd have four lanes of the bypass and two lanes on existing highway.

43
44 Mr. Hedani: The only other thing that I had was a comment, not a question. I want the project
45 to go forward. I mean, if we have \$38 million or \$40 million that we can move immediately on

1 now I think it's stupid to hold it up you know for any reason given the circumstances of the
2 State's finances. So I think it's a good thing.

3
4 The last comment that I had was when I look at the bypass, the existing bypass it's a location
5 where it has a tremendous ability to have fantastic views makai to the ocean, the island off in
6 the distance, I mean it's a beautiful view from the bypass, and the only place where we kind of
7 screw it up is when we're designing the highway for a 65 mile an hour speed and then we put in
8 ...(inaudible)...on the highway that turn this way so you can make a fast right-hand turn, turn
9 this way so you can make a fast left-hand turn and wherever you have those cuts for the
10 ...(inaudible)... you eliminate the view because the highway is not flat. If the highway were flat
11 you would have the continuous view for the entire length of the road, but it's not flat, it's
12 ...(inaudible)...and so you have cut and fill sections where the view is blocked by, you have a
13 ragged slope of dirt basically is what you see when you cut through a hill whereas the
14 opportunity exists for a view that's unsurpassed probably in Hawaii at the elevation that you're
15 at to preserve direct views to ocean all the way. So my suggestion is to try to design it for if
16 you're gonna put a 45-mile-an-hour speed on it, design it for a 45-mile-an-hour speed so you
17 wouldn't even have to enforce traffic. People would slow down automatically if it's undersized
18 not made like a super highway. I know that's tough with the Fed guys there because they want
19 it done this way but if you do it so it's...it preserves scenic views to the ocean I think you could
20 reduce cost at the same time. That's just a suggestion.

21
22 Mr. Arakawa: Take that comment under consideration.

23
24 Chair Tsai: Commissioner Robinson?

25
26 Mr. Robinson: I'd like to...actually I'm sitting here and I was just thinking what am I not seeing
27 and I'm glad Mr. Hedani saw that too, it's how is this project helping the people of Lahaina?
28 How is this project helping the people of Maui? We're replacing a two-lane highway with a two-
29 lane highway with stop lights? And then highway that we're replacing we want to turn it into a
30 slow causeway park instead of using it as four lanes. I mean, have you ever been stuck in
31 Lahaina when there's an accident?

32
33 Mr. Arakawa: Yes, I have.

34
35 Mr. Robinson: Have you? Okay, so we've all been there. So why would we take a two-lane
36 highway and not use it anymore? Why would even think about putting a gate on a two-lane
37 highway? Why would we spend all this money and have a 10-foot shoulder and not turn it into a
38 four-lane highway? Why would we put stop lights on a road to Lahaina that is already a slow,
39 slow drive? I mean, we have...everybody has intentions, everybody wants to do and help it, but
40 we replacing a two-lane highway with a brand new two-lane highway with stop lights doesn't
41 make anything better except spending money and contractors make out which is great, but we
42 gotta think about improving Maui for now and the future. The road's gonna take a few years if
43 that and Mr. Hedani has at least one way to make it four lanes. I personally I don't wanna see
44 you shut down that Lower Honoapiilani Road. I mean, we took care of Wailea by giving them
45 Piilani and South Kihei Road. We have Mokulele Highway four lanes. Everybody got four lanes

1 except Lahaina. Lahaina deserves four lanes. The people of Lahaina, the people who work in
2 Lahaina deserves four lanes. And this makes it worse for them. I don't know how you do it, but
3 I don't think this is the answer and that's what I think. Thank you.

4
5 Chair Tsai: Commissioner Carnicelli?

6
7 Mr. Carnicelli: So where I'm coming from on this is like what Commissioner Hedani said my
8 opinion is this has to move forward.

9
10 Unidentified Speaker: Can you talk in the mic?

11
12 Mr. Carnicelli: Check, check, one, two. Okay, sorry about that. I'm usually too loud. Nobody's
13 ever told me to speak up. To me this has to move forward and it's more than just this particular
14 portion because we have highways that are falling into the ocean right now and this is the first
15 portion of that. I agree two lanes with stop lights replacing two lanes with stop lights is...doesn't
16 make sense, until you look at okay, well what's gonna happen south of that? So you know, my
17 concerns are definitely (a) we can't get in the way of delaying this any further. Like Lahaina
18 needs this. You know this is the first step to it. I wish there were some way that whoever
19 follows us we could tell them, okay this is stop lights now but when it goes from two lanes to four
20 lanes those stop lights come out and we do underpasses or we do something else once the four
21 lanes goes in, but right now we've gotta do just to get it down because from Olowalu to
22 Launiu...I'm sorry to the Pali is really, that's like probably more pressing than even this portion is
23 right now. And this is the part that connects to that. So we gotta do this now. And yet I get that
24 this is like okay it doesn't make sense, but we're dealing with the Federal Government which a
25 lot of things don't make sense. So you know, concerns are delaying the project.

26
27 Another big thing to me is we can't do anything that's gonna create a seawall. We just can't.
28 You know, so like the south connector road I will get to questions. I'm kinda of babbling on right
29 now, but I do have questions about that south connector road. You know, and just the access
30 that we have there. And then you know, the access, the lady, I forget what her name is I think it
31 was Yolanda that talked about needing access there at Cut Mountain and I think that that's
32 important too. We can't cut off access to people. And then we've had ton testimony about bike
33 paths and you know the pedestrian overpass which I didn't see addressed at all in the
34 presentation so I would like to see...so maybe I'll just stop talking and let you talk and address
35 the bike paths, the bike and pedestrian overpass and what we're gonna do about that or what
36 your thoughts were on that.

37
38 Mr. Arakawa: If you don't mind, I'd like to just address the whole idea about two lanes and two
39 lanes being cut off. No lanes are being cut off as part of this project. Okay, so there's two
40 additional lanes being put in on the bypass. The existing Honoapiilani Highway will still remain
41 as two lanes. And there was a question whether or not we were going to close that short
42 segment between the south connector and the existing highway and I clarified that that will
43 remain open to public access so no lanes will be closed.

44
45 Mr. Carnicelli: If I could just, just clarification on that then because that's one of the...that's one

1 of the parts of the highway that's falling in right now. That's one of the endangered parts. So
2 when you say that you're gonna leave it it just seems a little counterintuitive to say removing
3 everything mauka because we need to protect the shoreline and say oh, but we're gonna leave
4 it. So that's the part that's a little counterintuitive so if you could address that part?

5
6 Mr. Arakawa: Well, people have asked for public access, but also as part of the presentation I
7 mentioned that the County owns a 148 acres adjacent to that. They want to do planning for a
8 public park. So it would be a great opportunity to incorporate the right of way for the existing
9 highway into the park. Whether that involves leaving the roadway there, the pavement there or
10 taking it out I think that's a decision to be made. That area as far as DOT's concerned will
11 remain open.

12
13 As far as the...I know there was a lot of testimony on bike paths, Bike Maui Greenway folks
14 have noted that they just...they have obtained some design funds. DOT is willing to work with
15 the proponents of the bikeway, the greenway, to come up with a finalized design. But at this
16 point we can't make any firm commitments to fund any overpass or underpass because there
17 are no firm design plans. But DOT is willing to work with the proponents to try to come up with
18 something in the future.

19
20 Chair Tsai: Go ahead.

21
22 Mr. Carnicelli: Keith, did you bring up the slide that is...that addresses the connector road
23 that...Milton this is actually, the question's for you I think, is the slide where it just shows you
24 know what they had and then moving it 700 feet and then moving it 900 feet? Actually could you
25 bring up the slide that was part of Milton's presentation please? I'm sorry. Yeah, that one. I
26 think it was the next slide. There we go. There we go. So the Department suggested that we
27 move it 900 feet which I that light blue line correct?

28
29 Mr. Arakawa: That's correct.

30
31 Mr. Carnicelli: Yeah, and then you guys are asking for the purple line because you don't want to
32 cross Launiupoko Stream for a fourth time?

33
34 Mr. Arakawa: Yes.

35
36 Mr. Carnicelli: Is there a way to incorporate 900 feet and cross where one of those other two
37 lower bridges are? Like rather than making a fourth one it's just to say okay we're gonna, I don't
38 know redo one of the three?

39
40 Mr. Arakawa: Well, our suggestion with the 700 feet was that we would avoid crossing the
41 stream one more time but we would basically start on the south side of Launiupoko Stream
42 itself. The shoreline setback there is not as great as the area where Keith had proposed it, the
43 900-foot area. If we go further north, the shoreline setback seems to be, I mean, just based on
44 these visual thing it seems to be about the same as where the 700-foot portion as we are
45 proposing now. So no matter what in that general area it is fairly close to the shoreline. I think

1 what we are proposing at 700 feet is a lot better than what was originally proposed where the
2 scarp is maybe 10 feet away. So I know the Planning Department was concerned that DOT
3 may need to come in for some remedial work fairly soon if we kept it in the same location. So
4 you know, we're amenable to moving it 700 feet which is I think a good compromise.
5

6 Mr. Carnicelli: Yeah, I would agree. I mean, it's better than the original proposal. My concern
7 is though is this is something that we're building that's gonna be a little bit say more permanent
8 than where you know the new road meets the old road and you know I've got issues with that
9 but we can't delay the entire project for it. So if I'm looking at this, the 700 feet from what I
10 gathered, at least what I read and what I thought I heard in the presentation is you're still within
11 the shoreline setback at 700 feet. So we got to 900 feet we're not within the shoreline setback,,
12 so you know we've got roads falling into the ocean right now and we're gonna build a new road
13 that's already within the shoreline setback, it's just like well, that's kinda to me akin to, you
14 know, building a highway with...you know, replacing two lanes, with two lanes with street lights.
15 So it's like if we got the opportunity now to say we're gonna take this out of the shoreline back,
16 let's do it.
17

18 Mr. Arakawa: Well, we can look at some other alternatives if you want. I suppose we could do
19 that and work with the Planning Department on exactly where this...the environmental
20 assessment does call for the exact location to be determined during the SMA process. So we
21 could look at that. We do have a concern though about crossing the street in the fourth plan
22 'cause that will require an additional Corp. of Engineers permit. But we could work with the
23 Department on some alternative if that's preferable to the Commission.
24

25 Chair Tsai: Commissioner Hudson?
26

27 Mr. Hudson: Hi again Milton, just a couple of quick questions. You said it's 2.78 miles roughly
28 \$30 million which is a about \$10 million per mile does that include the contingency?
29

30 Mr. Arakawa: No, at this point it doesn't include a contingency and it's actually about \$30 to \$40
31 million.
32

33 Mr. Hudson: Oh.
34

35 Mr. Arakawa: So it's a bit more.
36

37 Mr. Hudson: I understand you guys are going design build?
38

39 Mr. Arakawa: Yes.
40

41 Mr. Hudson: Okay, so while that doesn't completely get rid of change orders it mitigates them.
42

43 Mr. Arakawa: Hopefully.
44

45 Mr. Hudson: Yeah, all right. Thank you.

1
2 Chair Tsai: Commissioner Robinson?

3
4 Mr. Robinson: Hi Milton. So let me what I was getting at earlier. My question is why aren't we
5 going four lanes now? You know, we just talked about not wanting going across the stream
6 again. So why can't we do four lanes now?

7
8 Mr. Arakawa: The traffic counts don't warrant four lanes now, but DOT will put in four lanes
9 when it is warranted. So now the traffic volumes just basically don't warrant it. The reason why
10 you have a lot of congestion and I know Commissioner Hedani is quite knowledgeable about
11 that but as you know the bypass ends at Hokiokio so you have to proceed makai on Hokiokio to
12 that traffic signal where you meet a pinch point along the existing highway. So as you know the
13 existing highway could be congested but there's very little traffic still on the bypass. So in this
14 particular case we will be routing the traffic from the existing highway near Olowalu onto the
15 bypass first. That will be there only choice if you are traveling in the Lahaina direction. And
16 similarly if you are proceeding toward Olowalu you would have to come onto the bypass either
17 from Keawe, Lahainaluna Road, Hokiokio, Kai Hele Ku or the south connector. So those are
18 your five options at the present time. For the future, DOT wants to extends the bypass further to
19 Honokowai. So this is one segment of a larger bypass system. It's not the whole project that
20 they envision. But it will be, in our view, a definite improvement over what currently exists.

21
22 Chair Tsai: Commissioner Hedani?

23
24 Mr. Hedani: Milton on the plus side I think the idea of going, forcing traffic directly onto the
25 bypass without a signal is brilliant. I mean your traffic counts are gonna go to 40,000 vehicles a
26 day automatically when you do that, between 40 and 60 thousand vehicles a day automatically
27 when you do that. And you're right, at Keawe Street it takes three traffic turns in order to get
28 onto the bypass and at Hokiokio it takes two traffic turns maybe three to get back onto the
29 highway. So this has to be built. You know I think it's a has to do kind of a thing, but I think the
30 idea of forcing the traffic on was brilliant from that perspective.

31
32 And the other question that I had is a question. We heard from the public that they're
33 concerned about beach access and I thought what you said was the existing highway will
34 remain open for public beach access to the ocean?

35
36 Mr. Arakawa: That's correct.

37
38 Chair Tsai: I have a question regarding the traffic count. I'm not sure the source of your report
39 because personally I don't...I try to avoid the west side like a plague because the traffic is go
40 bad and I think a lot of local would probably speak the same and I think a lot of people on
41 Lahaina side will try to avoid going to town because of that. So if you actually have a Lahaina
42 Bypass open people are going to be more opt to go so your traffic count will go up
43 automatically. So I think what you should consider is what potentially the traffic count will be not
44 whatever source you have currently. And I just, you know, I don't know maybe we can have the
45 State guys come forward too, I see what has happened with the Piilani Highway. You know you

1 don't need much room to restripe and make it four lanes so why don't we just do it four lane
2 from the start instead of waiting and redo it down the road?

3
4 Mr. Arakawa: Well, basically it's a two-lane road. It's basically warranted at this point. This is
5 Don Smith. Don Smith is with the Maui Office of the DOT and he can address that.

6
7 Mr. Don Smith: Hello, so at this point in time just for the easy answer is the project was bid and
8 awarded as two lanes which simply makes it impossible for all the reasons that we've already
9 discussed to make it four and that's just to keep it simple.

10
11 Chair Tsai: Okay, Commissioner Robinson?

12
13 Mr. Robinson: Sir, Don. What is our current car count and how far off are we from getting a
14 four-lane?

15
16 Mr. Smith: One of the things that makes it interesting to be in this industry right now is that what
17 does the future bring? You know what will the cars look like, how we'll be driving? There's a lot
18 of questions that right now that are changing in the industry fairly quickly. So to be able to make
19 even an estimate as to when that would occur or what those volumes would be is really hard.
20 So you know I think right now on the two-lane section we're at about 28,000. It picks up
21 significantly in Lahaina maybe 34,000. I think that your threshold is somewhere in the range of
22 40,000. So when that would occur or how that would occur is I wouldn't even want to guess at
23 this point in time.

24
25 Chair Tsai: Someone wish to add.

26
27 Mr. Arakawa: This is Brian Lock, he's the design engineer from Wilson Okamoto.

28
29 Mr. Brian Lock: Just to add a little bit to Don's comments. Right now the traffic counts came
30 from the EA study that was done by DOT. The traffic counts that was part of the EA document
31 and then the traffic counts were projected for this project as in the interim condition for 2020 and
32 2035 is the expected full build out.

33
34 Chair Tsai: Brian, if I remember correctly the EA was done in 1991 that was 26 years ago?

35
36 Mr. Lock: The EA was started back then. There were supplements to the traffic studies that
37 projected traffic to 2020 and 2035. I don't know the exact dates the count, the original counts
38 were taken.

39
40 Chair Tsai: I think that numbers outdated. Commissioner Robinson? Commissioner Hedani?

41
42 Mr. Hedani: Because I beat on DOT all the time, I wanted to take the opportunity to say that I
43 thought the DOT got a bum rap in Olowalu relative to the seawall controversy. Sea level rise is
44 happening there's a 70...there's crack in the Antarctic ice sheet that's 70 miles long, three-
45 quarters of a mile deep that's gonna send a glacier off into the ocean and then it's gonna

1 release the glaciers behind it. Once that happens we're looking at three feet, six feet of sea
2 level rise worldwide. When DOT made the improvements that there were proposing at Olowalu
3 and Maui Tomorrow jumped up and down and got all excited and stopped the project by protest
4 I think they did the people of Maui a great disservice by doing that because the plan that DOT
5 had come up that this commission had reviewed would have been superior to all of the options
6 that they were talking about and would have avoided putting in a seawall. It was a slanted
7 revetment that was permeable that would have worked and Maui Tomorrow shot themselves in
8 the foot by stopping the project and what we have now is Jersey barriers which block our view
9 to the ocean which is really stupid. But I wanted to say that in DOT's defense they were
10 planning the right thing and they got jumped in the dark by people that wanted to save the world
11 and ended up shooting themselves in the foot. They may be right on the south side of Olowalu
12 where the water is ready to go over the road, but on the north side DOT had the right plan and
13 they stopped it because of the protest.

14

15 Chair Tsai: Commissioner Higashi?

16

17 Mr. Higashi: My question is for the planner. I guess we're responsible for making sure that the
18 community input is recognized and acknowledged from Lahaina. And I was wondering that you
19 had meetings prior to coming up before the commission what was the input that you got from
20 the community about this particular plan because it's already at the final stage and we're talking
21 about the amount of monies that are being spent if we were to delay this project another three,
22 four, five years. So I think part of our responsibility to make sure that the community is heard
23 and support whatever there is in what was happening.

24

25 Mr. Scott: Thank you. I think we attached, I guess if you look at Exhibit 8 in the staff report
26 you'll see the sign in sheets and comments and responses to those comments that were voiced
27 at the meeting. So...

28

29 Mr. Higashi: So basically the community did agree with the recommendation of the Department
30 of Transportation as to how this was gonna...bypass was gonna go through?

31

32 Mr. Scott: I wouldn't say that they were a 100 percent in favor of it. There was a lot of
33 discussion about roundabouts, not having signals, and access to Cut Mountain area. I believe
34 that the access to Cut Mountain area has been resolved because it is not being cut off and
35 you've heard the discussion about the signalization.

36

37 Mr. Higashi: So the final analysis is that?

38

39 Mr. Scott: Some people really want it and other people are not quite happy with it the way it's
40 planned.

41

42 Mr. Higashi: Okay, well, if that's the case well that would be the first that if the community is not
43 really not totally 100 percent behind the recommendation then the commission has the
44 opportunity to put in recommendations such as four lanes instead of two?

45

1 Mr. Scott: Certainly.
2

3 Mr. Higashi: My next question would be to you and that is if it was to be delayed with this
4 proposal about putting four lanes instead of two what would be the delay or the lack of funding
5 from the Federal Government?
6

7 Mr. Arakawa: I think we kind of broached that subject earlier where the four lanes we'd
8 basically have to look at all the environmental impacts again so we would have to go through
9 that process. We would lose our federal earmark as funding so we'd have to stand back in line
10 again for federal funding. With the DOT's emphasis now on doing more maintenance type
11 project as opposed to capacity type projects we may be talking about a fairly long delay. My
12 guess and this is only my guess is maybe in the neighborhood of eight to ten years I mean
13 roughly. So I mean that's just an estimate but it's a substantial delay.
14

15 Mr. Higashi: So the next question would be, if were not to delay that long and develop a two-
16 lane highway would State be able to stand a draft so that in future dates where there's more
17 funding that they'd be able to make it a four-lane instead of a two-lane?
18

19 Mr. Arakawa: It's kind of difficult for me to address any future funding type of scenarios at this
20 point. I can only tell you that the design build contract has been issued and it's for two lanes.
21 They're ready to start and if we are not able to do so then, you know, we would lose that chance
22 and then we would have to stand back in line for Federal funding again.
23

24 Mr. Higashi: Okay, thank you.
25

26 Chair Tsai: Since we're on the subject why don't have I guess the folks representatives from
27 Hawaiian Dredging can I ask to put them on a spot for a minute?
28

29 Mr. Arakawa: Chair, this is Craig Okita from Hawaiian Dredging.
30

31 Chair Tsai: Welcome Craig.
32

33 Mr. Craig Okita: Hi.
34

35 Chair Tsai: Put you on the spot for a minute. So in today's dollars what is the cost difference
36 between a two-lane and a four-lane giving everything equal? Since we're talking about a lot of
37 things in the presentation eight times more if we had to do all these other things. What are we
38 talking about?
39

40 Mr. Okita: Well, right off of the bat I would say it would be close to double. You would still need
41 to build two bridges, do all those different infrastructure improvements. I wouldn't know how the
42 traffic signals would be changed at the intersections, but a good starting point would be two
43 times the amount to double the two-lanes to four.
44

45 Chair Tsai: Thank you. Commissioner Robinson?

1
2 Mr. Robinson: Milton, please. Okay, Milton, I don't want to wait ten years so two lanes is better
3 than no lanes. The question I have for you is what is the width of a lane if you have a four-lane
4 highway? What is each lane width?

5
6 Mr. Arakawa: It can vary, but if you're talking about a 45-mile-an-hour, it's maybe 12-foot,
7 12-foot of lane.

8
9 Mr. Robinson: So we have 10-foot and then 12-foot lanes with 10-foot shoulders right now? Is
10 that what we're going is that what we have?

11
12 Mr. Arakawa: I don't know, the shoulders are 10 feet.

13
14 Mr. Robinson: So my question is, it's maybe we can alleviate one problem before it starts which
15 is when there's an accident, both sides are shut down, there's no medians. Is there going to be
16 a median to where we can...to help prevent traffic from crossing over to the other side and
17 head-on collisions where we can just keep the lanes on one side?

18
19 Mr. Arakawa: The design engineer said there's no median per say.

20
21 Mr. Robinson: So my comment then is besides the 10-foot shoulders is there any other spare
22 square footage you guys have on the side?

23
24 Mr. Arakawa: Will be the remainder of the right-of-way. The right-of-way is they intend to for
25 the project is 150 feet in width but that's to accommodate any future widening and the lane
26 increases from two to four lanes. And keep in mind that even if you do increase it to four lanes
27 there's still issues. We have to put in the turning lanes. At the intersections there are turning
28 lanes, there are also right-turn deceleration lanes. So that needs to be designed into the right-
29 of-way as well.

30
31 Mr. Robinson: We're doing a...we're spending a lot of money, we're doing a lot of things, and I
32 guess what we're doing this not because of car capacity but because of safety. But yet, if we
33 don't have a median I don't see how that increases our safety. I would hope that we could at
34 least have some buffer in the middle to help prevent head-on collisions.

35
36 Mr. Lock: Hi my name is Brian Lock again. I'm the design engineer. Right now the ultimate
37 condition, the four-lane condition for the highway would have a median separating the two
38 different lanes of travel. Under the concept now it's two lanes that's being built on the mauka of
39 the ultimate condition. So there is no median planned at this time.

40
41 Mr. Robinson: But you have shoulders on both sides, correct?

42
43 Mr. Lock: But there are shoulders that are full width, 10-foot shoulders on both sides.

44

1 Mr. Robinson: And you also have some auxiliary square footage there as well that's gonna be
2 there besides the shoulder. And a shoulder is not something that is mandatory on a 2.7 mile
3 highway is it?

4
5 Mr. Lock: A 10-foot shoulder is not mandatory. Some form of shoulder is mandatory but we're
6 providing a full width shoulder.

7
8 Mr. Robinson: And what is that, what is that mandatory square footage?

9
10 Mr. Lock: The minimum width is generally about four feet.

11
12 Mr. Robinson: So we have an excess of 12 feet then?

13
14 Mr. Lock: You have access eight feet, you have total of 10 feet on both sides.

15
16 Mr. Robinson: So 20, 12 feet?

17
18 Mr. Lock: Yes, correct.

19
20 Mr. Robinson: Thank you.

21
22 Chair Tsai: So Brian since you're up here I have a question for you. We saw what happened
23 like I mentioned Piilani Highway restriping. There were not a lot of work involved as far as
24 turning two lanes into four lanes. Would this allow it to be restriped to make it four lane without
25 major, any major issues?

26
27 Mr. Lock: There is possibility for it to be restriped. There is 24 feet of travel lane and 20 feet of
28 shoulder. But then there would be other side issues with doing that that may not be the best
29 solution at this time.

30
31 Chair Tsai: Would we be able Milton to put this as part of the recommendation as consideration
32 for you guys as you're doing this to accommodate or take that into consideration for future
33 restriping?

34
35 Mr. Arakawa: I think as far as if it doesn't jeopardize the two-lane design build contract
36 consideration of four lanes for the future can be included as far as a condition. Let me check
37 with DOT just to make sure.

38
39 Mr. Fred Cajigal: My name is Fred Cajigal, but it still has to be warranted.

40
41 Chair Tsai: Freddie please come forward, thank you.

42
43 Mr. Cajigal: Good morning Commissioners. It's...we still have to go through a process. If
44 there's a need at that time and we need to restripe it that would be the easiest way for us to
45 restripe. We can certainly look at restriping in the future if there is a need at that time when that

1 time comes, when the traffic count warrants. And we still need consider also the other
2 segments of the highway that's already been built.

3

4 Chair Tsai: Right.

5

6 Mr. Cajjigal: And so it has to be...we have to look at it as a whole, as a whole system. So if you
7 wanted to stripe the highway, you could stripe it from Keawe down 'cause there has to be not
8 only this small section no highway.

9

10 Chair Tsai: Right.

11

12 Mr. Cajjigal: Yeah.

13

14 Chair Tsai: But I'm just saying that the areas where you guys considering to build taking that
15 into consideration as we're designing the highway to allow enough room so if it needs to be
16 restriped there's not going to be major costs or construction required to make that happen.
17 'Cause obviously we have enough shoulder more than what we need assume for a extra lane
18 down the road. Since we're doing this right now might as well do it right.

19

20 Mr. Cajjigal: We may not have enough shoulders for bicycles or for a bike route or bike lanes or
21 what have you 'cause right now we don't have...do we have anything, no? Just the shoulders,
22 right? Yeah.

23

24 Chair Tsai: Commissioner Canto?

25

26 Ms. Canto: I have a question for Mr. Smith. On the table right now as we sit here you've
27 mentioned that there was a bid and award for the scope of the project is for a two-lane is that
28 right?

29

30 Mr. Smith: Yes, ma'am.

31

32 Ms. Canto: Okay, so we're sitting here and we're having collaborated efforts discussing four
33 lanes. So I don't know that we're getting anywhere with this because you folks are binded by
34 that contract.

35

36 Mr. Smith: Correct.

37

38 Ms. Canto: So I don't know Chair how this is going to play out.

39

40 Chair Tsai: Yeah, understand.

41

42 Ms. Canto: So I just wanted confirmation that you are binded by a contract and it is for two
43 lanes and we're having all this collaboration for a four-lane and I don't know where it's gonna
44 go. Sorry. So that's basically it.

45

1 Mr. Smith: I would say yes.

2
3 Ms. Canto: I don't know if there would be a breach of this or I'm not sure where that goes.

4
5 Chair Tsai: Commissioner Carnicelli?

6
7 Mr. Carnicelli: I need you back Milton. So I just have one small request. We have Hokiokio, we
8 have Kai Hele Ku and then we have south connector road. Can we rename south connector
9 road?

10
11 Mr. Arakawa: To?

12
13 Mr. Carnicelli: Whatever is appropriate, I'm not the one to come up with that name, cause I
14 don't know what's appropriate for that particular area, but could we just go ahead and rename it
15 to something that's more appropriate, more fitting?

16
17 Mr. Arakawa: All right. I'm sure that can be—

18
19 Mr. Carnicelli: I'm not saying you have to give me an answer right now, I'm just asking can we
20 do that?

21
22 Mr. Arakawa: Yeah, I don't think the name south connector is set in stone. We can...DOT can
23 certainly consider that, sure.

24
25 Mr. Carnicelli: Thank you.

26
27 Chair Tsai: Commissioner Hedani?

28
29 Mr. Hedani: I forgot my question. Oh, here's my comment. Basically what they're asking for is
30 a Shoreline Setback Variance at this point and an SMA Permit to proceed with what they
31 planned. And if we say, no we want to tweak it or we're gonna change it or add a feather to it
32 it's gonna go to Kauai or the Big Island. That's where the money goes or Oahu. So we have
33 what we have and from my perspective I'm ready to anoint it with holy oil.

34
35 Chair Tsai: Okay, any other questions, comments? Seeing none, can we have the
36 Department's recommendation please?

37
38 **b) Action**

39
40 Mr. Scott: Actually before we get to that a decision needs to be made about the transition from
41 the connector road or whatever it's gonna be called to Honoapiilani Highway and its location.

42
43 Chair Tsai: Commissioner Carnicelli?

44
45 Mr. Carnicelli: Do we need a motion for this?

1
2 Chair Tsai: Well, we can—

3
4 Mr. Spence: Get the recommendation first.

5
6 Chair Tsai: Okay, we have to decide the location for –

7
8 Mr. Carnicelli: Go ahead and give your recommendation and ...(inaudible-not speaking into
9 mic)...

10
11 Mr. Scott: All right. We've included in your report recommendation with actually 17 different
12 conditions of approval. And we would recommend that. However, should you decide that you
13 want to have the connector road moved either 700 feet or 900 feet or whatever you decide then
14 Condition No. 6 we would recommend being modified and we would also recommend that a
15 condition be added that would require obtaining a certified shoreline survey for the area where
16 the transition road would meet up with the old highway and I can provide you with specific
17 language for those. And if you desire to have anything, say anything with respect to the West
18 Maui greenway I believe the applicant is willing to work with the greenway people and I have
19 language for that if you want to add that as a condition as well.

20
21 Chair Tsai: So Commissioners we need I guess two, at least two things needed changed or
22 modified if we do, we need a motion. The first one is regarding where the connector ends.

23
24 Mr. Scott: Correct.

25
26 Chair Tsai: So what is this body's decision? Commissioner Carnicelli?

27
28 Mr. Carnicelli: Okay, so I would like to make a motion that is to accept the Department's
29 recommendation with a change of the south connector road needs to be outside of the shoreline
30 setback and that we also get a certified shoreline.

31
32 Chair Tsai: Four lane to two lane?

33
34 Mr. Carnicelli: Hmm?

35
36 Chair Tsai: Four lane? Do you want to mention that too?

37
38 Mr. Carnicelli: That's not going to be part of mine, no.

39
40 Chair Tsai: Okay.

41
42 Mr. Carnicelli: 'Cause four-lane triggers a whole new thing. We can't do four lanes. So I'm not
43 gonna go there. The two changes I want to add is the south connector or whatever it's gonna
44 be renamed is outside the shoreline and that we get a certified shoreline. I'm sorry, it's outside
45 the setback and we get a certified shoreline.

1
2 Chair Tsai: Is that clear enough for you?

3
4 Mr. Scott: Yes.

5
6 Chair Tsai: Okay, do I hear a second?

7
8 Mr. Hedani: I'll second for discussion purposes.

9
10 Chair Tsai: Okay, we have a second for discussion. Discussion? Commissioner Hedani?

11
12 Mr. Hedani: Keith, are any of the things that we're doing gonna be a problem for them? 'Cause
13 if it is I don't want it to hang up the project.

14
15 Mr. Scott: I've heard from them that there is a preference for 700 feet which does not take the
16 transition outside the shoreline setback. I don't know whether –

17
18 Mr. Hedani: But what they're asking for here is a Shoreline Setback Variance, right?

19
20 Mr. Scott: Yes.

21
22 Mr. Hedani: So if we grant them the Shoreline Setback Variance why do they have to be
23 outside of the shoreline setback?

24
25 Mr. Scott: Because that's the motion that the commissioner made.

26
27 Mr. Spence: Yeah.

28
29 Mr. Hedani: Okay.

30
31 Chair Tsai: Director?

32
33 Mr. Spence: Commissioners, I think really...Commissioner Hedani's question is really a
34 question for the applicant or their representative. Whatever conditions that the Commission
35 comes up you should probably comment whether this is gonna waylay this project or not or
36 whatever.

37
38 Mr. Arakawa: Commissioners, we certainly can understand the Commission's concern about
39 moving the connection point further away from the shoreline. We do have a concern that if we
40 move it to the 900-foot point and we have to cross the stream again, if there is a requirement for
41 additional environmental review as a result of that that would basically kill the project. So that's
42 a concern. We are I think willing to work with the Department and explore the opportunity to
43 move it to the 900-foot area but if it's gonna delay it, we would prefer not to have that condition
44 imposed on this. So I think the way the wording is now it's rather vague but we can take into
45 account the wishes of the Commission to try to move it to the 900-foot area. We'll look at

1 alternatives to accommodate the Commission's and Department's recommendations, but if it
2 delays us we would prefer not to do it.

3
4 Chair Tsai: Okay we have...Commissioner Carnicelli?

5
6 Mr. Carnicelli: I think at this point then I would be...I'm gonna go ahead and withdraw my
7 motion. If it's gonna delay the project, I mean if it has the chance. If my verbiage has a chance
8 of delaying this thing 'cause we don't know. It's like right, we don't know if they're gonna have
9 to go back and get additional paperwork or whatever it is they're getting approvals to cross the
10 stream then this is the thing that's gonna hold it. 'Cause it's you know, I'd hate to be like okay, a
11 month from now we find out oh, shoots, and as I've said here before you know I'd rather have...I
12 don't want perfect getting in the way of good. And so it would be perfect if you know, it was all
13 that but I don't want to hold the whole thing up because of that

14
15 Chair Tsai: Are you okay with withdrawing it?

16
17 Mr. Hedani: Absolutely.

18
19 Chair Tsai: So that killed the motion. So I'm entertaining any other motion. Commissioner
20 Higashi?

21
22 Mr. Higashi: I move to approve the recommendation from the Planning Department with the
23 conditions stipulated.

24
25 Ms. Canto: I'll second.

26
27 Chair Tsai: Okay, we have a motion by Commissioner Higashi, seconded by Commissioner
28 Canto. Discussion regarding this motion? Commissioner Carnicelli?

29
30 Mr. Carnicelli: I do believe that we're gonna need to get a certification though. So I mean, I
31 think that, I mean I don't know I I can then make a motion, add an addendum or if you want to
32 change your motion, but I do believe that we're gonna need a shoreline certification.

33
34 Mr. Spence: Motion to amend.

35
36 Chair Tsai: You can make a motion to amend.

37
38 Mr. Scott: I was gonna say the only time that a...the only reason we would need an additional
39 shoreline certification is if we move the transition. I believe the DOT and the applicant are
40 willing to move the transition at least 700 feet so we will need to get that certified as a shoreline.
41 So we should add a condition that deals with that.

42
43 Chair Tsai: Okay. Would you be willing to make a motion to amend?

44

1 Mr. Carnicelli: I would like to make a motion to amend the original motion and add that we get a
2 shoreline certification.

3
4 Chair Tsai: If required.

5
6 Mr. Carnicelli: If required.

7
8 Chair Tsai: Do I hear a second on it?

9
10 Ms. Canto: Second.

11
12 Chair Tsai: Second by Commissioner Canto. Any other discussion? Commissioner Hedani?

13
14 Mr. Hedani: Does the applicant have a problem with that?

15
16 Chair Tsai: Does the applicant have a problem with that?

17
18 Mr. Scott: No.

19
20 Chair Tsai: Okay. We're gonna vote on the amendment. Can you please repeat the
21 amendment Director?

22
23 Mr. Spence: That the applicant get a certified shoreline if needed for the moving of that
24 transition.

25
26 Mr. Scott: Correct.

27
28 Chair Tsai: All in favor?

29
30 Mr. Spence: And that's seven ayes.

31
32 Chair Tsai: The motion passes.

33
34 **It was moved by Mr. Carnicelli, seconded by Ms. Canto, then**

35
36 **VOTED: To Add the Amendment that the Applicant Get a Certified Shoreline**
37 **if Needed for the Moving of the Transition.**
38 **(Assenting – L. Carnicelli, P. Canto, L. Hudson, K. Robinson,**
39 **W. Hedani, S. Castro, R. Higashi)**
40 **(Excused – S. Duvauchelle)**

41
42 Chair Tsai: Any other discussion regarding the original motion? Commissioner Hedani?

43
44 Mr. Hedani: We have two number 7's and no number 17, so we need to correct the numbering
45 of our conditions.

1
2 Chair Tsai: You got that Keith? Okay. Any other comments? Commissioner Hedani?
3
4 Mr. Hedani: I'd like to thank the Department of Transportation for moving forward upstream
5 against the grain in pushing this project forward.
6
7 Chair Tsai: Well noted. Okay, Director would you please repeat the original motion?
8
9 Mr. Spence: The motion is to approve the SMA and Shoreline Setback Variance as
10 recommended by Staff and as amended by the Commission. All in favor of that?
11
12 Ms. Dagdag-Andaya: Excuse me, Chair, sorry. I think Keith had another proposed condition for
13 West Maui greenway. Has that already been discussed?
14
15 Mr. Scott: If the Commission wishes to do that.
16
17 Ms. Dagdag-Andaya: That I mean, I thought I'd just—
18
19 Chair Tsai: Oh yeah. Do you have that added to the conditions?
20
21 Mr. Scott: I have some language if you would like to hear it?
22
23 Chair Tsai: Yes please.
24
25 Mr. Scott: That to the satisfaction of the Department the applicant shall work with the
26 community to accommodate the West Maui Greenway. Satisfaction shall be submitted to the
27 Department prior to the construction of the Honoapiilani Highway end of the bypass.
28
29 Chair Tsai: Okay, so you would be adding that as an additional condition?
30
31 Mr. Scott: Yes we can do that.
32
33 Chair Tsai: Okay.
34
35 Mr. Hudson: ...(inaudible)...vote.
36
37 Mr. Spence: Yeah, we should have a motion.
38
39 Ms. Dagdag-Andaya: Chair?
40
41 Chair Tsai: Milton, applicant, do you guys have a problem with that particular amendment?
42
43 Mr. Robinson: Chair, Public Works is calling you.
44
45 Chair Tsai: Yes?

1
2 Ms. Dagdag-Andaya: No, I think...you can talk to Mr. Arakawa first and then I'll...

3
4 Mr. Arakawa: DOT is certainly willing to work with the proponents of the West Maui Greenway
5 as long as the Commission is not mandating any particular proposed improvements at this time.
6 I mean, we cannot make any commitment that we'll follow through on that, but we're certainly
7 willing to work with the proponents in trying to come forward with amicable solution.

8
9 Chair Tsai: Okay. All right. So we need to make a motion.

10
11 Ms. Dagdag-Andaya: I have a suggestion. So along the lines of Keith's recommendation, I was
12 thinking that to the satisfaction of the Department of Public Works, Planning and the Parks
13 Department and with the community a plan to develop connection points, transitions and an
14 appropriate design solution for the West Maui Greenway between the southern access point of
15 the project to the northern most limits of the project. But that's kinda where I stopped, but
16 basically saying to the satisfaction of Public Works...including Public Works and Parks
17 Department because it's not...you know, it's all departments.

18
19 Chair Tsai: Did you get that Keith?

20
21 Mr. Scott: Got it.

22
23 Chair Tsai: Okay, so I need a I guess a motion to—

24
25 Mr. Carnicelli: I'll make a motion to amend as just stated by Public Works.

26
27 Mr. Hudson: Second.

28
29 Ms. Canto: I'll second

30
31 Chair Tsai: Okay, second by Commissioner Hudson. Any other discussion regarding this
32 amendment.

33
34 Mr. Spence: And so I'm clear this is to...the applicant work with Planning, Parks and Public
35 Works for access to the Greenway along that southern most part.

36
37 Ms. Dagdag-Andaya: Correct or just the Greenway in general.

38
39 Mr. Spence: Okay, to the Greenway—

40
41 Ms. Dagdag-Andaya: Appropriate design solutions in connection to the West Maui Greenway.

42
43 Mr. Spence: Okay, and that's with the caveat that...but Milton said that we cannot commit to
44 anything.

45

1 Mr. Scott: I think the operative words is "will work with" ...(inaudible)...commit to anything other
2 than that.

3
4 Mr. Spence: Okay, that's good. I wanted that clear on the record.

5
6 Chair Tsai: Yeah, and according to our counsel, it's fluff enough I guess. Okay, repeat, I guess
7 we already repeated. So let's vote on the amendment. All in favor of the amendment for the
8 greenway.

9
10 Mr. Spence: That's six ayes.

11
12 Chair Tsai: Opposed?

13
14 Mr. Spence: One opposed.

15
16 Chair Tsai: Motion carries.

17
18 **It was moved by Mr. Carnicelli, seconded by Mr. Hudson, then**

19
20 **VOTED: To Add the Condition, that to the Satisfaction of the Department,**
21 **Department of Public Works, and the Department of Parks and**
22 **Recreation, without triggering additional review or cause other**
23 **delays to the construction of the project, the applicant shall work**
24 **with the community on planning and design for the West Maui**
25 **Greenway. Satisfaction of this condition shall be submitted to the**
26 **Department prior to the construction of the southern terminus of the**
27 **Bypass near Olowalu.**

28 **(Assenting – L. Carnicelli, L. Hudson, K. Robinson, P. Canto,**
29 **S. Castro, R. Higashi)**

30 **(Dissenting – W. Hedani)**

31 **(Excused – S. Duvauchelle)**

32
33 Chair Tsai: So we're back to the original motion.

34
35 Mr. Spence: Okay, the original motion is to approve as recommended by Staff with the two
36 amendments.

37
38 Chair Tsai: All in favor...Oh, Commissioner Hedani?

39
40 Mr. Hedani: We're approving both the Setback Variance and the Special Management Area
41 Permit, right?

42
43 Chair Tsai: Yes.

44
45 Mr. Spence: Right.

1
2 Chair Tsai: All in favor of the motion?

3
4 Mr. Robinson: Two, we're doing two at one time?

5
6 Chair Tsai: Yes.

7
8 Mr. Robinson: No discussion on this item.

9
10 Mr. Spence: That's six ayes. Any opposed?

11
12 Chair Tsai: Opposed?

13
14 Mr. Robinson: Have a chance to discuss this?

15
16 Chair Tsai: I thought we did?

17
18 Mr. Robinson: Abstain.

19
20 Mr. Spence: Motion carried.

21
22 Chair Tsai: Motion carries.

23
24 Mr. Robinson: Stop lights carry.

25
26 **It was moved by Mr. Higashi, seconded by Ms. Canto, then**

27
28 **VOTED: To Approve the Special Management Area Use Permit and Shoreline**
29 **Setback Variance as Recommended by the Department with Two**
30 **Additional Conditions.**
31 **(Assenting – R. Higashi, P. Canto, L. Carnicelli, L. Hudson,**
32 **W. Hedani, S. Castro, K. Robinson-abstained)**
33 **(Excused – S. Duvauchelle)**

34
35 Mr. Robinson: Congestion carries.

36
37 Chair Tsai: I thought...wait a minute you had a chance to talk about that.

38
39 Mr. Robinson: You guys voted before I even...there's no questions. You threw in the two at the
40 same time and you guys said yes. It was only the variance that they read. They didn't read the
41 SMA. You guys threw it in. It is what it is.

42
43 Mr. Spence: Are we gonna break for lunch. We're gonna break for lunch and come back at
44 1:30.

45

1 A recess was called at 12:24 p.m., and the meeting was reconvened at 1:32 p.m.

2

3 Chair Tsai: Good afternoon everyone. Maui Planning Commission is called back to order.
4 Before we go to the next agenda item, I just want to address a piece of housekeeping matter
5 regarding how we conduct our meetings in terms of voting and motions. Corp. Counsel would
6 you like to speak to that?

7

8 Mr. Giroux: I just want to say as a caveat this was not my idea. The Chair just wanted to me to
9 kind of help and address the issue of...because the Chair's the person who's in charge of the
10 order and process. If the body has a issue with that, if you don't agree with the Chair, the
11 process is that you know, you raise an objection and you appeal the decision of the Chair. And
12 you need a second. Once there's a second, then there's an immediate vote whether to uphold
13 the decision or to overturn the decision and then without debate you move on.

14

15 Should I talk about the...okay, well example, in the last decision of the Chair was that they were
16 gonna take the motion and put the two items. There was two permits and an SMA and SMA
17 Setback and put the question together and then vote on the totality of the motion. The right of
18 the body is to object to that and say I want to, we want to separate the question. If a member
19 raises his hand and says I object, I want to separate the question, get a second and then vote.
20 Separate the question, yes. We're gonna bifurcate, we're gonna take the SMA and all of its
21 issues and conditions and debate that motion first, vote and settle that and then go onto the
22 next permit to take care of all of its criteria and conditions and settle that and then it's over.
23 Then the question is settled.

24

25 As a matter of efficiency and you're gonna see this a lot in the future because you've got, you
26 know, conditional zoning issues, you've got community plan issues and sometimes a community
27 plan will be thrown in with the zoning. Sometimes an SMA will be thrown in with a conditional,
28 you know you can get projects that have multiple layers of state and county supervision as far
29 as the permitting process. So for efficiency the whole thing comes to you at one, in a bundle,
30 and if you want to unbundle it it's just a matter of decision of the Chair and then a decision of the
31 body of how you want to process that. And so it's not a matter of oh well, the Chair said, if you
32 don't agree and the Chair wants you to know that just put that on the table that you want that, if
33 you get a second, then there'll be a motion and then we'll move on.

34

35 Chair Tsai: Commissioner Carnicelli?

36

37 Mr. Carnicelli: So clarification if there's more than one item it's been bundled and if we want to
38 just bifurcate one of them we can do that. We don't have to unbundle everything is that correct?

39

40 Mr. Giroux: Yeah, that's correct, but your motion has to be clear that you know you want to
41 separate the question as to this specific permit or this specific because there is issues where
42 the permit may be similar but the conditions, there could be an issue like do you want to put the
43 conditions on permit number one which is more of a state permit but you have county
44 supervision or do you want it on the county permit which you have more direct supervision? So
45 those are the types of discussions when you have multiple permits coming before you.

1
2 Chair Tsai: And in other words for all the commissioners for any motion that's on the floor it's
3 objectionable as long as you make a motion to object with a second, so FYI. Next item, C-3.

4
5 Mr. Spence: Okay, Commissioners we have before you today Mr. Michael Baskin of Seashore
6 Properties LLC requesting a County Special Use Permit to operate a nine-bedroom transient
7 vacation rental in Paia.

8
9 Because we also have Item D-1, we have a Petition to Intervene and Petition to Deny and so
10 because this is...you know procedurally this could get a little interesting we wanna just clarify
11 where we're gonna go from here. First off, as normal you know staff planner will give
12 preliminary, you know, report, an overview of the staff report. We will offer an opportunity for
13 the applicant to make a presentation. We will then hold public testimony. We will close public
14 testimony when all is pau and then the next thing we're gonna do is take up the Motion to
15 Intervene. So what at this time I'm gonna ask the Commissioners you know hold your
16 questions, let's get through this process and see where it goes. Okay, so there will be plenty of
17 opportunity. Anyway, Kurt?

18
19 **3. MR. MICHAEL BASKIN of SEASHORE PROPERTIES LLC requesting a**
20 **County Special Use Permit to operate a nine (9) bedroom transient vacation**
21 **rental (Paia Inn) with 1st floor lobby on property situated at 93 Hana**
22 **Highway, TMK: 2-6-002: 027, Paia, Island of Maui. (CUP 2015/0006) (K.**
23 **Wollenhaupt)**

24
25 Mr. Kurt Wollenhaupt: Good morning, good afternoon, Members of the Maui Planning
26 Commission, members of the audience who have come today to give their testimony on this
27 project and members who will be looking on it on Akaku. The first item today that we're going to
28 be discussing this afternoon is a request by Seashore Properties LLC seeking a County Special
29 Use Permit in order to operate a nine-bedroom transient vacation rental with a first floor lobby
30 located at 93 Hana Highway on approximately 5,600 square feet of land in Paia, Maui. Mr.
31 Michael Baskin is the principal of the Seashore Properties LLC and the building and the current
32 operation are commonly known operating as the Paia Inn.

33
34 One of the things is that I like to do is well, why are we even here today? What's the purpose of
35 this meeting today? And the purpose is, that the applicant in July of 2015 signed with the
36 County a Settlement Agreement. That Settlement Agreement and Supplement Agreement,
37 Supplement Agreement specifically indicated on Page 5, and I'll just read part of this into the
38 record, "within 60 days of the full execution of the settlement agreement and this supplement
39 owner will submit a complete application pursuant to Maui County Code, Section 19.510.070,
40 Special Use Permit, and 19.15.030, as amended by Ordinance 4153 for a County Special Use
41 Permit to operate the five existing non-conforming lodging rooms and four new offices as
42 transient vacation rentals." So that is why we're here today. The County Code allows for a
43 transient vacation rental from one to twelve bedrooms to be built in the Country Town Business
44 Zoning District provided that in a public hearing and after Maui Planning Commission approval
45 gives the green light for such a project. So we're not...there's been some discussion that this is

1 an expansion of an existing property. I think it's important to note that this permit is for nine
2 bedroom transient vacation rental. So that's a critical point. We're not talking about the issue of
3 the grandfathering. We're simply today discussing does this application for the County Special
4 Use Permit meet each of these seven criteria. There's actually eight in the Code, the eighth one
5 has to do rural and agriculture so that's not applicable. But in order for the Commission to guide
6 the discussion this application has to meet each of these seven criteria, not five of the seven,
7 but each of them. So the Commission after reviewing the testimony, after listening to the
8 presentations today, they have to make a decision should we get to that point whether or not
9 this application for nine-bedroom TVR meets each of these.

10
11 Now I could go into great depth and it is in the staff report, but will just highlight them briefly.
12 The proposed use of a TVR has to meet the intent of the Maui Island Plan and the objectives,
13 the objectives of the Paia-Haiku Community Plan. Those are clearly outlined in the staff report
14 and we'll probably be discussing those at length in just a bit whether the proposed use as a TVR
15 is consistent with the community plan land use map. The community plan is Business-
16 Commercial so there has to be a consistency there. Whether or not it meets the intent of the
17 zoning district, this is Country Town Business the intent can be met but only if the Special
18 Permit is granted. It's not by right that a TVR can be allowed in this zoning district without
19 getting Planning Commission approval. Whether the proposed use will not adversely affect or
20 interfere with the infrastructure. That infrastructure can include sewers, traffic, schools, a whole
21 range of public infrastructure that's important to a community. Whether the proposed use will
22 not adversely impact social or economic structure of the community. As we all know the town of
23 Paia has met with changes over time so it will be important to look at does this, how does this
24 proposed TVR perhaps impact the social fabric of the community? Is the public protected from
25 the deleterious effects of the proposed use? And are demands for public services created by
26 the use fulfilled, i.e., has parking been addressed and other types of services that go with a use
27 as a transient vacation rental. That...essentially that sets the stage and I really can emphasize
28 enough that these criteria by which the debate needs to be guided in order for any permit to for
29 a special use be granted. So if you have any brief questions, but I think we're essentially
30 looking at the presentation from the applicant next.

31
32 Mr. Michael Baskin: Good morning. Good morning, I'm Michael Baskin. I'm the owner of the
33 Paia Inn. Thank you all for looking over our presentation and I wanna welcome the people here
34 today from Protect Paia that live in Paia and are concerned about the community and the town
35 of Paia.

36
37 Before I show the presentation I just wanna give a quick background on myself just so you know
38 a little bit about me. First of all, I've been living in Paia since I was 14 years old. So I'm very
39 familiar with the town. I love the town. My parents live in Kuau and my kids were born in Paia.
40 So like the group that's here today I am also very passionate and concerned and interested in
41 protecting, preserving the town of Paia. We're fortunate to own some property in Paia and
42 that's a true thing that we're fortunate about.

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

4
5 Mr. Spence: You want to hold the mic up to the—

6
7 Mr. Baskin: Oh that's great. Thank you, Will. Sorry, we're gonna... Good morning, I'm Michael
8 Baskin and I'm the owner of the Paia Inn. I'm gonna give you a quick tour today of our property
9 so that you can see the five rooms that are historic built in 1927 and the four new rooms that we
10 will soon be bringing online. The Paia Inn is located right in the heart of the town Paia. The
11 wonderful thing about that is guests can walk to all of the shops, the restaurants and to the
12 beach and really get to know the character of the town. We are a small, quaint and that seems
13 to be what most of our guests say, sort of a hidden gem. They don't wanna stay in the large
14 resort, they wanna stay right in the middle of the town. My family and I have focused on
15 restoring and renovating and preserving the character of this area of the building.

16
17 These are the existing rooms, I guess I'll talk because it's not very loud. These are the existing
18 rooms that we have, the five rooms and this section shows the bathroom and also the existing
19 five rooms. We're now walking down to the new section, the four offices that were built and this
20 is what the offices look like. This is what one of the rooms, this is room two of the offices. I
21 wanted to give everybody a sense of what we're talking about here. This is third room, and this
22 is the fourth room. And basically what we're saying here is that the converting and change of
23 the use from the existing...this is what the building looks like from the outside. We have onsite
24 parking and we have offsite parking. This is located just 200 feet down from the Paia Inn where
25 we have our own parking. Unfortunately the audio is not working on this.

26
27 Chair Tsai: Michael, why don't you just speak to the mic?

28
29 Mr. Baskin: Okay, sorry about that. Apparently the audio is not coming through. I'm just trying
30 to share at this point. So this is some guests that are walking through the entrance to the Paia
31 Inn. We do have some music once a week. We do have a little patio area where we have a
32 little café for our guests to enjoy and now open to the public as well. My daughter Bella. Okay,
33 thank you.

34
35 We can go to the slides. Okay, great. Okay, let's bring up the first slide. The building was
36 originally built in 1927. Now one of the things that I'd like to emphasize, we can go to the next
37 slide is that when we bought the building back in, it's been now about 16 years, back in 2000,
38 2001, that's what it looked like in the upper and that's what it looks like in the lower section. So
39 what we're here for today is we're requesting for a County Special Use Permit to convert four
40 office spaces. Now I want to emphasize these spaces are already built so there's not any new
41 development that's going to be occurring and we wanna convert the five historic lodge rooms to
42 transient vacation rentals in this process to allow for a total of nine transient vacation bedrooms.
43 Can we go to the next slide?

44

1 So this is what the property looks like in 2014 after we constructed it and I wanna also
2 emphasize that the new section where it says 2014 four existing offices to be converted to four
3 guest rooms. This is about a 1,000 square feet. We went through the permit process. We got
4 a certificate of occupancy for this. It is currently all permitted. And so we have been operating
5 the five rooms since we opened in 2008 for the last eight years and if we could go to the next
6 slide? This is what the exterior looked like when we purchased the property. I don't know if
7 some of you can remember the building back then but he had a sign here saying, take a dog on
8 a picnic. Used to be able to walk in and get a sandwich made and there were a bunch of dogs
9 in the back and you could actually take a dog to Paia, from Paia rather to Hana with you and I
10 believe one of the people that testified earlier actually was the tenant at that time when we
11 bought the building. Next slide. This is a little bit of a transformation when we did some
12 renovations to the building in 2007. We preserved and kept the five rooms upstairs and we at
13 that time made the shops downstairs, improved them and again kept the structure of the
14 building. Next slide. This was the entrance to get up to the upstairs. There was a previous
15 person operating a Paia Lodge prior to our obtaining the property. Next slide. This is the same
16 door today that's there's now to enter into the lobby. We went through and again, preserved
17 and kept the character of the building and we went through as designers, that's really what we
18 like to think that we're good at is preserving and keeping the building. Next slide. The upper
19 photo shows the office, the lower one shows what one of the bedrooms currently looks like. So
20 we're here to request that the now in front of you to convert again the four permitted offices and
21 the five existing lodging bedrooms on the second floor to transient vacation rental use. And at
22 the same time we're also requesting an SMA and CTB Permit. Next slide.

23
24 So why are the offices conversion required? An ordinance was passed in 4153 in 2014 and it
25 was amending the uses that were allowed in the town. So basically at that time, the use of TVR
26 in the Business District was not an allowed use. This went through the Council. I was there. I
27 remember when it went through and testimony that took place and at the time the idea was that
28 they were looking for a way to relieve some of the vacation rental in the residential area and try
29 to put it into the Business Commercial Districts and so there was much debate about the size of
30 that. I recall that they were looking at potentially doing six. There was a discussion of doing 12
31 and potentially 20 and ultimately through the vetted process of the community coming out and
32 talking and taking testimony it was decided by the Council to vote on this unanimously and it
33 was for 12 rooms. You can go to the next slide. Here we have at the time the voting process
34 and you can see, it's hard to see here but right here it says 12, 1 to 12 rooms. At that time it
35 was voted 8 to 0. It was signed by Alan Arakawa two years ago and so this is essentially
36 established in the Business Country Town the ability to have up to 12 TVR rooms.

37
38 What does TVR mean? A TVR by Code is a transient vacation rental use. It means occupancy
39 of a dwelling or lodging unit by transients for any period of less than 180 days excluding bed
40 and breakfast, homes and short-term rentals.

41
42 I wanted to just share with you the...if you look at this map, the red is the BCT properties in
43 Paia. It's quite a handful meaning there's not that many. We are fortunate to have one of the
44 properties in there and that's what we're here for. We are basically looking for our property

1 which is located right here along Hana Highway to conform with the current BCT of 12 rooms.
2 Next slide.

3
4 This is where we're located right in the heart of the town of Paia. You can see 93 Hana
5 Highway. It's owned by Seashore Properties. The entire lot is 5,632 square feet. So the entire
6 property that we're here considering today. That's the lot size, not the building size. Next slide.
7 Here is the town of Paia in the vicinity. We may come back to me. Now this was David Spee's
8 project that you all discussed where he's gonna be building the commercial. Here is where we
9 are located in the town. The park is down here for the entrance. The parking as you come into
10 the town of Paia you come in and park here. We're really right in the center of the town. Next
11 slide.

12
13 Just wanna talk a little bit more about the building itself. It was in 1929, and actually back to
14 1927 it was a lodging house. And we're gonna show some additional slides just so that you can
15 see that. The entire building that we're talking about today is 4,771 square feet. That's really
16 the size of a large home I guess is what you might think. So these again are the five existing
17 rooms which we preserved. We kept all of the interior walls, roof, exterior structure. We didn't
18 change of it. We added this section right here which is again about a 1,000 square feet and we
19 went through all the building permit process, all inspections, and this was signed off with all
20 approvals about two years ago. Thank you. Next slide.

21
22 So again, it's a ...(inaudible)...square feet, four offices, an exterior staircase. Here's our
23 building permit and again, SMA Minor Permits that were issued, we were issued one in 2010
24 and a new one in 2013. Just to go through the timeline. Just to give you a sense of the timing
25 we bought the building back in 2003. We were actually...we bought it in 2001, but we were in
26 escrow with Ms. Bersamin for a couple of years before it closed that was because she wanted
27 to take time to close the escrow. We went through the process of getting permits back in 2008
28 and in fact, in 2009 we did some work on the bathrooms and renovations and all of our permits
29 which we're gonna show in just a minute all show lodging. So basically every permit that we
30 pulled from this time forward it all shows lodging component on the upstairs rooms. We then
31 submitted in 2010 was for the SMA for the four offices. So where we are today almost in 2017,
32 six years later from the time where we originally submitted the SMA for this 1,000 square foot
33 addition six years later we're here with our presentation.

34
35 Just a couple of events here. We got approvals. Submitted for building permits. Went through
36 the process. BCT zoning passed. We did originally build this with the intention of using it as
37 office with the knowledge that if the BCT bill passed we would then convert that through a
38 Special Use Permit and that's what we're here for today. So again, the construction of the
39 offices were completed two years ago. We got our C.O. and we went then and submitted for
40 the application and today we're giving that presentation.

41
42 I just wanted to focus in quickly on the first floor and what this looks like. You can see this was
43 what our submittal was and this is what the first floor looked like and this is what we're
44 proposing. There's no change in any of the downstairs area in terms of any building. There
45 again is no construction that we're here for today. We're not looking for to do any construction

1 whatsoever. We have three parking spaces currently and we will be going for six parking. You
2 can actually park six cars there. We do have a variance application in to allow for the six
3 parking but technically you can park six cars here and right now our guests do pull in here and
4 they do park here and we have onsite parking. We also have this patio area here and that will
5 all stay in exactly the same.

6
7 As you can see from the existing and the proposed, we are going from existing lodging to
8 proposed bedrooms but the configuration is exactly the same. We're doing no construction
9 whatsoever. We are going to go from offices one, two, three, four to four additional bedrooms.
10 So we have a total of nine and again, by the new BCT bill, you're allowed to have up to 12 so
11 we will be lower than what is actually permitted under the new BCT Code.

12
13 These are our original building permit set that we submitted. They were approved by the
14 Planning Department. It does show the patio area, the tree, all the landscape planting that was
15 required. We had three parking spaces at that time that were required. So this was the original
16 building permit set.

17
18 Here you can see that at the time of the approval we had five bedroom lodging units, a house,
19 and over here these are all of the building permits from the DSA that were on this that showed
20 basically this particular type of use. So again, I kinda wanna emphasize that from the beginning
21 when we started this process with the four rooms, this was all approved. It showed the lobby. It
22 showed the inn, it showed the bedroom and the lodging, all of it was on the building permit set
23 and signed off by all of the departments.

24
25 This is the, again, the second floor and this is the set, exact set that was stamped, set to be
26 kept on constructed. When we constructed the four offices, lodging, lodging, lodging, lodging.
27 All on the upper second floor. Again, we're not changing any of that. This is all existing and
28 there's no change. Back then we were looking at doing an addition we were considering doing
29 seven rooms, we decided to only add four. We were thinking you know seven plus the existing
30 five would be 12, ultimately we only added four. Back this is back in 2005, back when Aaron
31 Shinmoto was with the Department and our interpretation was that the proposed use is
32 permitted, I'm sorry, the existing second floor and the ground floor retail are determined to be
33 permitted uses with non-conforming parking which we took to mean that there we was no
34 additional parking required for what was existing. We were looking at doing four, seven new
35 rooms which was going to require four parking spaces. Ultimately we did only four rooms which
36 required three parking spaces.

37
38 This was the transmittal through ZAED. I'm not sure if you can read it very well, but basically it
39 says, the lodging unit is part of the building and the retail is existing non-conforming parking
40 because it was built in 1927. So the proposed new addition of office shall provide three parking
41 stalls. This is the internal documents signed by Avelina. This basically established that there
42 was no parking required for the building as it is and three for the additional four spaces, four
43 rooms rather.

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

6
7 Even though we had the parking the Planning Department determined that we would need
8 some offsite parking which we agreed to. Here's a letter from the Planning Director so right
9 down the street we have an additional parking lot. And here it is today. And many of you may
10 have driven by. We're fortunate again to have parking, and again, I realize that parking is a
11 huge thing and I hope to have more parking in the future but at the moment at least we have all
12 of the parking that is required for our project and more. And so at the moment here is our offsite
13 parking.

14
15 Just to give you a sense of the area, you know the uses. I mean there is a tattoo parlor across
16 the street. There is multiple different uses in the town. Next slide. These are new buildings
17 that have all gone up in the time that we were doing our...since we're actually done our
18 application these have been constructed so the new building here, new building at the town
19 center, new building next door. This particular building just completed right next door the
20 tenants are all moving in. If you've driven by you remember the Chevron gas station here we
21 are located next door to it, so this entire building has gone up right next to us. This will all be
22 retail shops and we are located right back here.

23
24 In and around the surrounding areas there are quite a few vacation rentals. So there is quite a
25 bit of activity certainly in terms of in the town and we'll get to another map, but what you have is
26 the Kuau Inn, you have the Paia Surf which is just next door to us, you have the Nalu Kai Lodge
27 Mama's Fish House, and the Paia Paradise right next door so these are all that we're not
28 involved in vacation rentals or inns nearby to us.

29
30 This shows some of the lodging in the vicinity so you can see where we're located right here
31 and these that you see that are marked in green are all permitted vacation rentals. So you can
32 see where we are here. Right here is with Mrs. Aarona who is here today her property is
33 located. So there's quite a few vacation rentals around in the area besides the Paia Inn.

34
35 This again is historical uses, we'll just go through it in terms of the building. Back in 1929 it was
36 a fish market and office. 1945 stores. We actually have some maps that we're gonna look at in
37 just a minute that shows some of the historic, but this is basically showing that throughout this
38 period of time there were lodging components. I'm sure if you're familiar with the Sanborne
39 maps but they basically deal with...they date back all the way pre to the building, but this one
40 here is back to I believe 1914. So these maps from the Sanborne maps were done at a time
41 to basically they were concerned about fire and they wanted to know where all the buildings
42 were located and particularly anybody that was sleeping so they did all of this work. Go to the
43 next one. Back in 1929 Sanborne map it shows lodging and rooms. So basically this building
44 was built with that intention back in 1927. And you know if you do a little bit of research you'll

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

7
8 So in terms of the definitions of what lodging means it's gone through different changes over
9 new ordinances that have come into play so I just want to quickly go through what that is. And
10 the definition of...in 1960, a lodging house or room house meant any building or group of
11 buildings or portion of 20 or less sleeping. And in 1967, a lodging house also had another
12 definition, can you go to the next slide, and then in...a lodging house in 1991 means a long-term
13 residential use of any building. And the next one, and then of course in our process of getting
14 agency comments, with this went out to all the agencies to determine whether or not they were
15 behind the change of use from the four offices to four accommodations. Is there any way to get
16 that a little larger? Maybe you can read it for me?

17
18 Unidentified individual: The property was traditionally used as a boarding house lodge and the
19 proposed change of use does not affect the historic property.

20
21 Mr. Baskin: So the State of Hawaii determined from the State Historic Preservation that
22 basically this had traditionally been used for lodging purposes and so this document from them
23 in our view is very important and they had no concern because of the previous use.

24
25 I wanna talk a little bit about the impacts. So essentially it's already built. It's two years. It's
26 well constructed. It's fully permitted and it has a C.O. We are looking at converting office use to
27 accommodations and I can tell you that my options at this point are to rent out those rooms to
28 let's say an attorney, let's say to an accounting office or to a real estate office and they could
29 potentially have four people with desks in those rooms. They could have people coming every
30 hour if it was an attorney or a therapist and those clients could be looking for parking, they could
31 be...their staff could be looking for parking. You know basically four times potentially people
32 coming every hour could be, you know, as much as eight people coming, 32 people a day
33 coming to a...to those four rooms versus one person or two person sleeping in that room. And
34 we think that that's quite a bit less impact, less impact in terms of traffic. Less impact in terms
35 of staff. So the other thing that's interesting is that parking for offices is a higher amount than
36 for lodging. So for offices we're required to have three parking and for four rooms we're
37 required to have two parking. Less parking is required, therefore, less traffic and then there
38 would be less people. Now some of the rooms would be vacant. They wouldn't always be
39 booked. There would be some vacancy. So when you consider that we think that essentially
40 you're gonna have less impact, less parking, less traffic circulation and of course there'll be
41 more economic activity to the surrounding businesses. And what I mean by that is, people
42 staying in the Paia Inn that are walking around, they're shopping in the shops, they're eating in
43 the restaurants, they're contributing to the local economy there and so we think that that's
44 actually something that is needed. And we're proud of the fact that this will be in the Business

1 District versus being in the residential area which is I think what it was intended when it passed
2 by Council 8 – 0. Thank you.

3
4 Here's some statistics. Since we're opened in 2008, we've had over...approximately 15,000
5 people. We did a little research before today to figure out how many were local, local meaning
6 coming from Lanai or Molokai or Oahu or Hana or Lahaina. I'm not sure if you have had friends
7 or relatives stay with us but we have a lot of local people that come even from the island who
8 want to experience Paia. They want to stay in the town and we're fortunate to have about 13
9 percent of our people staying with us. We are 92.5 percent full. That's really a function of how
10 small we are and the location. We did a survey that we just...we sent out a copy to everyone,
11 no it's there, can you distribute them. We sent out...we did a survey and we asked our guests if
12 they would be in support of us adding additional rooms and more than 2,000 people responded
13 to that in support of us adding some additional rooms and we're gonna distribute that report
14 around to you.

15
16 What you're gonna get is a copy of our support letters from the local community, from the Paia
17 Youth and Cultural Center to Terry McBarnette who has the property adjacent to us, to
18 Flatbread Pizza, the Nagata Family who is directly across from us, and 50 other people who
19 have written in in letters of support for the Paia Inn. Basically we're at least reaching out to
20 quite a few of the people in the community. We definitely understand that there are some
21 people that don't wanna see Paia change and I get that, and hopefully I can answer direct
22 questions related to what we've done to reach out to the community and when we're done with
23 the presentation.

24
25 Right now the Real Property Tax Assessment Office it taxes us at hotel rates. Just showing that
26 just so that you see what the County has at least assessed our property at. We've been paying
27 those hotel rates for the past several years.

28
29 So in all if we look at the positive community impacts we believe of course by having some
30 additional rooms it's going to increase economic activity to the surrounding businesses. It will
31 provide some affordable accommodations to the local and outer island visitors. We're less
32 expensive than if you stay in a resort hotel. We are not a resort hotel and so we think that that
33 provides. We of course donate to many things. We have a list of those pretty much every
34 school on the island. If you contact the Paia Inn and you ask for a free night to be part of your
35 silent auction. It's always a yes. So we encourage anybody that needs to or wants to do that to
36 do that. We provide some needed transient accommodations in the Business District thereby
37 relieving pressure on the residential neighborhoods to provide guestrooms. I think this last, this
38 point is extremely important. What we're looking at today is that the Council passed a bill that
39 essentially was to provide for accommodations in the Business District and that's exactly what
40 we're doing. We provide for reliable long-term employment. We have over 35 people now
41 working at the Paia Inn. Our location is ideal for international surf community and we support
42 lots of local vendors. This is just a small list of some of the people that we provide donations to
43 on a regular basis. Next slide.

44

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

6
7 So I've kept this a little bit brief today because I realize that there's a lot of people here to testify
8 and I think we wanna hear from them and I just want you to know that we are very much in favor
9 of trying to work with the community and the people around us and so you'll find that our entire
10 staff is interested in doing that. Turn the lights off again. Sorry, there's a little bit more and I'll
11 try to go through it quickly. Again, the office use on the left and right these are what the rooms
12 look like. These are what the offices look like. They're basically small rooms of about 160 to
13 200 square feet. They're well-constructed. Stop there for just a minute and go to the patio one.
14 I just wanna share with you because in the staff report there's some reference to the café and
15 whether the Paia Inn Café you know existing. The photo on the left is straight out of our Urban
16 Design Review Board presentation which I actually gave in this room myself back in 2010, six
17 years ago. So that photo is there. At the time that we gave the presentation and the Urban
18 Design Review Board voted unanimously in favor of the four-room addition at that time before
19 we constructed it. That's the one on the right is the same it's exactly the same fence identical.
20 We have not changed the fence. The tree on the left is a Hau tree and it's gotten a little bit
21 bigger today on the right. The tables are the exact same tables. We actually stored those
22 tables during construction, the teak tables, we brought them back out. So I just wanna
23 emphasize that there's some questions about the café and the patio. Currently we have all of
24 the permits, we have the signoff from the Health Department for what's referred to as the deli
25 but the patio area has come into question as a result of that and whether or not we have
26 enough parking. So in terms of trying to work with the Planning Department we have applied for
27 an additional C.O. for just the patio area. We have all the C.O.s for the kitchen and the
28 restaurant components but rather than debate whether or not we have sufficient parking we
29 have gone ahead and filed for a...basically for a C. O. as well as BVA for the patio.

30
31 This is just one of our awards that we won from the Paia Main Street Association when we
32 renovated the building back in 2010 both for interior and exterior. We're rated very high on Trip
33 Advisor. We're actually the highest rated in all of Hawaii, all of the accommodations in terms of
34 guests saying that they would come back and stay with us, 2012, 13, 14, 15, and 16 we've
35 received a Certificate of Excellence. This really states a lot in terms of guest experience. If you
36 look online we're rated extremely high. This is thankfully our guests that are doing reviews.
37 Some of the reviews of course, great service, amazing staff, paradise found at the Paia Inn.
38 There are hundreds and hundreds I believe of 700 reviews online that talk about the Paia Inn
39 and it's a cute little place. You know most of our guests say that it's a hidden gem. It's small
40 and they don't wanna stay in a resort. This is our staff. So that's pretty much my presentation.
41 I'm available to answer any questions. I just wanna emphasize a couple, a couple of things
42 before closing out. We understand that Paia is changing and we're a part of that. We
43 understand that the community is concerned and we want to address the question about
44 whether or not in the community plan that a hotel resort development is permitted or allowed.
45 And I think that some people have testified and you can see that in there. In fact, the Governor

1 Neil Abercrombie is part of the testimony. I believe he's the second or third page in there. He
2 has written in as well. I mean we think this is a small inn, we don't it's a hotel resort
3 development. The whole building is a 5,000 sum square foot lot. It's 4,700 square feet. Total
4 of the building it's gonna be nine rooms. It's a very small inn and we're proud of the
5 construction that we have done. Next year this building will be 90 years old and the great thing
6 about this is that we have basically preserved a building that was built for that purpose the
7 purpose of being an inn. So it was built long before the community plan in 1995 was written and
8 of course we all that that's 21 years old and that that community plan at this point should have
9 been updated at a minimum of two times and it has not. So my view on that is that this property
10 was built for the purpose before that. It's had that historic use. The state has determined that
11 as well and we are asking today to be allowed to convert four offices which in our opinion would
12 have much greater impact if it were being used as offices than it would be used as
13 accommodations. So the five rooms that are existing and the four rooms that we will be adding,
14 we are asking for your approval to allow for us to have a total of nine rooms. And the bill which
15 passed long after the community plan and was vetted through the community that's what was
16 passed by the Council and signed by the Mayor. Thank you.

17

18 Chair Tsai: Thank you.

19

20 **a) Public Hearing**

21

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

23

24 Mr. Mark Sheehan: Good morning Chair and Commissioners. My name is Mark Sheehan. I'm
25 in favor of granting this Special Use Permit. By way of disclosure I had a real estate office in
26 Makawao for 20 years and office in Paia. While I was in the Makawao office there was a major
27 remodel of that entire complex up there on the northwest corner, northeast corner and no
28 citations were, no violations were implemented or given and so I think this way in which the
29 planning commission has handled this whole matter is really suspect. It's been very arbitrary,
30 capricious and sort been like a vendetta the way in which it's been handled. I think the
31 permitting process has been dragged out so that the permits have not been handled in a timely
32 fashion and I think that this particular inn which is not a hotel, it's an inn, it's a small currently
33 five units and they're asking for four more units that have already been permitted as offices, I
34 think the impact would be much milder if those rooms which are total just over a 1,000 square
35 feet were allowed to be part of the inn and occupied by guests who are there rather than offices
36 that would have much higher traffic. I think the enforcement has been very selective and I think
37 the fines have been excessive. Nobody has ever been fined \$500,000. In fact there's been
38 more fines and citations accumulated in this particular property than in all the resorts from
39 Kapalua to Makena and I think that says something about the approach of the Planning
40 Department that has...and how they've approached this. I think that this particular...Mr. Baskin
41 has been very patient. Many other people in his situation would have sold out and left town but
42 as somebody who's from this island he's been very persistent in trying to get permits for his
43 process. Currently I read in the paper that were 30 violations and I actually went to the

1 premises to look at what these violations were, many of them were extremely minor and trivial
2 presentations. So I'm just speaking in favor of granting the special use permit. Thank you.

3
4 Chair Tsai: Thank you. Nicole Hokoana?

5
6 Ms. Hokoana: I'll wait.

7
8 Chair Tsai: Commissioner Hedani?

9
10 Mr. Hedani: Is there a reason why the podium is set up so that his back is facing
11 commissioners?

12
13 Chair Tsai: Well, we can turn it.

14
15 Mr. Hedani: Is that an Akaku thing or...?

16
17 Mr. Wollenhaupt: Actually the reason was that this seemed to be a little bit more user friendly
18 because more people, the audience can then have a sight line and the commissioners could
19 have a sight line. So there was discussion about why this might be more user friendly.

20
21 Chair Tsai: Can we just turn it slightly so that they're actually facing us, the podium? Thank
22 you. That will be good. Yeah, that's better. Thank you.

23
24 Ms. Tiare Lawrence: Aloha Members. Just a quick question, if I'm talking on behalf of two
25 agenda items should I wait for the next one or just...it's okay to just?

26
27 Chair Tsai: You can go now.

28
29 Ms. Lawrence: Okay. Well, I wanted to testify on C-2 today in support of the bypass. I, as
30 many of you know we were actively involved in stopping the seawalls from happening in
31 Olowalu and I believe if this doesn't push forward that we could possibly lose those funds and it
32 would be a big blow. I think the West Maui Greenway is a beautiful that can be dealt with, but
33 we really need this to move forward so that we're not waiting another four years or delaying any
34 project because as Mark had mentioned there's multiple areas on Honoapiilani Highway that is
35 falling into the ocean and we desperately need to get this going and implement the Pali to
36 Puamana Parkway. It's 20 years behind, would open up vast amount of park space for our
37 community and I believe with the P to P Plan that we can implement this beautiful greenway as
38 well with all of this open park space that comes available. So I wanted to testify on behalf of
39 that.

40
41 And then I also wanted to testify on C-3 in denial of the Special Use Permit for many reasons
42 and I think many of you know but I just kinda wanted to bring this to attention the sales brochure
43 that this was for the Paia Inn and we can pass it around, but it looks to me as I go through it that
44 he had intended to build 50 rooms and as the community...in the Haiku Community Plan it
45 clearly states that the community did not want a TVR, any TVR for that matter. So I wanna

1 request that you deny the Special Use Permit especially since he owes a \$190,000 to the
2 County and I think it be...I mean I think the media would just have a field day with this if you
3 guys give it to him today and I'd hate for this body to be blasted by the media for allowing
4 somebody who owes that much money more permits. So I wanna request that you deny his
5 permit and I'd be happy to, if you wanna see his sale brochure?
6

7 Chair Tsai: We have that already.
8

9 Ms. Lawrence: Okay, so as you can see the plan was to build more TVR units in Paia and I just
10 you know, the community is here today and I'm sure a lot of them are gonna say the same
11 things that they do not want more TVR in Paia. I was at Aunty Mopsy's house a few weeks ago
12 and I can tell you that you know these guys come they just wanna party, they're traveling,
13 they're tourists and all these TVRs surrounding people's homes and it's a nuisance you know.
14 These people partying till late at night and I was there sitting down, talking story with her and
15 next door hear all these people partying next door and I can understand why the community is
16 frustrated and irritated with the amount of TVR in Paia. So I just request that you deny the
17 Special Use Permit today. Mahalo.
18

19 Chair Tsai: Fabian Penty?
20

21 Mr. Fabian Penty: Good morning everybody. My name is Fabian. I work at the Paia Inn. I've
22 been working there for since they opened pretty much eight years and I'm just here to say that
23 we are always really concerned. I do all the maintenance there.
24

25 Mr. Tabisola: Could you adjust the mic?
26

27 Mr. Penty: Hello?
28

29 Mr. Tabisola: Thank you.
30

31 Mr. Penty: Yeah, you're welcome. So I do all the maintenance there and I know we are always
32 really concerned about all the needs of our neighbors and we're trying please them and you
33 know to do what is right. And on the other hand I do the night manager and I'm aware that there
34 was some issues at night with our neighbors but that was like maybe five times in eight years.
35 And I never receive a phone call from Ms. Mopsy our neighbor. But I would be more than happy
36 if I hear from any of our neighbors saying that there's a party to go over there and shut it down
37 because we just want you know everybody to be happy. So that's all I wanted to say. Thank
38 you to everyone.
39

40 Chair Tsai: Thank you
41

42 Chair Tsai: Okay is there anyone else wish to testify at this point if you haven't signed up?
43 Yeah, you may.
44

1 Ms. Gloria Madden: Good morning, my name is Gloria Madden. I am actually for the bypass
2 and I think that the bypass is a wonderful thing for our community. And adding a greenway into
3 the bypass for Lahaina is...I just think is a very good way to foresee the future.
4

5 And this is what I think Paia needs as well. You need to foresee the future of Paia and adding a
6 special permit for a gentleman who does owe already \$190,000 to the community and I'm not
7 aware of him adding three parking stalls for his café because we do need more parking in Paia.
8 Paia is getting built up at a very fast pace. I live in Paia and I have to leave 20 to 30 minutes
9 early to get through traffic. Adding more people to our community will add more traffic and more
10 needs around our community which is growing at an alarming rate. With all of the vast property
11 going up for sale on the north shore we have to be protecting our small communities and it's
12 very important to foresee the future because being born and raised here I've seen the future
13 grow very fast. Haiku School has 400 students. Paia School needs more space. Adding these
14 little inns special use permits will just allow more people to take advantage of our community
15 and living in Paia I understand the ohana, the factor that people watch out for each other. They
16 are born and raised there. I'm the only renter on my street. I appreciate that. And people
17 watch out for one and other. When we have many people in our community who do not live
18 here, they do not care about it. They do not portray aloha. I walk down the street, I wanna
19 smile, I wanna wave, people growl at me and say this is my parking spot. Where are we
20 supposed to park? When you add too many visitors in a local community you add a lot of rage
21 and anger to people who already feel betrayed. Please think about this before you give any
22 special permits to people who already have mistreated the permits they've been given. Thank
23 you very much.
24

25 Ms. Canto: Chair?

26
27 Chair Tsai: Hold on a second, ma'am. We have a question from the Commission.
28 Commissioner Canto?
29

30 Ms. Canto: So I need to be clear. So you are not in support of C-3?
31

32 Ms. Madden: I am not in support. No. Thank you very much. But I am in support in the
33 bypass, please.
34

35 Ms. Canto: Right, right. Thank you.
36

37 Ms. Madden: Thank you.
38

39 Mr. Fabio Valedio: Good morning, my name is Fabio Valedio and I own a small gardening
40 business. I've been working for Mr. Michael Baskin for over 10 years and I've been working at
41 the Paia Inn for over eight years. I'm just here to say that we've always been nice to all the
42 neighbors and all the staff at the Paia Inn is very nice with you know customers, with our
43 neighbors. I just wanna make sure to you know say that for the past few years Mr. Michael
44 Baskin sent me and my crew to the neighbor property making sure that we clean the mess
45 coming from our side so we would go there every Wednesday raking leaves making sure it's
46 clean. I was reading on the you know paper that the article was say that staff members was

1 sitting on the you know property of the you know neighbors and I just wanna make sure to say
2 that me and my crew members if we go to the neighbors we just go for work, we don't sit
3 around...(inaudible)...a job, so we work. Yes, and we always happy to you know help any of
4 the requests from the neighbors and we will continue to do so if they ask us to. That's about it.
5 Thank you for your time.

6
7 Chair Tsai: Thank you. Hold on. Commissioner Higashi?

8
9 Mr. Higashi: Yes, I have a question. You mentioned that you work at Paia Inn for 10 years?

10
11 Mr. Valedio: Eight years, but I've been working for Mr. Michael Baskin for ten years.

12
13 Mr. Higashi: For ten years?

14
15 Mr. Valedio: Yes.

16
17 Mr. Higashi: As what?

18
19 Mr. Valedio: Landscaping.

20
21 Mr. Higashi: Landscaping.

22
23 Mr. Valedio: I do the ground work.

24
25 Mr. Higashi: Oh, so you're in landscaping.

26
27 Mr. Valedio: Yeah.

28
29 Mr. Higashi: So you don't know anything about the rental of the rooms?

30
31 Mr. Valedio: No, I'm just a gardener.

32
33 Mr. Higashi: Okay, thank you.

34
35 Mr. Valedio: I do the gardening work and I'm gonna go work now. Thank you so much.

36
37 Chair Tsai: Thank you. So Hiilei Kolt? Okay, Rory Frampton? Oh, are you Hiilei? Okay, come
38 forward.

39
40 Ms. Hiilei Aiwohi-Kolt: Hi so I'm against.

41
42 Chair Tsai: Can you speak to the mic please Hiilei?

43
44 Ms. Aiwohi-Kolt: Oh sorry. I'm against—

45
46 Chair Tsai: And identify yourself?

1
2 Ms. Aiwohi-Kolt: I'm Hiilei Aiwohi-Kolt. I'm against Mr. Baskin asking for special permits. I just
3 think allowing him when he already owes this much money just shows that like...it just sets
4 precedent that you can just come here to make money because that doesn't help the
5 community at all. So it's like I have family in Paia already and it just shows that like you're
6 allowing people from other places to come here and the person who's like providing this facility
7 doesn't even take care of where he lives and how he's making a profit. And it just shows that
8 like disregard for anyone over here and I'm just like...I just think it's kind of insulting for our
9 community and like as a Hawaiian to see support for this action. And yeah, so I'm against that.
10 Thank you.

11
12 Chair Tsai: Thank you. Christine Borge? And also can I ask everyone to please speak to the
13 mic when you come up. Thank you.

14
15 Ms. Christine Borge: Hello, my name is Christine Borge. I was born and raised on Maui and I
16 was a merchant in Paia Town for 30 years. And one of the buildings that I rented for 10 years
17 was the building where the Paia Inn is. I rented it from Betty Bersamin through Commercial
18 Properties of Maui. I also had a 10-year and 10-month extension because here was a problem
19 getting a Certificate of Occupancy signed for that building because the building was very old
20 and you could poke your finger through the wall and it was all termite ridden. The second floor
21 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
22 unusable condition. The building was not occupied for three years. It was empty. Bugs were
23 living here. So I believe there's a law that if you have a building that's empty and not used for
24 more than a year you have to obtain a new set of Certificate of Occupancy. So I had to put a
25 new roof on the building because it leaked really bad. I never used the second floor for any
26 rental. Let me repeat, the second floor was always empty. I stored things that imported from
27 Bali. We never rented one room for one night to anyone. And I just wanna say if there are any
28 pictures that say that I rented it prior they're a lie. I have gone to court with Mr. Baskin. He will
29 lie because he loves money more than he loves life or these local people here. That's their
30 community, support them. He's already got millions. Why do you need to support him? He
31 lies, he cheats, he steals to make a dollar and he hurt me when I was there. He took all of my
32 storage out from the second store, brought it down, threw it away, hired some guy called Carlos
33 who was not a licensed contractor to illegally turn that into a hotel. After the fact he goes and
34 gets permits. What does that say about doing business on Maui? These are Native Hawaii
35 people, they're the ones that should count. They've been trashed for too long. Thank you.

36
37 Chair Tsai: Hold on a second Christine. We have a question for you. Commissioner
38 Carnicelli?

39
40 Mr. Carnicelli: Thank you, Chair. Thank you, Christine. Chair I would just like a copy of the
41 lease that she referenced to be put into the record.

42
43 Ms. Borge: Here is it. I could read you the paragraph too if you want. Lessee accepts the
44 premise as a—
45

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

3
4 This concludes the testimony received at the beginning of the meeting.

5
6 Chair Tsai: At this point we're gonna open the floor for public testimony. I have some signed
7 up from this morning. Francine Aarona? Please identify yourself for the record and you have
8 three minutes.

9
10 Ms. Francine Aarona: Let's see, because I'm directly involved in this situation I would like to
11 ask the Commission if they would allow me at least two more minutes just to give my profile of
12 how I met Mr. Baskin. We met each other when he bought the parcel 23 Nalu. And his big
13 intention was to make this parcel a place for his parents to move because they lived up at
14 Ulupalakua not Kuau, Ulupalakua so that it would be warm for them. He gave all this big sign,
15 song, dance. Well, two weeks after that I meet a visitor. It's a rental. So the saga begins from
16 that point on, his lies, everything. I sat there and I listened to everything. Usually you get
17 nervous when you get up to speak to somebody but my stomach was turning. It was turning
18 because of things that I've...I was listening to.

19
20 You know my grandmother and my mother taught me something. When you're heavy your
21 heart is heavy. You start your day off. I opened the bible this morning and it took me to
22 Isaiah 40:1-31 and that set the tone today for December 13th, 13th is not a lucky number, but it's
23 lucky for me because God said I go and comfort the people. So that's what's in Isaiah. Read it
24 sometimes it might work for you too.

25
26 But for you is an application for Special Use Permit submitted by Mr. Michael Baskin.
27 Unfortunately he doesn't show you the videos that incorporate the three vacation rentals. He is
28 the owner for Paia Inn and three vacation rentals that tie in to the Inn's operation. If you view
29 the videos on the media you can see that you have it in front of you. I urge the Committee to
30 deny this application. It is against the community plan that says no hotels from Paia-Haiku
31 District. No hotels. No resort. Now if he wanted to do something about it then he should have
32 gone and ask for an amendment to the community plan. That's where it all sits, community
33 plan. He has operated illegally for more than four years and has intimidated people. Just like
34 how you heard this morning, intimidated people in the process.

35
36 He continues to refer to the Inn at being historical and the sites around it. Here, 1930 fire. Is
37 this historical? This building is down. There's no historical about Paia Inn. We've lost that
38 historical building. It bears no historical feature whatsoever. It was rebuilt yes.

39
40 Chair Tsai: Francine, will you please conclude?

41
42 Ms. Aarona: That thing that hurt me the most, I'm sorry, the thing that hurt me the most are the
43 videos on the web that refers to the beach as Paia Inn's private beach. Not even we, how live
44 on A'e Lane refers to the beach as ours and only ours. We are blessed to have it as our

1 backyard. Baby Pond by bomb shelter where we release the pikos of our babies. We have
2 scattered ashes of our family members, our cousins who continue to watch over us. They swim
3 out there and they watch over us. How dare, how dare you call it your private beach. Please
4 deny this request and allow the people of Paia to restore its town to its simplicity. Our visitors
5 come to our town for that specific reason. Help us protect Paia. No hotels. This says,
6 e malama ke one hanau o na kupuna, care for our birthrights of our ancestors. So think about
7 it. I thank you so much.

8
9 Chair Tsai: Thank you. Ma'am, Francine we have a question from the Commissioner.

10
11 Mr. Carnicelli: Mr. Chair, I'm just requesting that that picture that she showed be entered into
12 the record please.

13
14 Ms. Aarona: I also have this book of violations from the County if you want to review.

15
16 Chair Tsai: Okay, I'll allow that. Okay.

17
18 Ms. Aarona: You must...(inaudible)... Yes.

19
20 Chair Tsai: Give it Kurt. Can he make a copy or just to distribute? Commissioner Hedani?

21
22 Mr. Hedani: Could we have the book of violations circulated please?

23
24 Ms. Aarona: Sure.

25
26 Chair Tsai: Thank you.

27
28 Ms. Aarona: This is not like what you folks see. This is from the community members, the
29 people that live—

30
31 Chair Tsai: Commissioner Robinson?

32
33 Mr. Robinson: Aloha.

34
35 Ms. Aarona: Aloha.

36
37 Mr. Robinson: Could you expand on your contact with the applicant please?

38
39 Ms. Aarona: He's very smooth talker, very nice. He wanted to meet with me one day and my
40 husband told me because I'm a Christian that I should meet with him. So he and his girlfriend
41 came over brought a little cake. I could not, I could not be a hypocrite because it's like going
42 back to the Pilgrim days where the Indians came and how the Indians say you talk with a
43 crooked tongue. That's what he does. He butters you up. He makes you feel good. He gives

1 a good presentation. That's a beautiful presentation, but he failed to include all the three
2 vacation rentals that these visitors, that's the beauty, the response that you get in the papers
3 that they love this place, that's what they're remarking on not the Paia Inn. If you ever came
4 and look at the old Chong Kee house he redid it, 40 A`e where my cousins lived, 23 Nalu, in the
5 paper he talks about the beautiful trees and everything that surround the place that look like
6 Bali. This is not Bali, this is Hawaii, this is Paia. We wanna hang onto. It hurt when I saw the
7 video. He took the video off, but we got a picture of it. Of his private beach. That hurt, that
8 really hurt. So my encounter with him, the gentleman this morning, bless his heart he's the
9 landscaper this morning. We are very dear friends. He comes and he does the best he can.
10 Every time I tell him when is he gonna cut down all those palms cause they touch my roof of the
11 house? Well November 28th I have pictures he didn't do anything up until then. I come home
12 from my vacation two days ago, and my husband said, mom look they're all cut, they're all nice,
13 40 A`e. What he supposed to restore the garage in the settlement oh, it's all broken down. All
14 of a sudden he's doing all the things that he's supposed to do in the settlement. A`ole, no can,
15 no can. This is very disheartening for us. Unfortunately, people didn't understand on the
16 testimonies this morning because they had to go back to work but there were many of us this
17 morning as you could see. But he talks smart, he does things good, he butters you up, and I
18 can tell you we protested the building. He invited the community to come to his open house for
19 the rooms that he built. We came from 4:00 to 6:00. We came, all my family, friends, we came
20 with signs, no hotels. We chanted no hotels. Protect Paia, keep Paia, Paia.

21
22 Chair Tsai: Thank you.

23
24 Ms. Aarona: He said Mopsy I came. Yes, I came, but to oppose you're trying to do. So...

25
26 Chair Tsai: Thank you.

27
28 Ms. Aarona: Thank you.

29
30 Chair Tsai: Moses Kane? Please identify yourself again for the record.

31
32 Mr. Moses Kane: My name is Mose Kane, Jr. Good afternoon Commissioners. I'm kind of
33 at...Francine is my cousin and I just wanna say mahalo to her. I've never testified at all in any
34 meetings, all and the DOI and everything, Hawaiian Nation, I've never testified, but when she
35 asked me to testify today, I said yes because Paia like you mentioned it will never be the same
36 but what we can do is make it better. And what is better? I don't know the answer. The
37 community is what we should listen to, what their concerns are, and that's what my testimony is
38 for today is to please deny the application from Mr. Baskin. Thank you.

39
40 Chair Tsai: Thank you. Nicole Hokoana?

41
42 Ms. Nicole Hokoana: Aloha, mahalo Council Members for allowing testimony. I am here to
43 request that you deny the Special Use Permit. My name is Nicole Hokoana. I was raised in
44 Paia. I have ohana living in Kuau and the iwi of my kupuna are buried oceanfront in Paia. Like

1 my tutus before me I am a member of the Paia Hawaiian Protestant Church. Born and raised
2 on Maui tourism has always been a part of our lives. I never questioned the role of tourism or
3 its importance in our economy. It was only through age and traveling that I came to understand
4 the impact tourism has upon us. Whether fall, winter, summer, spring tourist never take a break
5 from vacationing on Maui. This affects us. We don't have the space to practice our culture and
6 evolve our identity as a people. We have respite from visitors. But shouldn't our homes, our
7 towns, our communities be the place where we have reprieve from hosting, accommodating and
8 making room for guests from abroad. We live on the north shore. We live in Paia because it's a
9 place for us, for us the people of this aina to live, to raise our children, to be. Tourism is
10 flourishing on Maui and it has its places to be Kihei, Lahaina, Kaanapali, Wailea, Makena all of
11 the south and west shores have been designated for hotel industry much to the heartbreak of
12 local people. I strongly oppose any expansion of the hotel industry to the north shore.

13
14 Baskin's aggressive acquisitions conflicts with the character of our people, the intent of the
15 properties he acquires and it upsets the quality of life for residents of the north shore. The Paia
16 Inn is nothing special, I mean, think of the all the five-star properties and accommodations
17 visitors can have when they come to Maui. The unique feature of the hotel is that it's the only
18 hotel in Paia. Therefore what Baskin offers his guests is Paia Town itself. He said it himself, it's
19 a gem because nobody is there. These tourists feel special because they're the ones that are
20 allowed to stay in this place, right? He offers our town, our beaches, our community for his
21 gain. Paia is not his to offer. And it is the kuleana of this Council to intercede on our behalf.
22 Baskin has disregarded the County through his operations and he disrespects his neighbors by
23 filling our homes with tourists rather than families. His operation contributes to a degradation of
24 the town's sense of community and he causes a deep sadness that Paia Town is no longer a
25 place for us. If Baskin wants to operate a hotel on Maui there's a plan and there's a community
26 for that—

27
28 Ms. Takayama-Corden: Three minutes.

29
30 Ms. Hokoana: -- refer him to Makena, Wailea, Kihei, Lahaina or Kaanapali instead. In Paia he
31 is a successful businessman who's been able to bully his way to the top. But if he is truly the
32 savvy entrepreneur who offers a product let him take his in to the south and west shores where
33 hotel operations are both legal and welcomed. Let's see how well he prospers when his
34 competition are actual hotels not local families. I urge you to protect the residents of the north
35 shore from his ambitions, defend the community plan, and insulate the local spaces we retreat
36 to and call home. Hotels, TVRs and his vision of development are not welcome in Paia or
37 anywhere on the north shore.

38
39 And my response to his presentation is this for me, his presentation was enough misinformation
40 to distract this commission from its purpose. I felt his presentation seemed so benign. It's just a
41 conversion of office spaces. There's no construction taking place. My question is when does it
42 end? How many years before Baskin's next special use permit? The truth is that it won't. He'll
43 continue to acquire and build and come in for permits to build, to pave, to expand. It's not a
44 hotel and resort not yet, but he is in escrow for 340 acres across the street.

45

1 Chair Tsai: Please conclude.

2

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

5

6 Chair Tsai: Thank you Nicole.

7

8 Ms. Hokoana: Thank you.

9

10 Chair Tsai: Any questions? Martin Brass?

11

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

14

15 Chair Tsai: Yes.

16

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

23

24 You know I'm a simple person. I deal with facts. So I've seen the facts unfold over the years
25 and I've seen how Mr. Baskin has presented them. This is a very smooth presentation. When
26 you start pushing your finger on it it becomes very soft. There's a history and a pattern of
27 methodical and consistence, manipulation, disregard of the County Code, the violations and the
28 rules in which the rest of the community follow and Mr. Baskin has not. 2005 he paid a \$50
29 thousand fine for an illegal seawall. 2010 he paid a \$9 thousand fine for numerous interior and
30 exterior building violations of 93 Hana Highway which were the improvements that he was
31 showing in his video. That building was the Maui Home Grown Market which was a one-room
32 retail space that sold Hawaiianna memorabilia. Chris Borge testified this morning that that's all
33 it was. Her lease prevented her from occupying anything upstairs. For 10 years upstairs was
34 vacant. There is no historic use. There is no lodging. There is no vacation rentals upstairs.
35 The only historic use that Michael Baskin has paid attention to is the shoreline access that he
36 blocked from all these community members that have lived and grown up in Paia.

37

38 The facts are that Paia Inn is not legal and has never been legal. There is no grandfathered
39 status. There is no C.O. It does not follow the community plan. And the facts are that the Paia
40 Inn in is not a five-room operation looking for four offices to be converted. How do you have
41 15,000 bookings since 2008 with a five-day average stay with five rooms? How do you have 35
42 employees staffing five rooms? How does a landscaper landscape 93 Hana Highway here
43 when there is no landscaping other than potted plants? His operation are the three short-term
44 rental houses that are 40 A`e, 95B Hana, 23 Nalu Place and to Governor Abercrombie's

1 testimony 65 Hana Highway is on his website and is listed as a wedding venue. They are
2 interlinked. The whole thing has been presented as one package. Perhaps in form they're
3 different entities, but in function he owns and controls every single property. He speaks for it.
4 He's on the trust agreements. He's on the LLC agreements, and I would ask the banks who's
5 on the mortgage and what has cross...(inaudible)... the financing for these properties. He is in
6 control. This is what runs the business.

7
8 This is not a five-room TVR. It's not a nine-room TVR. Today it's 16 rooms. It does not qualify
9 for a Special Use Permit no matter what you say or hear when you look through all the clout and
10 understand the truth of the scope of this operation it does not qualify for a special use permit.

11
12 Ms. Takayama-Corden: Three minutes.

13
14 Mr. Brass: His plan is to build, if you look at this, 50 rooms across four different properties. He
15 has identified 50 transient vacation rentals. 2014, the Planning Department went and obtained
16 a District Court order to shut down his short-term rental housing. He went to the State Supreme
17 Court and obtained a stay for due process. Where's the due process for the community? Due
18 process for the community is community plan amendment. You wanna introduce hotels into the
19 community then let the community discuss it, let them debate it, let them have the public
20 hearings, the public meetings, and let County Council make the decision. With all due respect,
21 this is not the forum for you to decide. I don't believe you have the authority to issue a special
22 use permit for what he's proposing. The scope of his operation goes far beyond what was
23 presented. This is a hotel in every aspect, the way it's publicly presented, the way it's
24 marketed, the way it's listed on the website. The only person that says it's not is Michael
25 Baskin. Everyone else in the public from TripAdvisor to all the PR that's been developed—

26
27 Ms. Takayama-Corden: Four minutes.

28
29 Mr. Brass: --looks at it as one single operation.

30
31 Chair Tsai: Thank you Marty.

32
33 Mr. Brass: Thank you for your time and consideration.

34
35 Chair Tsai: Bruce U`u?

36
37 Mr. Bruce U`u: Good morning everyone. Good afternoon everyone. Chair, I was here from the
38 morning, e kala mai. Lucky had lunch. First of all, thank you guys for serving on such a
39 prestigious board and I glad we got a stop here to wala`au little bit. My name is Bruce U`u. I'm
40 a life-long resident of Paia. Been there for generations. My mom is here. All blood. I sat on
41 the planning commission.

42
43 Special use permit we granted some, me and Wayne Hedani never to a hotel. Never to a hotel.
44 It was never made for hotel. It says refer to the community plan when you read the special use

1 permits. Refer the community plan which is us the community. The lifers of Paia. Long before
2 the business leave or get burnt, one other owner come in regardless who you are we still here.

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

29
30 Ms. Takayama-Corden: Three minutes.

31
32 Chair Tsai: Thank you, Bruce.

33
34 Mr. U`u: In closing, I wish that you deny the intervention so Aunty no need pay. It's costly and
35 please deny the application. Thank you for your time. Aloha.

36
37 Chair Tsai: Commissioner Robinson?

38
39 Mr. Robinson: Bruce?

40
41 Mr. U`u: Yes, sorry.

42
43 Mr. Robinson: No run.

44

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

2

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

4

5 Mr. U`u: Okay.

6

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

9

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

13

14 Mr. Robinson: Thank you, Bruce.

15

16 Mr. U`u: You're welcome.

17

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

21

22 Mr. Cody Wallace: Hi, my name is Cody Wallace and thank you for having us. It's a great
23 platform for I think the community. And I'm a...I was born and raised in Paia. My family still
24 lives in Paia. You know so Paia is a very special place to us. So I strongly ask that you deny
25 this special use permit for his TVR. You know, first off, he has unpaid fines. It was in the
26 newspaper the other day. We all saw that. You know and what he's proposing in his TVR like
27 everyone's been saying the Paia-Haiku Community Plan already says that that's illegal. There's
28 another thing. And he has what he calls a deli, but if you go, and it's basically a restaurant which
29 is also an illegal operation on his property. So you know he's got of activities going on that are
30 illegal and he was so proud about his building permits that he had, but if you look it up a lot of
31 those permits are after the fact. So just in closing I would strongly recommend that you deny
32 the special use application. Thank you.

33

34 Chair Tsai: Thank you. Sara Sparks?

35

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

37

38 Unidentified Speaker: Cannot hear you.

39

40 Ms. Sparks: Oh, I'm sorry. I appreciate your service to our community. My name is Sara
41 Sparks and I'm Michael Baskin's wife and together we operate the Paia Inn while raising our
42 two children. Over the past few years we've endured difficulties with the Maui Planning
43 Department and have experienced firsthand how discretion by the Department can be arbitrary

1 can capricious. We've been told that permits which were issued previously to us were no longer
2 considered to be acceptable and that the Director was choosing to revoke them. We have been
3 issued permits with certain requirements and then at the moment before issuance of a
4 Certificate of Occupancy additional requirements were then suddenly required. We've been told
5 by many employees of the Planning Department and other departments that they could easily
6 process our permit but had been told not to or they didn't know why the County was sending
7 them out for another inspection because this was already approved or they're not sure why the
8 County was treating us this way. We've also been told by professionals such as architects,
9 engineers, contractors, and permit expeditors that they have never seen anyone else go
10 through this kind of thing with the County or that the Planning Department was being unusually
11 hard on us. We've been blamed for blatant disregard of the permit process, however while
12 we've drudging through it ironically we have seen blatant disregard for the permitting process by
13 others in Paia go completely ignored by the entire County system even when it's brought to their
14 attention. Still we work diligently to protect and preserve the Paia Inn because we care about
15 this town, its history and its future as well as the community surrounding it.

16
17 To add fuel the seemingly never ending fire recently this small group has begun using social
18 media to gain support against the Paia Inn and us personally. I have followed many of the
19 posts and have watched how false and misleading information have been posted, liked and
20 shared. The power of social media is real and is it very scary to see how misinformation is
21 spread and believed creating anger and hatred. I believe this is the reason there is so many
22 people here today opposing this matter. I think if people actually take the time to look at the
23 reality of this special building, this special small run family business and the role it plays in our
24 special town and the negligible impact of this small, four-room change of use they will realize
25 that they are fighting against something really great.

26
27 Paia Inn has preserved a small part of the history of our plantation town. We have provided a
28 place for visitors and residents to stay. We help support the other local small businesses in
29 town and we donate to countless community groups and we hope to endure this madness so
30 that the Paia Inn building doesn't become another t-shirt shop.

31
32 Members of the Commission I sincerely hope that you see the value that the Paia Inn gives to
33 the character of our town and I hope that you vote to approve this four-room change of use.
34 Mahalo time for your time and thoughtful consideration.

35
36 Chair Tsai: Thank you. Rick Brandt? Followed by Kimberly Chong Kee.

37
38 Mr. Rick Brandt: I just wanted to give I guess everybody a little bit of info. The Paia Inn has
39 been in controversy with permit issues and I wanted to set the record straight. I've been able to
40 work on that project helping remodel start to finish as well as the neighbor, Flatbread I worked
41 on that project too, start to finish. And the Paia Inn has gone through everything that the County
42 permit everything required, they have done that. Every change that's been come up six months
43 after it's been approved they've done that. They've bent over backwards in my opinion to fulfill
44 all these requirements that they keep changing on them. And so much to say, I'm a little bit
45 nervous here. I'm just glad that they actually did the proper way to do all these permit and do all

1 the issues which I kept telling them to do everything right, you don't have any worries. Whereas
2 the neighbors, owner of Flatbread Pizza, they've always said, oh we're gonna get after-the-fact
3 permits they never have. They've changed their bar from one side to the other, plumbing
4 problems, but never had. They've added bathrooms. They never filed for after-the-fact permits.
5 They've actually redone the whole thing and never filed. You know, is there special interests or
6 is there a reason why one neighbor gets violation after violation and then does it? And then the
7 other one doesn't even get any violations. And then a incident was the Plumbing Department
8 came by and said there was no violations at Flatbread and the question was well the bar was on
9 this side and they reopened it's on the other side, there was work and they said no, there
10 wasn't. And I'm here to say there was 'cause I actually shifted it over. So I can testify to that.
11 And the question is why is there favoritism for one neighbor over the other? And I'm just saying
12 Paia Inn has done everything it's been required and on the other side there hasn't been done
13 anything and there hasn't even been any response from the community and the organizations
14 responsible for violations. There's been no response to the neighbor, but on Paia Inn they just
15 look at 'em every which way. Same thing on the neighbor on the other side, there's a couple
16 issues, not going to bring that up. But this guy has done everything as far as permits required
17 and you know what, in my point of view he deserves a chance because he's done everything
18 that the community and the...everybody asked him to do, he's done it whether it's change after
19 they got approval and six months later and they gotta change it, they do it. So you know what
20 I'm glad he got after-the-fact permits because you know what these guys most of them don't
21 even do that and he's done everything he can to do that. And if anybody has any questions I
22 can testify that building it from start to finish the remodel and yeah, you can ask me anything
23 you want about that and that's about it.

24

25 Chair Tsai: Thank you.

26

27 Ms. Canto: Chair?

28

29 Chair Tsai: Commissioner Canto has a question.

30

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

33

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

35

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

38

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

40

41 Ms. Canto: You're a laborer?

42

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

44

1 Ms. Canto: Okay, fine. Thank you.

2

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

4

5 Mr. Tabisola: Tabisola. Ta bi so la.

6

7 Chair Tsai: Tabisola.

8

9 Ms. Kimberly Chong Kee: Good afternoon. My name is Kimberly Chong Kee. I was born and
10 raised in Paia. Our address was 95B Hana Highway. I'm the youngest of five children. My
11 dad, oh gosh, basically the reason I'm here is there's been a lot of changes going on. You
12 know the sad thing about is my dad was...he's 86 now. He was born and raised, youngest of
13 11 kids at the same property and you know it came down to the point where because of all this
14 going on we lived right directly behind where the Paia Inn's going up my dad suffered a heart
15 attack so you know because the driveway was always being blocked you know we told my dad
16 the best thing to do is sell the property, you know move because of his health issues. The sad
17 thing about what's going on in Paia is that you don't realize that growing up we had the best
18 childhood. You know we had the beach. We opened our back gate we get to go to the beach.
19 You know we walk out our front gate we can go to the stores you know and so forth. But a lot
20 has changed and I cannot see one thing that anybody can benefit by this. We no longer can get
21 to the beach even through the sides. You know all the access has been blocked and a lot of us
22 were born and raised there. People that are here testifying today you know born and raised,
23 grew up there and so forth and I don't think that it's social media that is making people turn out,
24 but I think that people are just starting to...they don't wanna sell their place, they wanna stay
25 there you know. And we had to sell our place because we had to just for my dad's health
26 issues but I just think that this would be really bad for Paia because once you start this the next
27 person is gonna do it, the next, the next. I live in Haiku. It takes me 35, 40 minutes to get to
28 work in the morning. I leave at 6:30. Coming home from Wailuku, it takes me an hour and a
29 half to get home because of all the traffic and so forth. But I'm just here to say that I'm against
30 this permit and I hope you folks will see and vote against it. Thank you.

31

32 Chair Tsai: Thank you. Allan?

33

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

36

37 Chair Tsai: Please just limit your testimony.

38

39 Mr. Tabisola: Okay, I was born and raised in Paia. I mean I'm not born there but I lived there
40 since I was ten years old. And you know when you're entering Paia you see a sign. It says
41 welcome to the old plantation town of Paia. Okay, if you look in the whole State of Hawaii
42 there's not another town like this. You know it's a very unique special place. And we go to Paia
43 because it is a very special and unique quiet place. The people there are all interconnected.
44 They all know each other, they all support each other. We're like one big ohana in the little

1 plantation town. And we like it that way, you know, it's our home. It's our home for our families,
2 our children, our grandchildren, our great grandchildren. It's a very, very special place and
3 that's why you know I asked you guys where you guys live because Paia there is no other Paia
4 in all of USA and it makes it unique. Okay, and we like to keep it that way all right. And you
5 should listen to the people that live there because they know what's going on. And when you
6 have somebody coming over to Paia Town and bully his way through and cheat, lie and steal to
7 the local people I mean that's out of character, that's out of our character. We don't do things
8 like that in Paia all right. So no, no, no, no, no. Thank you.

9
10 Chair Tsai: Dana Hall?

11
12 Ms. Dana Naone Hall: Good afternoon Commission. My name is Dana Naone Hall. I am one
13 of the 13 members of the Paia-Haiku Citizens Advisory Committee who during the course of 21
14 committee meetings all of which were attended by members of the public and by various
15 interested property owners developed a plan that is in effect today.

16
17 In the interest of brevity there are two thing worth noting about the Paia Community Plan, Paia-
18 Haiku Community Plan for this discussion. First, the CAC's version of the plan update remained
19 relatively intact through reviewing recommendations by the Planning Commission and final
20 review and adoption by the Maui County Council becoming effective in May 1995 and remaining
21 in effect today. Second, I believe that the Paia-Haiku Community Plan was the only one of the
22 Maui Island community plans that contained the specific prohibition against hotels in its
23 community plan region. We were concerned about the effect of tourism accommodations
24 altering the historic character of Paia Town and old-time residential neighborhoods in particular.
25 We did not act out of an...(inaudible)...of development. A & B made it known through Stan
26 Kuriyama and Chubby Vicens that it wanted language in the plan that would it to build an all-
27 suite hotel which it characterized as a lodge. There was no such use in Paia at the time but the
28 Citizens Advisory Committee recognized that without an explicit provision in the plan there
29 would be others who would attempt to introduce hotel resort development in the future.

30
31 I have never met Mr. Baskin and I do not wish to attack him personally. I do however attack the
32 use applications he seek because the special use permit and the SMA assessment applications
33 are required to be consistent with the applicable community plan which they are not and cannot
34 be absent in a community plan amendment I urge the commission to adopt alternative No. 4 on
35 the last page of the Planning Department's report and deny the permit request.

36
37 Mrs. Aarona should not have to go through any further time, effort and expense to protect her
38 right to peaceful neighborhood.

39
40 Ms. Takayama-Corden: Three minutes.

41
42 Ms. Hall: Okay, I'm ending. In my ...(inaudible)...of my testimony to the County Council that
43 was years ago about the adoption of the community plan I find myself having to call once again
44 on Hamakuapoko and Hamakualoha, from the sands of Kanaka ...(inaudible)...to the sea cliffs

1 of Kaulahau, from the wind and waves of Hookipa to the depths of Maliko and Kikiapi, from
2 Kauhikoa and Kuiaha, to Ulumalu and ...(inaudible)... we are bathed in the waters of Hoolawa
3 we stand in under the shadow of Haleakala where do you stand? Thank you.

4
5 Chair Tsai: Anyone wish...else wish to testify at this moment who haven't testified already
6 please come forward? Seeing none, no? Seeing none, public testimony is now closed. We'll
7 take a 10-minute recess, reconvene 3:20 and we're gonna take on the Petition to Intervene.

8
9 A recess was called at 3:11 p.m., and the meeting was reconvened at 3:25 p.m.

10
11 Chair Tsai: Maui Planning Commission is called back to order. We're going onto the next
12 agenda item.

13
14 Mr. Spence: The next agenda item is Communications...we're taking up the Petition to
15 Intervene....Petition to Deny and Petition to Intervene and normally procedure is the intervenor
16 has made the motion to intervene, to deny and to intervene or just to intervene. They have the
17 first presentation to the commission, then there's a rebuttal by the applicant and then there will
18 also be a rebuttal by the petitioner. Do we know how long each side will take in their
19 discussion?

20
21 **D. COMMUNICATIONS**

- 22
23 1. **ISAAC HALL, attorney for FRANCINE AARONA submitting on**
24 **November 29, 2016 a Petition to Deny Applications because the proposed**
25 **uses are prohibited by the Community Plan or in the alternative to**
26 **intervene on the following:**

27
28 **MR. MICHAEL BASKIN of SEASHORE PROPERTIES LLC requesting a**
29 **County Special Use Permit to operate a nine (9) bedroom transient vacation**
30 **rental (Paia Inn) with 1st floor lobby on property situated at 93 Hana**
31 **Highway, TMK: 2-6-002: 027, Paia, Island of Maui. (CUP 2015/0006) (CTB**
32 **2015/0009) (SMX 2015/0522) (K. Wollenhaupt)**

33
34 **The Commission may take action on this request.**

35
36 **Should the Commission grant the Petition to Intervene, then they may also**
37 **take action on the following:**

- 38
39 **a. Selection of the Hearings Body/Hearings Officer**
40 **b. Selection of the Mediator**

41
42 **Should the Commission act to deny the intervention request, then they**
43 **could act on the application requests.**

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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.

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

11
12 You know we saw in the presentation where Seashore Properties said yeah we have a
13 Certificate of Occupancy for our deli, our take away deli, but it's not a take away deli anymore
14 it's a restaurant and it doesn't have a Certificate of Occupancy for that. And if it's a restaurant it
15 doesn't have the parking that's needed for a restaurant and that's what there is an application
16 for a variance right now. Well, all of these things should have been taken care of before you
17 were approached with regard to a special use permit. And not having the appropriate
18 Certificates of Occupancy for these things, not having the appropriate variances granted yet,
19 they got an SMA Minor Permit for the four office spaces that they're now talking about they want
20 to convert to transient vacation rentals but there are appeals still pending on the SMA Minor
21 Permit for those four spaces. So there's all these things that are out there that are loose ends
22 where this shouldn't before you.

23
24 And the most important one which was mentioned several times is the community plan. The
25 community plan is not something optional. It doesn't matter if the community plan is 20 years
26 old. It doesn't matter if you think it should be updated, it's ...it is required to be complied with by
27 the Commission and by the Planning Department. It's not an optional thing. Under Maui
28 County's own Code we cite to you in our petition the provisions that say that is part of...the
29 community plans make up the General Plan and it has to be complied with. It's not optional.
30 And we also cited to you the case that says this is not something that the Planning Director or
31 the Planning Commission can vary from. They don't have the option to say well you know it's
32 20-years-old, times have changed, we think that this should be okay. And the portions were
33 already cited to you most of them there were three portions that were important and that is that
34 talks about that hotel uses are prohibited in the Paia-Haiku Community. It flat out prohibits
35 them. Secondly, it says that there's not gonna be hotel or resort development. And the last one
36 is where it says the objective is to limit visitor accommodations to owner-occupied B&Bs that
37 are residential in character. So it talks about all these things and Ms. Aarona says I'm not
38 getting any of that right now. We have situation where things keep plowing ahead on the Paia
39 Inn and they keep doing things and then trying to fix them after-the-fact but in the meantime it's
40 all progressing without the specific permissions, without the specific acts that need to be done,
41 and one, the most important is that there needs to be an application for a community plan
42 amendment before this special use permit can come before you. And that really is the fact of
43 the matter. The argument is well this is not a hotel, it's an inn. Well, there's no definition in the
44 Code for an inn that somehow qualifies it to be treated differently than a hotel. It is a hotel. It is
45 referred to as a hotel by the Seashore Properties. They have a hotel entrance, they have 35

1 employees and as someone testified that's not just for five rooms right here it's because there
2 are other rental properties that are tied together in the same community and it is all part of the
3 same thing. Now it's not part of the same thing when they want it to be like in this application
4 but it is part of the same thing when they're advertising, when they are going to sell it and they
5 send out a brochure. So you know going to another old saying if it looks like a duck and it walks
6 like and it quacks like a duck and all of that kind of stuff, and that's what you got here it's a
7 hotel. Okay, it says it's a hotel, it advertises itself as a hotel. It has the staff for hotel, it has
8 baggage handling and maid service and now a café even if that's not permitted.

9
10 So the real fact of the matter is hotel uses are prohibited. They're not part of what's supposed
11 to be going on in the Paia community under the Paia Community Plan and that's not something
12 that's just optional. And so this should be denied and a community plan amendment required
13 before the special use permit comes before you.

14
15 With regard to intervention, our request for intervention was specifically couched as an
16 alternative. You know, I would prefer that the intervention be decided afterwards because that's
17 how it was couched, is deny the petition or allow us to intervene if this is going forward. But as
18 to the intervention aspect itself we are going to rely on what we have on our briefing to you and
19 one thing I would point out is that when we put this in the alternative Seashore Properties then
20 said, we...first they objected and then they said we're talking away the objection, fine, send us
21 to mediation, do a contested case because they want this delayed or deferred. But the fact of
22 the matter is it's not whether they object or not, it is the Commission who has to make the
23 determination under the standards as to whether intervention is granted or not. So you know,
24 it's easy to say well they didn't object to it but at the same time that doesn't mean that
25 intervention necessarily goes forward especially when the determination hasn't been made on
26 the granting or denial. That's all. Thank you.

27
28 Chair Tsai: Thank you. Corp. Counsel?

29
30 Mr. Giroux: Just procedurally. That's why I wanted you to focus on the intervention because
31 technically the...what's happening is that this is turning into a contested case. Now what the
32 law says is it doesn't matter how we treat it, it becomes a contested case. The issue is who is a
33 party and who's not a party. That's why we have the three-minute rule and yada, yada, yada.
34 So you're filing a petition or motion to deny doesn't make you a party until the issue of
35 intervention is decided. Our rules say we can't act on anything until the issue of intervention
36 has been cleared. So it's your motion that we're trying to determine and if we don't determine it,
37 then you're not a party. So by our own rules we can't ignore the issue that you filed a petition to
38 intervene and we need to clarify that and then we can move forward.

39
40 Ms. Wright: And I do understand that. I was saying that this is a difficult situation because of
41 the way the petition was filed which I understand why it was filed, why Isaac filed it the way that
42 he did. But it puts everyone in kind of a difficult situation because of the way that is. And while I
43 do understand that I know that what Ms. Aarona doesn't want is deferral or delay or things of
44 that nature. So that's why I'm telling you that I'm relying just on our petition on that aspect.

1
2 Mr. Giroux: Okay, but just to clarify there is a filing for a petition to intervene and the request is
3 is that Ms. Aarona be allowed to intervene as a party to a contested case.

4
5 Ms. Wright: There is a request for that, yes.

6
7 Mr. Giroux: Okay, so I'm just clarify for the board is if that's what's being asked then that's what
8 we need to address and I need the two other attorneys to give me their position on that.

9
10 Ms. Wright: Okay, thank you.

11
12 Mr. Giroux: Kolbe will remain silent until(inaudible)...I'm sorry.

13
14 Ms. Pam Bunn: Good afternoon, Mr. Chair, Commissioners, Staff. As the Commission may
15 know the applicant has withdrawn its opposition to the intervention petition for the primary
16 reason that this is obviously an issue that has invoked strong feelings in the community. The
17 applicant would like the opportunity to address the concerns with the petitioner for intervention
18 and with the rest of the community. The applicant had requested and some of you may have
19 seen it a postponement for that purpose to see if he could meet with the petitioner and try to
20 understand and address her concerns. That request was denied.

21
22 The applicant here is obviously not responsible for Paia becoming a tourist destination which
23 appears to be what has invoked a strong reaction among a lot of the members of the
24 community. I can understand that. The town I grew up in 60 years ago is not the same town as
25 it was when I was a child. Paia I'm sure is not the same town at it was 30 years ago, that's
26 change and that's not something that can be laid at the feet of the applicant. But while the
27 applicant can't reverse the changes in Paia, it believes that it would promote community
28 harmony to attempt to work together to see if there is a way to accommodate change while still
29 preserving what is the essential character of Paia and the applicant has tried hard to do that.

30
31 It would like the opportunity to mediate with an objective third party which is an opportunity that
32 is afforded through intervention. Under your rules that the first step in any intervention
33 proceeding. In the event that mediation is unsuccessful this does appear to be one of those
34 cases where an intervention might nonetheless make for a more full record. I think this is the
35 type of case where having a hearings officer and evidentiary rules will help in narrowing what
36 the issues are that are really applicable to the conditional use or the County special use permit
37 before you. A lot of what we heard today while very heartfelt and very sincere is not entirely
38 relevant to the considerations that are before you with the permit. I think having a hearings
39 officer to help weed through some of that information first and presented in the form of proposed
40 findings and proposed conclusions the issues that are before you might actually make for a
41 better record and without broadening the issues. So for that reason we have withdrawn our
42 opposition to the intervention. We do not oppose it.

43

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

11
12 I did though wanna just say because I've been hearing a lot about it today, I just wanted to point
13 out something in the community plan. I understand that it is still in effect. We all know that it's
14 well overdue for an update but it is still in effect. In the very, very first sentence of the Paia-
15 Haiku Community Plan where it's talking about the purpose of the plan, it is to advance planning
16 goals, objectives, policies and implementation considerations to guide decision making in the
17 region through the year 2010. That's what it was designed for and that was its purpose.

18
19 Let's look at what's happened since 2010. I mean part of the community plan deals with only
20 visitor accommodations being bed and breakfasts and let's not put them near the shoreline and
21 let's have them owner-occupied. Well, in 2012 the City Council adopted an ordinance allowing
22 short-term rental homes and I think as you saw from the map there are many of them in Paia.
23 There are many of them on the shoreline and those are not owner-occupied. And then as the
24 applicant pointed out in 2014, the Council adopted the ordinance that now allows for TVR units
25 in the Business Country Town. So if...I understand that the plan is still in effect. The plan was
26 intended to guide decisions through 2010 and certainly the County Council is no longer
27 adhering to this and what we're hearing is about the prohibition on development of hotels and
28 resorts. There are no definitions in the community plan, but if you take the definitions of
29 development from elsewhere for example in Chapter 205 or in your SMA Ordinance you know
30 development has to do with putting physical gases or liquid onto a property or increasing its use
31 are the two intensity of use. Those are two primary definitions we talk about. As the applicant
32 pointed out there is nothing physical being put on the property. There is no construction. The
33 building is there. It's permitted. It was permitted. As far as intensification of use that's also
34 been discussed. It's really the use of those five rooms has continued for quite a while. That's
35 not going to be intensified and so the question is does changing four rooms from offices to
36 sleeping rooms is that an intensification of use? I think it's a pretty close question. I don't know.
37 So if you have any questions for me I'd be glad to answer them but we do not oppose the
38 intervention petition and would welcome the opportunity to try and bring about the community
39 harmony by trying to work with some of the community members who have such strong
40 feelings.

41
42 Chair Tsai: Thank you. Ms. Wright you want a rebuttal?

43

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

3
4 Ms. Wright: I understand that, but she addressed other issues. I understand what you're
5 saying and I appreciate that and I'll keep it very brief. But the fact of the matter is that she said
6 that the five rooms have been used for quite a long time for these uses, but they haven't been
7 used with proper permits for quite a long time for these uses.

8
9 Additionally, I do believe the community plan defines hotel. I think there is a definition in there
10 which is a transient vacation rental. And I would simply point out that the reason that Ms.
11 Aarona brought this petition to start with is because another thing is that the application before
12 you we believe is incomplete. It doesn't have a traffic analysis. It doesn't have the beach
13 access info and it certainly didn't have community meeting information as well as the SMA
14 information being incomplete.

15
16 With regard to the intervention, Ms. Aarona is not adjacent to Paia Inn. She is adjacent to
17 certain of the other properties that we talked about as being part of this overall hotel venture.
18 She does however have the problem of people walking across her property or guests and
19 workers coming onto her property and things of that nature. And as I said before, for the rest of
20 it, we rely on what's in our petition. Thank you.

21
22 Chair Tsai: Okay, thank you. At this time, I'm gonna open the floor for questioning from the
23 Commission? Oh, we have the Department's rep to speak.

24
25 Mr. Tom Kolbe: Thank you. This is Tom Kolbe again for the Department of Planning.
26 Obviously just for the record we don't oppose the Petition to Intervene. It appears Ms. Aarona
27 has interest which are clearly distinguishable from the members of the public and so to that
28 extent we don't oppose the petition. I would join the comments from the Corporation Counsel
29 advising the Commission as well as Ms. Bunn's comments that we really shouldn't be taking up
30 the issue of a Petition to Deny this until we determine who the parties to this action are. So in
31 this particular case I think you know it's the Department of Planning's position that you should
32 take up the Petition to Intervene, vote it up, vote it down and then at that point we know whether
33 or not Subchapter 4 which contains the provisions on what happens where intervention is
34 granted and determine then whether we need to go into mediation or do any of those other
35 procedures and with those other evidentiary rules.

36
37 The only other thing I would just like to put out there is if intervention is granted to any party and
38 obviously that's Ms. Aarona then by operation of Rule 201-41(e), upon admission of any
39 intervenor, the Department of Planning shall automatically be admitted as a party to the
40 contested case. And so to that extent we would be participating in any further questions of the
41 contested case or a mediation. So thank you

42

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

4
5 Mr. Carnicelli: So I actually had one. So we've got the opinions of two different attorneys that
6 say if we grant the Petition to Intervene we're pretty much done with this. That we don't then go
7 to the Petition to Deny? We gotta go through other procedures before we can get to the Petition
8 to Deny is that correct?

9
10 Mr. Giroux: Yeah, the fact that—

11
12 Chair Tsai: Corp. Counsel.

13
14 Mr. Giroux: Oh, thank you, Chair. James Giroux, Corporation Counsel. Yeah, procedurally
15 because what's happened is that somebody's filed a Petition to Deny. Well if they're not a party
16 to the case and we don't know if they're a party until we've gone through our intervention
17 process. In an intervention you could have multiple parties. You could have five parties and
18 that's why we have in our rules an intervention petition process and we have an intervention
19 when granted process. So you don't wanna be fielding 4,000 petition motions and not who
20 you're dealing with because that's basically what's happened is somebody has attached a
21 motion to a petition to intervene. You're able to deal with a petition to intervene. That's it. I
22 mean, you can see the logic behind that, right? Right, I'm not crazy, right? You don't wanna
23 be...you don't want it 400 petitions to deny on every permit that's filed that's deemed a
24 contested case, right

25
26 Mr. Carnicelli: I understand, thank you.

27
28 Mr. Giroux: So talk about starting a precedent, let's start a precedent that says if there's a
29 petition to intervene we deal with that issue.

30
31 Chair Tsai: I think Corp. Counsel he's also referring to, Commissioner Carnicelli's referring to if
32 we do grant the petition to intervene then we basically are not gonna go to the special use
33 permit. That will be decided beyond us.

34
35 Mr. Giroux: Well, let me explain the whole process to the dismay of some of the members.
36 Okay, I'm not gonna read all the rules. This is the nutshell. If you grant the intervention. Our
37 rules state that there's a mandatory mediation. That means the parties actually have to talk to
38 each other, figure out if are there issues that they can agree on that make would make it go
39 away or that would settle it. If they can't, a hearings officer is appointed and then they hear both
40 sides, they hear the case. So it basically looks more like a courthouse hearing where you have
41 an attorney, he presents his case. The other side gets to cross examine. The other side
42 presents their case, the other side gets to cross-examine. Documents are filed into the record
43 and then there's report made by the hearings officer and that's presented to you and then

1 you're the ultimate decision maker or as Bush used to like to say you're deciders. So just for a
2 nutshell that's kind of the process. You know, sort of reading all of the rules in the record.

3

4 Chair Tsai: Commissioner Robinson?

5

6 Mr. Robinson: Motion to deny.

7

8 Ms. Canto: Second.

9

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

12

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

14

15 Mr. Robinson: That is correct.

16

17 Ms. Canto: Right.

18

19 Mr. Spence: Okay.

20

21 Chair Tsai: Discussion regarding the motion?

22

23 Mr. Giroux: Is there a second on that?

24

25 Chair Tsai: Yeah.

26

27 Mr. Giroux: There was a second.

28

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

30

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

33

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

36

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

38

39 Mr. Spence: Okay.

40

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

3

4 Mr. Carnicelli: Second.

5

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

8

9 Mr. Spence: Six.

10

11 Chair Tsai: Opposed?

12

13 Mr. Spence: One opposed.

14

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

16

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

19

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

21

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

27

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

30

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

34

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

38

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

41

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

43

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

2

3 Mr. Spence: That's seven ayes.

4

5 Chair Tsai: Motion carries. Petition is denied.

6

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

8

9 **VOTED: To Deny the Petition to Intervene.**
10 **(Assenting – K. Robinson, P. Canto, L. Carnicelli, L. Hudson,**
11 **W. Hedani, S. Castro, R. Higashi)**
12 **(Excused – S. Duvauchelle)**
13

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

16

17 Continuation of:

18

19 **3. MR. MICHAEL BASKIN of SEASHORE PROPERTIES LLC requesting a**
20 **County Special Use Permit to operate a nine (9) bedroom transient vacation**
21 **rental (Paia Inn) with 1st floor lobby on property situated at 93 Hana**
22 **Highway, TMK: 2-6-002: 027, Paia, Island of Maui. (CUP 2015/0006)**
23 **(K. Wollenhaupt)**
24

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

27

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

32

33 Chair Tsai: Director?

34

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

36

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

38

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

41

42 Mr. Hedani: But not his?

43

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

3

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

5

6 Mr. Spence: Yeah you should ask him.

7

8 Chair Tsai: Yes, please.

9

10 Mr. Hedani: Mr. Baskin?

11

12 Mr. Baskin: Yes.

13

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

16

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

19

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

22

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

24

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

26

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

30

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

32

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

35

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

38

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

40

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

3
4 Mr. Baskin: Yes. We have one...

5
6 Ms. Sparks speaking from audience: No, we have a ...(inaudible)...

7
8 Mr. Baskin: Oh, I'm sorry. We have an STRH. That's what we have. Is that the question?

9
10 Mr. Hedani: But it's operated as a transient vacation rental home.

11
12 Mr. Baskin: We have...you're asking me if I have a permitted STRH?

13
14 Mr. Hedani: So you have three actually?

15
16 Mr. Baskin: So we have—

17
18 Mr. Hedani: One that you operate, one that your dad, that your dad owns, and one that your
19 mom owns?

20
21 Mr. Baskin: Yes, that's correct.

22
23 Mr. Hedani: So three.

24
25 Mr. Baskin: Well, one is owned by my dad.

26
27 Mr. Hedani: And you operate all three?

28
29 Mr. Baskin: Yes. One is owned by mom her name is Naomi Hillinger and another one is owned
30 by my father, Walter Hillinger and so my dad is 84-years-old, my mom is 77. They live in Kuau
31 and I am the manager of those properties there in their names.

32
33 Mr. Hedani: Did you have an exhibit that you can show us those properties?

34
35 Mr. Baskin: Sure. Yes, I'd be happy to. Are you able to pull something up from the staff
36 report? We just didn't include it in...

37
38 Mr. Carnicelli: It was in here.

39
40 Mr. Baskin: Okay, yeah.

1
2 Mr. Wollenhaupt: ...(inaudible – not speaking into mic)...

3
4 Mr. Baskin: Exhibit 8. This is fine here. I can use this one right here if you like. It's not a very
5 good map in detail. I do notice that in Exhibit 8 in the staff report there might be a little bit better
6 but let me try to see if I can. So basically...okay, the Paia Inn is located right here, there you
7 go, thank you. So Ms. Aarona is located right here and all of these that you see are all vacation
8 rentals. These are all permitted ones that we know of.

9
10 Unidentified Speaker from Audience: Show yours.

11
12 Mr. Baskin: So ours, Ms. Aarona is located right here and mine is right next door to her right
13 there. Right next door is 23 Nalu and she is right here.

14
15 Unidentified Speaker from Audience: 40 Ae.

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

39
40 Mr. Hedani: Thank you. I think you've answered my question.

41
42 Mr. Baskin: Okay, I just wanna clarify that. We've never received a call.

43

1 Chair Tsai: Thank you. Commissioner Robinson?
2

3 Mr. Robinson: Mr. Baskin, on that map that we see there with the rentals in Paia, do you
4 manage any other properties besides the ones you just pointed out?
5

6 Mr. Baskin: We don't manage, but we do bookings for other ones.
7

8 Mr. Robinson: So with...okay, so how many of those you do bookings for?
9

10 Mr. Baskin: We do bookings for other vacation rentals that come up. I don't know the answer
11 to how many, but we book some for example on Stable Road and in the area. So if we
12 should...we have a travel agents license so we do some bookings for other vacation rentals.
13

14 Mr. Robinson: so Seashore Properties has a travel, has a travel agency license and real estate
15 license?
16

17 Mr. Baskin: The Paia Inn does.
18

19 Mr. Robinson: Seashore Properties do they have that license?
20

21 Mr. Baskin: To be honest with you I'm not sure if it's Seashore or Paia Inn or both of them. But
22 I know we're licensed to operate as a travel agent. I believe it's Paia Inn.
23

24 Mr. Robinson: Okay. On that map do you, can you give us your best guesstimate of how many
25 of those properties you are booking for please?
26

27 Mr. Baskin: The ones that we book that are outside, the other...the three that are in the town of
28 Paia are in Stable Road primarily.
29

30 Mr. Robinson: I'm sorry, I don't know where Stable Road. I apologize.
31

32 Mr. Baskin: It's just out towards, towards the airport.
33

34 Mr. Robinson: Towards the airport.
35

36 Mr. Baskin: Yes.
37

38 Mr. Robinson: Just a follow up question as part of your services of bookings do you guys also
39 do housekeeping and landscaping as well?
40

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

1
2 Mr. Robinson: And may I ask where do you guys do the laundry for all these rentals that you
3 book for?

4
5 Mr. Baskin: So at the Paia Inn we have laundry onsite. And at the STRH we have laundry
6 onsite.

7
8 Mr. Robinson: And then how about the other ones that you do booking for that's not your short-
9 term rental home? You're saying that each individual location you guys do the laundry there, it
10 never goes from one property to another is that what you're saying?

11
12 Mr. Baskin: In terms of the laundry I believe that each of the locations have their own laundry
13 onsite.

14
15 Mr. Robinson: So its onsite. It's never taken to a central location and then processed?

16
17 Mr. Baskin: I don't believe that it's taken to a central site. Its location has its own laundry
18 facility.

19
20 Mr. Robinson: Okay, thank you.

21
22 Chair Tsai: Commissioner Hudson?

23
24 Mr. Hudson: What year was that office extension made?

25
26 Mr. Baskin: I'm sorry, can you say it again?

27
28 Mr. Hudson: The office extension, the extension that you put onto the Pioneer, I mean Paia Inn.
29 Where the building with the four offices when was that building made?

30
31 Mr. Baskin: That building was constructed and we finalized the construction two years ago?

32
33 Mr. Hudson: When you made that building, you made that building as office for office space,
34 right?

35
36 Mr. Baskin: At the time, yes we built it 'cause...yes, correct.

37
38 Mr. Hudson: Okay, what changed between now and then? Why are you taking away offices
39 and want to put in bedrooms or was it originally bedrooms as you wanted?

40

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

7

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

9

10 Mr. Baskin: No.

11

12 Mr. Hudson: I understand. Thank you.

13

14 Chair Tsai: Commissioner Higashi?

15

16 Mr. Higashi: Mr. Baskin?

17

18 Mr. Baskin: Yes?

19

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

23

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

43

1 Mr. Higashi: Till January.

2

3 Mr. Baskin: Correct. Yes, sir.

4

5 Mr. Higashi: 2017.

6

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

11

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

13

14 Mr. Baskin: Yes.

15

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

17

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

20

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

22

23 Mr. Baskin: Well, yes we are.

24

25 Mr. Higashi: You are?

26

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

28

29 Mr. Higashi: So you are in violation?

30

31 Mr. Baskin: Well...

32

33 Mr. Higashi: Yes or no?

34

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

39

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

41

1 Mr. Baskin: Yes?

2

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

4

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

6

7 Mr. Higashi: Correct. Thank you.

8

9 Mr. Baskin: Yes.

10

11 Chair Tsai: Commissioner Carnicelli?

12

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

18

19 Mr. Spence: That's right.

20

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

23

24 Mr. Spence: No.

25

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

27

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

30

31 Mr. Carnicelli: Okay.

32

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

35

36 Mr. Carnicelli: Okay.

37

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

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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-

1 conforming and everything, I've never...we have never looked at it in the way that you're looking
2 at it now. So I can't comment whether it's legal non-conforming or if anything has been lost. I
3 don't know.

4

5 Mr. Carnicelli: Okay.

6

7 Chair Tsai: Commissioner Canto?

8

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

11

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

14

15 Ms. Canto: January.

16

17 Mr. Baskin: Yes.

18

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

20

21 Mr. Baskin: Yes.

22

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

24

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

27

28 Mr. Hedani: Mr. Baskin?

29

30 Mr. Baskin: Yes sir?

31

32 Mr. Hedani: I'm a fisherman.

33

34 Mr. Baskin: Yes.

35

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

37

38 Mr. Baskin: Yes.

39

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

5

6 Mr. Baskin: Well, I think the beach access is very important and we are open to providing that
7 to, you know to people. The people that are here live on the beach. Their house is on the
8 beach and so I don't think they're here to talk about us blocking them off from any beach
9 access. Ms. Aarona's house which is adjacent to our property on the ocean has beach access.
10 But in terms of that there really hasn't been any beach access through our property that I'm
11 aware of since 2002. And I'm not aware of any beach access that's been provided. It's a
12 private residence?

13

14 Chair Tsai: Commissioner Hedani?

15

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

19

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

22

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

24

25 Mr. Baskin: Well, there's a—

26

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

28

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

33

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

35

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

1
2 Chair Tsai: I have a question here. From this exhibit I believe one of the testifier, Marty did you
3 provide this one? Can I ask the testifier to come forward and maybe explain this note here,
4 historic shoreline access now blocked? This is one of your...

5
6 Mr. Marty Brass: Yes, sir?

7
8 Chair Tsai: Yeah, just looking...I assume this is one of your exhibits, can you please speak to
9 that historic shoreline access now blocked.

10
11 Mr. Brass: So my understanding is there's property labeled No. 5 which is 23 Nalu and there's
12 a property labeled No. 4 which is 95 Hana Highway and traditionally shoreline access came
13 from Hana Highway down Nalu turned left...Nalu splits, it goes straight to the beach which since
14 been closed off. It was all, my understanding is it's all rocky, where he went left, and at the end
15 of that left, end of that lane there was access along property No. 5 to the beach and that
16 property was owned by Richard Bonner which is the seller to Mr. Baskin when he bought the
17 property in 2001. Richard Bonner set up an easement to the benefit of the property which is
18 directly across from No. 4, and I don't have the dates exactly but as I think 2001 or at some time
19 he had set up an easement maybe it was 2001 maybe in contemplation of selling his property
20 he wanted to do his neighbor a favor and set up an easement for the benefit of his neighbor,
21 Christopher Arian. Subsequent to Mr. Baskin buying the property, he filed a new easement
22 which by the way I think 23...you know, again this is an example of an entity, it's a legal entity
23 but he's the signatory to a legal entity. He's directing what's happening here. That granted that
24 Mr. Arian agreed to allowing Mr. Baskin to build an electronic key gate where the two red lines
25 meet. So the gate was installed and he agreed to the maintenance of that...Mr. Baskin agreed
26 to the maintenance of that gate and effectively closing off access from Nalu Place. Fences
27 were built, this pathway was created and then subsequent to that second easement, a third
28 easement was filed which granted beach access to property No. 4 which Baskin, Mr. Baskin
29 subsequently purchased and gave property No. 4 deeded beach access to the beach. So this
30 historic shoreline access comes from the neighbors who I'm told Annie McNeil is one of them
31 she has a rental property just east, just to the right of property 4, the Horiuchi Family, the
32 Kunichika Family, I'm not sure who else, Quinsa at I believe. I don't know who else was on that
33 road, there's about three or four families that had provided you, I think you've seen the
34 testimony where historically they've had access along Nalu Place, along that red, that red line to
35 the beach which is now closed off actually by several gates. There's a gate at the corner and
36 there's a gate at the beginning of Nalu Place that's been built as well. And I think in one of the
37 testimonies that I saw there's four or five gates in total that have been installed.

38
39 Chair Tsai: Okay, thank you. And according to your exhibit here, so properties 1, 2, 3, 4, 5, 6,
40 7, 8 are owned by Mr. Baskin?

41
42 Mr. Brass: They're all part of a portfolio properties which were marketed by Colliers and Mr.
43 Baskin is the owner and they were sold as a portfolio and as a group. And he has language in
44 here that talks about development potential, architectural renderings and plans, financial

1 projections on what could be done with these properties, what they're currently doing. He
2 describes the Paia Inn as a hotel, describes all these properties as part of that and these
3 additional properties that support that operation. And I think that entire I don't know whether it's
4 admissible at this point, but that entire marketing brochure was part of the petition that Ms.
5 Aarona submitted and I think it may even be in the staff report all the pages from that. So what
6 I had handed out were excerpts from part of that brochure.

7

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

9

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

11

12 Chair Tsai: Okay.

13

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

16

17 Chair Tsai: Thank you. Commissioner Castro?

18

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

20

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

22

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

31

32 Chair Tsai: But you do own these properties?

33

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

36

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

38

39 Mr. Baskin: Yes, I'd be happy to comment on that. There has never been a historic shoreline
40 access where he has indicated there. That is private property. There's never been to my
41 knowledge since I've owned the property in 12 years any shoreline or historic access through
42 that indication. That's a fabrication on his part. He owns the property right next door or part

1 owner and he believe it or not through his brokers have been making offers to try to acquire
2 some of my properties. He has an agenda. And in addition to that if it's okay with you I would
3 like to pass out a map of the area that shows Ms. Aarona's property and shows where access to
4 the beach goes through her property and where she grants beach access to a number of
5 vacation rentals that are right around our area. She has an arrangement with a couple of
6 vacation rentals nearby—

7

8 Unidentified Speaker from Audience: Excuse me.

9

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

11

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

14

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

16

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

18

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

20

21 Chair Tsai: Yes.

22

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

24

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

26

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

29

30 Chair Tsai: Thank you.

31

32 Mr. Baskin: Yeah.

33

34 Chair Tsai: Commissioner Castro?

35

36 Mr. Castro: Mr. Baskin—

37

38 Mr. Baskin: Yes sir.

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

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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?

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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.

1 Mr. Hedani: So the answer's no.

2

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

4

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

6

7 Mr. Baskin: I'm sorry?

8

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

10

11 Ms. Sparks: I actually don't understand—

12

13 Mr. Baskin: Sit down.

14

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

16

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

18

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

20

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

22

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

24

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

26

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

28

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

31

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

34

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

36

37 Mr. Baskin: Okay.

38

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

40

1 Mr. Baskin: Yes.

2

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

5

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

8

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

11

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

19

20 Chair Tsai: Michael you want to...

21

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

25

26 Chair Tsai: Okay. Commissioner Robinson?

27

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

30

31 Mr. Baskin: Yes.

32

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

35

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

38

39 Mr. Robinson: Did you read the letter?

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41 Mr. Baskin: Yes I did.

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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.

1 Mr. Robinson: You want to chime in?
2

3 Chair Tsai: Director?
4

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

10

11 Chair Tsai: Go ahead.
12

13

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

16

17 Mr. Spence: That's correct.
18

19

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

24

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

28

29 Mr. Robinson: But as a STRH you leasing a home but a person owns the permit is that correct?
30

31

32 Mr. Spence: That's correct.
33

34

35 Mr. Robinson: Okay so a person couldn't lease a property and turn it into a short-term rental
36 home is that correct?
37

38

39 Mr. Spence: If, if...potentially yes.
40

41

42 Mr. Robinson: Yes, okay. Mr. Baskin is it for us to understand that you lease this large property
43 that have a home, you're in the lodging business and you do nothing with property and you just
44 tried a couple events?
45

46

47 Mr. Baskin: The property at 65 Hana does not have a home on it.
48

49

1 Mr. Spence: Right.

2

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

4

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

10

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

13

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

17

18 Mr. Robinson: Thank you.

19

20 Chair Tsai: Commissioner Higashi?

21

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

23

24 Mr. Baskin: Yes.

25

26 Mr. Higashi: You were?

27

28 Mr. Baskin: Yes.

29

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

32

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

34

35 Mr. Higashi: Like in Lahaina, Kaanapali, Wailea, but not in Central Maui except for Maui Beach
36 and former Maui Palms. You know the reason for that? Was to keep Central Maui local and
37 that was to eliminate any kind of things that you are proposing and that is to have multi-
38 dwellings in one particular location especially Paia because Paia is so inundated with vehicles
39 that there's no parking. And for you, your inn is right on Hana Highway which means that you
40 tenants can actually park right on that street 'cause it's a public parking. The community plan
41 for Paia also dictates although it's not updated that they do not want any type of hotel. One of

1 the testifiers mentioned that. And according to your testimony to the Commission you are very,
2 very conscious of community input, et cetera. So knowing that this particular area, Paia is
3 central and not conducive for a hotel type operation would you be willing to withdraw your
4 application in that particular area knowing that you have so many local people who are
5 concerned about this particular area having this?

6

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

9

10 Mr. Higashi: Okay.

11

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

23

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

26

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

28

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

30

31 Mr. Baskin: I think the proper thing to keep in mind here as I showed in my presentation is that
32 we bought this property, we went through all of the permitting process of renovating it. The
33 Planning Department and the Building Department has already issued us permits for
34 improvements and at every permit that we've had and we've had probably 10 they all show
35 lodging on this property. So this is a, this is a use that has been established. We have relied
36 upon that basically. We've relied upon the County issuing us those permits for it being lodging.
37 Now we are coming in and we are trying to comply with a new bill that passed two years ago
38 that allows for accommodations, 12 rooms in the...in this community. And while the community
39 plan was written 21 years ago a point was made that there had been at least two occasions now
40 where the Planning Department and the Council has now provided for TVR use even after the
41 community plan was written. Those are now STRHs in the residential area and now this is a
42 new ordinance, we are the first to apply under it for TVR in the Business District. That's what
43 we're here to apply for. We believe that this conforms exactly to that exact bill, and I'm not sure

1 if you were there but it went through a tremendous amount of vetting by the community.
2 Everyone had a chance to come out and discuss do we want this in Paia and people did come
3 out and the Council still voted 8-0 to support this bill and the Mayor signed it, and we're simply
4 applying an application under the current code of what's allowed as a use. It's a requires a
5 special use permit that's what we're here to ask for.

6

7 Chair Tsai: Commissioner Hedani?

8

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

20

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

23

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

25

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

27

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

29

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

31

32 Mr. Spence: That would be the staff report.

33

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

35

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

37

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

39

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

41

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

3
4 Ms. Michele Cockett: Hi my name is Michele Cockett. Hi, good evening. Hi, in doing research
5 upon this, with this document and preparing for the application we did extensive research with
6 the Sanborn maps specifically and with the BVA in regards to the how it was proposed with
7 Michael Ryan it was actually using it for TVR during that time. And that he was gleaning
8 information from what he was told as well too. And it was used as housing throughout time. In
9 other words, how do I explain this, during a course of its existence it had been used not only as
10 housing but for non-durational time periods. If you look at the times that they use it it was for
11 lodging and tenements and tenement areas earlier. And that during those times people would
12 come and go and there was...that's why there was no in definitions of the lodging house didn't
13 actually state how long that person needed to stay there as long as they were not related to
14 each other and that was one of the...within the presentation it stated in 1960 there was no
15 durational time period on how long they stayed there and also in 1967. It wasn't until 1991
16 that—

17
18 Mr. Hedani: My only question was whether or not you acknowledged as housing for transient—

19
20 Ms. Cockett: Yes, I'm very...yes.

21
22 Mr. Hedani: --plantation.

23
24 Ms. Cockett: It was for dwelling and they served meals there. Yes, it was an actual dwelling
25 yes.

26
27 Chair Tsai: Commissioner Carnicelli?

28

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

37
38 Mr. Baskin: I did say it was in Pacific Business News.

39
40 Chair Tsai: Okay, Commissioner Hedani?

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42 Mr. Hedani: Mr. Baskin?

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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.

1
2 Mr. Baskin: That is true. Thank you for pointing that out.
3
4 Mr. Spence: So there was no...one there was no requirement for a hearing before the Planning
5 Commission, yes we did process all those three concurrently. The second reason, I just...I
6 have to correct the record a little bit. The reason we're here today for a special use permit is
7 because of the terms of the settlement agreement. That's what brought the application. Yes,
8 the Council did pass an ordinance, you know, that said you need to get a special use permit,
9 you know, from one to whatever it was, 12 rooms I think, but really what prompted the
10 application was after we went through this mediation process with Mr. Baskin he was required
11 to file a special use permit. We had a dispute where he believed that these rooms should be
12 grandfathered in and we believed that they shouldn't and so we said okay, let's go to the
13 Planning Commission and you know apply for a permit and alternative say to get legal.
14
15 Mr. Baskin: That's correct.
16
17 Chair Tsai: Thank you, Director.
18
19 Mr. Baskin: That is correct. Yes, correct except for we believe that it is grandfathered, yes.
20
21 Chair Tsai: ...(inaudible)...thank you. Commissioner Hedani?
22
23 Mr. Hedani: Mr. Baskin?
24
25 Mr. Baskin: Yes sir.
26
27 Mr. Hedani: I've never seen an application, I've been on the Planning Commission for 10 years,
28 this is my 10th year, I've never seen an application come in to the commission asking for a
29 permit with 92 Request for Service against it. That's a complaint basically against the property.
30 And –
31
32 Mr. Baskin: Can you say that 92 what?
33
34 Mr. Hedani: ...(inaudible)...of those complaints still open which is—
35
36 Mr. Baskin: I'm not aware of 13 complaints against the property, against 93 Hana?
37
38 Mr. Hedani: In this particular report that was submitted to us all of—
39
40 Mr. Baskin: Against 93 Hana, against the subject property?
41

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

2

3 Mr. Baskin: Okay.

4

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

8

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

15

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

18

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

20

21 Chair Tsai: Director?

22

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

27

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

31

32 Mr. Spence: Okay, then.

33

34 Chair Tsai: Commissioner Hedani?

35

36 Mr. Hedani: Mr. Baskin?

37

38 Mr. Baskin: Yes sir.

39

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

41

1 Mr. Wollenhaupt: Oh sure, be happy to.

2

3 Chair Tsai: Kurt, come on up.

4

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

17

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

19

20 Mr. Spence: Just one more comment on that.

21

22 Chair Tsai: Director.

23

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

28

29 Chair Tsai: Commissioner Hedani?

30

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

32

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

34

35 Mr. Hedani: I've never seen an applicant come before the commission previous to this with a
36 \$190,000 worth of outstanding fines not yet paid. Why wouldn't you pay it before you come to
37 us and ask for permission?

38

39 Mr. Baskin: Because in our mediation process, we went back to mediation and we felt that
40 there were things that the County had not processed in terms of timeliness for our permits. So
41 we had a mediator meet with us and through that process it was agreed that we would be given
42 an extension for us to make that payment and that's why. So there was a date that was set in

1 January for us to do that and we plan to do that and as I said if you felt that that was a condition
2 that needed to be addressed here we could make that a condition I think is a natural thing.

3

4 Chair Tsai: Commissioner Hedani?

5

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

7

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

9

10 Mr. Hedani: What prompted the settlement agreement?

11

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

31

32 Chair Tsai: Director?

33

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

38

39 Chair Tsai: Commissioner Carnicelli?

40

41 Mr. Carnicelli: I actually answered my own question.

42

43 Chair Tsai: Okay, Commissioner Robinson?

44

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

3

4 Mr. Baskin: Thank you.

5

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

7

8 Mr. Baskin: Okay.

9

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

25

26 Chair Tsai: Thank you.

27

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

29

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

32

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

34

35 Chair Tsai: Okay. Commissioner Hedani?

36

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

40

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

43

44 Mr. Hedani: You never said?

45

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

7
8 Mr. Hedani: I'm sorry, that's not the question.

9
10 Mr. Baskin: Well, I just wanted to add that, I'm sorry. I don't recall saying 12 years ago that my
11 parents were going to move into that property.

12
13 Chair Tsai: Commissioner Higashi and then Commissioner Castro.

14
15 Mr. Higashi: I just—

16
17 Mr. Baskin: Yes sir.

18
19 Mr. Higashi: Hi, I just wanted to make you aware that you know this settlement that you had—

20
21 Chair Tsai: Commissioner Higashi can you speak to the mic please?

22
23 Mr. Higashi: Oh, excuse me.

24
25 Chair Tsai: Thank you.

26
27 Mr. Higashi: Sorry. I just wanted you to be aware that the supplemental settlement agreement
28 between you and the County Exhibit 2, No. 4, general provision reads, the County will stay any
29 enforcement action regarding the parking and/or disputes at 93 Hana Highway while the
30 owner's CUP application is being processed and until a decision is rendered by the Maui
31 Planning Commission that becomes final. In other words, whatever agreement you had with the
32 County does not affect the Commission. So you might be anticipating getting a permit, but you
33 have to go through the process and according to your agreement you are now with the
34 commission which is the approval or disapprove.

35
36 Mr. Baskin: Yes sir, I'm aware of that.

37
38 Mr. Higashi: So what you are telling original was you were pretty much anticipating getting the
39 approval based upon the fact that you had a supplemental agreement with the County is that
40 right?

41
42 Mr. Baskin: I don't believe that I said it that way, but can you ask me the question and I'd be
43 happy to answer it. I'm not sure I understand the question. Just please ask me the question.

44
45 Mr. Higashi: Yeah, but anyway that the supplemental agreement you have.

1
2 Mr. Baskin: What is the question?

3
4 Mr. Higashi: The question is did you know that that was part of the supplemental agreement
5 that the Planning Commission make the final decision on rendering whether you get an
6 approval or disapproval?

7
8 Mr. Baskin: Yes, I'm aware of that that's why...we're here for that reason today.

9
10 Mr. Higashi: I just wanted to ...(inaudible)...

11
12 Chair Tsai: Commissioner Castro?

13
14 Mr. Castro: Yes Mr. Baskin earlier there was a photograph that was passed around, 1930 there
15 was a fire and it seemed like it burned down most of that block that you're on, a lot of—

16
17 Mr. Baskin: Can I see it? I've never seen that photo before.

18
19 Mr. Castro: And I would hate to see that happen again. So has any sprinkler system, smoke
20 detectors, smoke alarms been installed?

21
22 Mr. Baskin: Yes sir, the entire building has fire sprinkler. It was not a requirement. We put it in
23 anyway because we thought that it was an appropriate thing to do with people sleeping there.
24 We did put a complete fire protection system, sprinkler and of course every room does have
25 smoke detectors as well.

26
27 Mr. Castro: Thank you.

28
29 Mr. Baskin: Yes. Good question. Thank you.

30
31 Chair Tsai: Commissioner Robinson?

32
33 Mr. Robinson: That is a good question. Is the fire sprinklers connected to a fire suppression
34 system or is it part of your water line?

35
36 Mr. Baskin: In order to put in the fire sprinkler system we had to put in a new connector across
37 the street of Paia which went across the state highway. It cost us about \$100,000 to do it and
38 so we had to put in a new water meter. We put in a one-inch main water meter and then we did
39 a complete fire sprinkler system throughout the whole property even though it wasn't required,
40 we did it.

41
42 Mr. Robinson: But the fire sprinkler system isn't on your one-inch meter it's connected to the
43 Department of Water Supply.

44
45 Mr. Baskin: It's a separate connection. Correct, yes.

1
2 Mr. Robinson: Yeah, thank you.
3
4 Mr. Baskin: Yes, it's a separate connection.
5
6 Chair Tsai: Commissioner Castro.
7
8 Mr. Castro: So your front desk or area where you check in people is there a annunciator panel
9 there?
10
11 Mr. Baskin: Is there a what?
12
13 Mr. Castro: Annunciator, a panel that will show location for fire?
14
15 Mr. Baskin: I'm not aware 100 percent, I would have to get back to you on whether or not. I
16 know that it was fully permitted and it was installed just a couple of years ago when we did the
17 construction for the four rooms, we modified the five existing rooms and put in the complete fire
18 protection system throughout. So it was done obviously by permit.
19
20 Mr. Castro: And the only reason I ask that is because they need to go where to go.
21
22 Mr. Baskin: Okay.
23
24 Mr. Castro: And it would display that where the fire is at.
25
26 Mr. Baskin: I don't know the answer. I can find out about that. I don't know the answer to that.
27 That's a good question. I'm not sure.
28
29 Mr. Castro: Thank you.
30
31 Chair Tsai: Any more questions from the Commission? Entertain a motion please?
32 Commissioner Hudson?
33
34 Mr. Hudson: Move to deny the permit.
35
36 Chair Tsai: A motion to deny from Commissioner Hudson.
37
38 Mr. Higashi: Second.
39
40 Chair Tsai: Second from Commissioner Higashi. Discussion regarding the motion?
41 Commissioner Hudson?
42
43 Mr. Hudson: Based upon the input of the community which include businesses and residents
44 that chose to come out here and offer testimony it is my opinion that the approval of the special

1 use permit will have a significant adverse impact on the social welfare of the community. The
2 approval will be deleterious to Paia.

3

4 Chair Tsai: Commissioner Higashi?

5

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

10

11 Chair Tsai: Commissioner Canto?

12

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

16

17 Chair Tsai: Commissioner Hedani?

18

19 Mr. Hedani: Yes, I will be supporting the motion. I believe the applicant currently is operating in
20 violation of County Codes in relation to the operation of his restaurant with a deli permit. I
21 believe there were 92 Request for Service that were filed on this particular property with 13 of
22 those that are reflected as open. I believe the applicant has taken affirmative action to close a
23 traditional beach access that existed on his property and will not consider reestablishing that
24 public access which is one of the things that the Commission is tasked to do in terms of
25 establishing beach accesses where we can, reestablishing them where we can for the benefit
26 for the public. I also feel that he has failed to comply with the community plan prohibition
27 against hotels. You're either a hotel or you're not a hotel and he's saying yeah, I'm an inn, but I
28 should be able to operate as a hotel. You're either pregnant or you're not pregnant and that
29 would require a community plan amendment. I believe noise complaints were a consideration.
30 Littering from landscaping onto neighbor's properties was a consideration. I believe that the
31 applicant already has multiple short-term rental homes. He has one under his name, one under
32 his parent's names or several under his parent's names and he has a transient vacation rental
33 operation already existing in the Paia Inn. So it's not like we're denying him the ability to
34 operate. We're denying him the ability to expand that and further make the community crazy. I
35 believe the property's not zoned for hotel use and I share concerns about the 27...a building
36 that was built in 1927 relative to fire safety for the guests.

37

38 Chair Tsai: Commissioner Robinson?

39

40 Mr. Robinson: A surprise to many is I'm not a very big proponent for short-term rentals. I know
41 that might be a surprise, but I think unfortunately this what happens and I hope that the Council
42 will see this and maybe look at this and try to change this. We have the cluster laws in, but I
43 believe what happens is when somebody sees the volume of money that they make and then
44 they get two, and then they three, greed takes over and somebody who may be never had the
45 intention to have three vacation home rentals, somebody who ever meant to make a lot of

1 money and start...it changes them. It changes them as part of the community. I mean, Mr.
2 Baskin might have started off with the best intentions when he first bought it, but God money
3 can change you. And you know, this is a reason why short-term rentals should be limited to one
4 to two years and done. Give them a short-term and never in perpetuity or forever. If they
5 gonna get it, they get it for short-term to get them to that bridge to where they have to make
6 some money or fix their home but not for 10, 15 years not when you got three, four family
7 members. This is, this is not what residential communities were made for. That's what resorts
8 are made for. And that's another reason why I'm not a proponent for short-term rentals.
9 Mahalo.

10

11 Chair Tsai: Commissioner Carnicelli?

12

13 Mr. Carnicelli: I, too, will be supporting the motion. I mean I got a page in notes here. I don't
14 know how much I'm gonna say but I guess the first place I'm gonna go is, you know the
15 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
16 thousand car, and they say well how do much do you wanna pay per month and it goes down to
17 oh, it's \$300 a month and then you know, oh I can't afford \$300 a month, and say I can afford
18 \$280 and so suddenly they talk about \$20 instead of a \$30 thousand car. So the applicant's
19 talking about oh it's just four office spaces, but it's not just four office spaces that's not what this
20 is. Like you said, you're either pregnant or not. He's also operating the hotel in conjunction with
21 his property, his mother's property, and his dad's property. You know he said that. So it's what
22 is it 16 rooms not 12. So it really is a hotel even by definition. So that's part of my issue which
23 so then you know we're not in compliance with the community plan or zoning.

24

25 You know the other thing too is you know I have planning commission dreams now and I woke
26 up in the middle of the night and the word, nefarious came, popped into my mind and I had to
27 Goggle it just to make sure I kinda knew that I thought it was what it was and it just seems as
28 though the applicant in the way that he goes about his business can be nefarious and that plays
29 into this for me because it has to do with the effect that me makes on a community. He's a very
30 good businessman in certain sense. He's made a lot of money and...but he has a skillset that I
31 don't have and he's good at what he does. However, when the mode of operand, you know,
32 your mode of doing business is to beg for forgiveness rather than ask for permission and then
33 you come to us and ask for permission when you didn't in the first place or you're coming to us
34 to beg for forgiveness and asking for permission I look at the STRHs 'cause I want illegal
35 vacation rentals to come forward. I want people to let's make it legal. What you're doing
36 illegally I want you to come forward. However when you come forward and you fight everything
37 all along the way it has a...I have to look at it at a different way. Like in the mediation the fine
38 still isn't paid. The restaurant's being run illegally. His application wasn't even...as part, he had
39 to fill out an application and the first one wasn't even complete. It's like okay, I just don't, I don't
40 understand that part. So you know, I can feel just even the way that the applicant's wife jumped
41 up and wanted to jump in, that's what the neighborhood feels, and so I can just get that same
42 sense right now. So it's just like is there gonna be an adverse effect, deleterious effect or is
43 there adverse impact, deleterious effects. Yes, yeah there is in this and so you know, I don't
44 think that this particular application meets the objectives of the community plan. It just doesn't.

1 I kinda like the concept of a cute little boutique in the middle of Paia. I mean, conceptually it
2 kinda makes sense, but that's not what the community wants and that's not what this is.

3
4 And then the other part too that I just...I'll go back to is on the record the applicant said that he
5 never put it for sale and then he got he called out on it and we found out that it actually was and
6 then he said oh no, I said that it was on Colliers. So even to us in this short time that he's been
7 here it's just like that's the same thing that the community feels. So I would will supporting the
8 amendment, no I'm sorry, supporting the motion.

9
10 Chair Tsai: Commissioner Hedani?

11
12 Mr. Hedani: One thing I'd like to put on the record is that when you get a violation notice from
13 the County it's after a very long drawn out process. They have a warning that they send you,
14 they send you second warning, then they send you a Notice of Violation, and then when you
15 ignore all of the above you end up with a Notice of Violation with a fine and the fine accrues on
16 a daily basis. And I've never seen an applicant come forward to us with a \$190,000 worth of
17 fines that have been accrued on violations for the property. It's just mindboggling.

18
19 Chair Tsai: Commissioner Castro?

20
21 Mr. Castro: I, too, am gonna support this motion. For the life of me I can't see how anyone can
22 continue to operate. Can you hear me now? Okay, too am in support of this motion and the
23 reason is I can't see how anyone can continue to operate illegally and be in arrears of
24 \$190,000. I just don't, I don't see it and I don't see why they should be privileged to continue to
25 operate.

26
27 Chair Tsai: Okay, no more comments, discussion? Commissioner Hedani?

28
29 Mr. Hedani: Jim, do you have enough ammunition if we get called out on appeal?

30
31 Mr. Giroux: I think Kurt's gonna be writing the findings of facts, conclusions of law.

32
33 Chair Tsai: Leave it to the staff. Okay, no more discussion. Director would you please repeat
34 the motion?

35
36 Mr. Spence: The motion is to deny the permit.

37
38 Chair Tsai: So let's call for a vote. All in favor of denying the permit?

39
40 Mr. Spence: That's seven ayes.

41

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

3
4 Mr. Hedani: Can we ask the Chair to vote on that? Can we ask the Chair to vote on the item?
5 Can we ask the Chairman to vote on this issue?

6
7 Chair Tsai: I don't need to vote.

8
9 Mr. Hedani: If you vote then it would be considered unanimous.

10
11 Chair Tsai: Oh. I don't need to vote. It's seven. I think for the record the Chair only vote if it
12 actually would make a difference in the vote, in outcome to break a tie or something. So it's
13 unanimous based on the number of the commissioners present. So I don't think I need to vote,
14 so and it won't make any difference anyway. Thank you. So next item on the agenda?

15
16 **It was moved by Mr. Hudson, seconded by Mr. Higashi, then**

17
18 **VOTED: To Deny the County Special Use Permit.**
19 **(Assenting – L. Hudson, R. Higashi, L. Carnicelli, K. Robinson,**
20 **P. Canto, W. Hedani, S. Castro)**
21 **(Excused – S. Duvauchelle)**

22
23 Mr. Spence: So Commissioners your Item E on your agenda is acceptance of the action
24 minutes for the November 22, 2016 meeting, regular minutes of June 28, 2016 and
25 October 25, 2016.

26
27 **E. ACCEPTANCE OF THE ACTION MINUTES OF THE NOVEMBER 22, 2016 MEETING**
28 **AND REGULAR MINUTES OF THE JUNE 28, 2016 MEETING AND**
29 **OCTOBER 25, 2016 SPECIAL MEETING**

30
31 Ms. Canto: So move.

32
33 Mr. Castro: Second.

34
35 Chair Tsai: We got moved by Commissioner Canto, second by Commissioner Castro.

36
37 Mr. Spence: All in favor?

38
39 Commission Members: Aye.

40
41 **It was moved by Ms. Canto, seconded by Mr. Castro, then**

42

1 **VOTED: To Accept the Action Minutes of the November 22, 2016 Meeting and**
2 **Regular Minutes of the June 28, 2016 Meeting and October 25, 2016**
3 **Special Meeting.**
4 **(Assenting – P. Canto, S. Castro, L. Carnicelli, L. Hudson,**
5 **K. Robinson, W. Hedani, R. Higashi)**
6 **(Excused – S. Duvauchelle)**

7
8 **F. DIRECTOR’S REPORT**

9
10 **1. SMA Minor Permit Report**

11
12 **2. SMA Exemptions Report**

13
14 Mr. Spence: Commissioners, Director’s Report. We have an SMA Minor Permit and SMA
15 Exemptions Reports those are for your edification.

16
17 Mr. Hedani: Move to accept.

18
19 Mr. Carnicelli: Second.

20
21 Chair Tsai: All in favor?

22
23 Commission Members: Aye.

24
25 **It was moved by Mr. Hedani, seconded by Mr. Carnicelli, then**

26
27 **VOTED: To Accept the SMA Minor and SMA Exemption Reports**
28 **(Assenting – W. Hedani, L. Carnicelli, L. Hudson, K. Robinson,**
29 **P. Canto, S. Castro, R. Higashi)**
30 **(Excused – S. Duvauchelle)**

31
32 **3. Discussion of Future Maui Planning Commission Agendas**

33
34 **a. January 10, 2017 agenda items**

35
36 Mr. Spence: Okay the next Planning Commission meeting, January 10th in the New Year. We
37 will, that big old stack of books that I saw Commissioner Higashi walk in with that’s the Final EA
38 for ATC Makena Holdings LLC. And that’s really the only big New Business on it. You’ll make a
39 decision whether the EA is acceptable and complete or not. We will probably expect quite a bit
40 of testimony on that one.

41
42 Chair Tsai: And then on a closing note, I think Akaku wants us to do a quick holiday greeting.
43 Do you guys still want to do that? It’s a tradition here to do a quick. Gather all together.

44
45 Mr. Spence: Did we adjourn?
46

1 Chair Tsai: Yeah, meeting adjourned.

2

3 **G. NEXT REGULAR MEETING DATE:** January 10, 2017

4

5 **H. ADJOURNMENT**

6

7 The meeting was adjourned at 5:53 p.m.

8

9

Submitted by,

10

11

12

13

Carolyn Takayama-Corden
Secretary to Boards & Commissions II

14

15

16

17

RECORD OF ATTENDANCE

18

19

Present

20

Pua Canto

21

Lawrence Carnicelli

22

Stephen Castro

23

Wayne Hedani

24

Richard Higashi

25

Larry Hudson

26

Keaka Robinson

27

Max Tsai, Chairperson

28

29

Excused

30

Sandy Duvauchelle, Vice-Chairperson

31

32

Others

33

Will Spence, Director, Planning Department

34

James Giroux, Deputy Corporation Counsel, Department of the Corporation Counsel

35

Rowena Dagdag-Andaya, Deputy Director, Department of Public Works

36

37