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**MAUI PLANNING COMMISSION
REGULAR MINUTES
JUNE 13, 2017**

A. CALL TO ORDER

The regular meeting of the Maui Planning Commission was called to order by Chairperson Sandra Duvauchelle at approximately 9:03 a.m., Tuesday, June 13, 2017, Planning Conference Room, First Floor, Kalana Pakui Building, 250 South High Street, Wailuku, Maui.

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

Chair Duvauchelle: Good morning Commissioners, Director, Corp. Counsel, Deputy Director, and Carolyn. Good morning. This is Maui County Planning Commission scheduled meeting on June 13, 2017, called to order at 9:03 in the morning.

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

Chair Duvauchelle: We'll start the day off with public testimony. If you testify now, you will not be able to testify when your agenda item is called. You're testimony will be limited three minutes. And registered for public testimony I have...you can either testify now or decline and wait until your agenda item. I have Anders Lyons? Richard Cameron. Thank you. Come up to the microphone, state your name and which agenda item that you'll be testifying on.

The following individual testified at the beginning of the meeting:

Richard Cameron, Public Hearing Item C-1, Council Resolution No. 16-172

His testimony can be found under the item on which testified on.

Chair Duvauchelle: Joe Delucia? Anybody else wishing to testify at this time, please come forward? Seeing none, public testimony is closed. Director, first agenda item?

Mr. Spence: Commissioners, the first public hearing on your agenda this morning is Council Resolution 16-172 referring a couple of proposed bills to the Maui Planning Commission for community plan amendment from Ag to Public/Quasi-Public and district boundary amendment from Agricultural to Urban and a change in zoning from Ag to P-1, Public/Quasi-Public. This is for Seabury Hall. And our Staff Planner this morning is Ms. Tara Furukawa.

1 **C. PUBLIC HEARINGS** (action to be taken after each public hearing.)
2

- 3 1. **MR. WILLIAM SPENCE, Planning Director transmitting Council Resolution**
4 **No. 16-172 referring to the Maui Planning Commission Proposed Bills to**
5 **enact a Community Plan Amendment from Agriculture to Public/Quasi-**
6 **Public, a District Boundary Amendment from Agricultural to Urban, and a**
7 **Change in Zoning from Agricultural to P-1 Public/Quasi-Public for a portion**
8 **of the Seabury Hall property covering approximately 14.950 acres of land**
9 **at 305 Meha Road (portion) and 480 Olinda Road, TMK: 2-4-008:**
10 **001(portion) and 041, Makawao, Island of Maui. (CPA 2017/0001) (DBA**
11 **2017/0001) (CIZ 20170001) (T. Furukawa)**
12

13 Ms. Tara Furukawa: Good morning Commissioners. This item is under review because the
14 County Council initiated Resolution 16-206, a bill to change land use designations for two
15 Seabury Hall owned properties in Makawao at TMK: 2-2-4-008: 041 and a portion of 001. The
16 land area total is 14.95 acres. Per a condition from an approval back in 2011 for a Conditional
17 Permit and Land Use Commission Special Permit the applicant, Seabury Hall was to apply for a
18 State Land Use District Boundary Amendment, a Community Plan Amendment and Change in
19 Zoning. The matter is being referred to you because the land acreage is less than 15 acres so
20 pursuant to Hawaii Revised Statutes Section 205 such decisions shall be determined by the
21 Maui County Council. The Planning Commission must make a recommendation to the County
22 Council.
23

24 Rory Frampton is the consultant for the project and he will present you with a scope of the
25 proposed land use entitlement changes and I'll come back with the Department
26 recommendation.
27

28 Mr. Rory Frampton: Good morning Planning Commissioners. I'm Rory Frampton here on
29 behalf of Seabury Hall. And with me today we have two trustees from the Board of Trustees,
30 Heidi Bigalow, who's the vice-president and chair of the facilities and campus committee and
31 Glen Yamasaki, who's the treasurer and so they're here to help answer any questions that you
32 may have from the trustee's perspective. I'll just give a brief presentation of what this is
33 intended to cover and I have a number of photos so you can get acquainted with the site.
34

35 So the existing uses in this area consist of the creative art center and a parking lot which the
36 area is 14.95 acres and the proposed changes as the Director noted was to...is to take the
37 lands out of agriculture and put them into the Urban State District as well as Public/Quasi-Public
38 for zoning and community plan.
39

40 Just as a brief background, the Seabury Hall, the school, it's a co-educational college prep day
41 school from grades 6-12. It's an independent school affiliated with Episcopal Church and the
42 mission statement was to prepare students for successful college and university work, move
43 students to develop the mind, body and soul, and I'll get back to that comment, the mind, body
44 and soul a little bit later, and to cause students to realize their responsibility to community. The
45 total enrollment is 458 students and the student-teacher ratio is about 10 to 1.
46

1 In terms of just some background information there were three major campus improvement
2 projects that are relevant to the land use entitlements for the overall campus. Back in the mid-
3 90's they built the Erdman's Athletic Center which is a gym as well as the Carter Hall which is a
4 middle school and during that time they also obtained entitlements for their main campus area
5 which is about 22 ½ acres. So they got these same designations that we're seeking for the
6 main campus which is Urban and Public/Quasi-Public in the community plan and zoning. So
7 that was done in the mid-90s. There was a major campus renovation in early 2000s and up
8 until the mid-90's they didn't have classroom facilities that were really specifically designed for
9 classrooms. And in the early 2000s they really took an overall look at the campus and they said
10 how can we really bring this up to another level? And I'll show you in the site plan a little bit
11 later and some photos what they did. But as part of that process what they did was they took
12 the parking out of the main center of the campus and the parking was built offsite. And the
13 Planning Commission and the County Council approved that offsite parking in 2003. That's one
14 of the areas that we're asking to be zoned now. The third major improvement was the
15 A`ali`ikuhunua Creative Art Center and grass parking and that came about through a unsolicited
16 donation from a large donor that wanted to improve the creative arts facility on campus. Up until
17 that point it had been, it was kind of shoehorned into an old gym and the acoustics weren't good
18 and it wasn't a prime facility. So this donor wanted to start off this campaign for the creative art
19 center and that was the third component of a major campus improvements that was approved
20 via Special Use Permits and Conditional Permits in 2011.

21
22 As Tara noted the Conditional Permit, Condition No. 6, required that Seabury apply for land use
23 entitlements for these areas. So for permanent land use entitlements for these areas prior to
24 the permit expiration and the permit expiration is in May 2020. When I was contacted to start
25 working on this, and I heard that Seabury was not planning...they didn't have any immediate
26 plans for new facilities in this area and they were intending to keep the student body enrollment
27 basically at the same level, we approached County Chairman Mike White, County Council
28 Chairman Mike White and discussed the measure. He felt it was an appropriate candidate for a
29 County initiated change in zoning and so they passed a resolution which started the process
30 that we're at today.

31
32 So here's a map of the area. This is Upcountry showing Pukalani and Makawao with the
33 Haleakala Highway going up to Kula this way and Lower Kula Highway here and the Seabury
34 campus as most of you may know is at the corner of Olinda or bounded by Olinda Road,
35 Hanamu Road and Meha Road. So this is the basic campus area. This is an aerial photo of the
36 area. The portion outlined in blue is a 22 ½ acre campus that has the existing entitlements.
37 The area outlined in red are the affected properties that could be subject to this entitlement,
38 these entitlement changes. You can see the creative art center here and the parking lots and
39 the entry off of Hanamu Road there. These are the TMK parcels that are owned by Seabury
40 Hall. Here's Olinda Road, Hanamu Road, Meha Road. This again is a main campus area, the
41 22-acre main campus area. This is the area that's being requested for zoning. This area in
42 white here is actually the headmaster's or the head of schools house or residence. It's zoned
43 Ag, it has a structure and a cottage and the school wants to keep it zoned Ag in that area. This
44 gulch lot along Meha Road is the topography would be challenging to put any improvements on
45 there so that's gonna remain in Agriculture. And then this large parcel which is 17 acres it's not
46 quite contiguous with the school. It's more contiguous with urban areas and Makawao Town

1 that's not part of the subject request. That's gonna stay vacant. If anything were to happen on
2 that property they'd have to come in for a community plan amendment, change in zoning and
3 the like. So this is just the actual map that's being use to demarcate, the metes and bounds
4 description of the area to be changed and you can see where the parking lots are situated and
5 the creative art center. This is just another aerial photo. You can see the surrounding uses, the
6 Oskie Rice Arena and Kaonoulu Ranch lands here. I think there's I think two or three
7 residences on this side of Hanamu Road. There's a large 20-acre parcel abutting this area
8 owned by Haleakala Ranch. The Cameron property is about four-acre parcel here on the
9 corner of Meha and Hanamu. There's the gulch lot that's not being zoned. And you can see
10 the creative art center. That is outlined in red the parcel that was originally approved for the
11 offsite parking for when they redid the campus.
12

13 So this photo just kinda, is another shot of the area when the creative art center was being
14 constructed but you can see the entry off of Hanamu and the...they went from a single lane
15 access on Olinda Road to a double lane access. And I'll just go to the next slide just to...you
16 know one of the...when they did the master plan in the early 2000s they build this upper school.
17 There were some old shed and garage buildings and kind of nothing really well-planned out
18 here so they tore those down, they built this school building for the upper high school kids. I
19 think they have about 24 classrooms in that facility or thereabout. The middle school building,
20 this was the Carter Hall and they constructed this as additional classroom space for the middle
21 schools and the idea was to take the parking out of the center of the campus and create more of
22 an open area. They called it a mall type of...a pedestrian mall type feeling and they wanted to
23 basically get the cars out of there make it a lot more conducive to a very comfortable, relaxed
24 campus environment.
25

26 That's the old Cooper house. That was the original house of the Coopers which was called
27 Maunalei and you can see the architecture for the new buildings were designed to kind of fit in
28 with the area and here's the gym that was built in the mid-90s that gets access off of Meha
29 Road and there's also a service access up to Cooper house that goes up that way.
30

31 This is just a reverse picture and I just wanted to throw that in to show the completed
32 construction of the facility and this is looking the opposite direction towards the parking lot and
33 Meha Road with the gym here and that's the completed created arts center.
34

35 This is a map, the Maui Island Plan map and you and see the area that we're talking about is
36 within the Seabury Hall Small Town Growth Boundary. This shows the state designations. The
37 22 ½ main campus and then the...this is the area that we would change to Ag, I mean to Urban,
38 sorry, abutting that. That's the Community Plan Map with the blue area being Public/Quasi-
39 Public and we would seek to incorporate the area outlined in red there into Public/Quasi-Public.
40 This is a photo of the creative art center. And you know it was designed to be low profile from
41 the all-around and it was, you know, designed to have a rural character to resemble a barn and
42 it's won a lot of awards for its architecture and its design. The small building in the back is a
43 classroom space. They teach classes out of there and it also serves as sort of a backstage for
44 the theatre. With the construction of this facility they now have a place where the entire student
45 body can assemble for various get-togethers and that's what it looks like from inside.
46

1 This is the Olinda Road entrance and the original entrance was here. It was just a...well I guess
2 it would be tight for two cars. But now it's just a one-way in and they built the second lane out
3 as a one-way out. Just inside of that entry you can see the grass parking area and then the
4 paved parking beyond. One of the reasons they did it this way was to preserve the character,
5 the rural character along Olinda Road and to not have pavement or structures up along Olinda
6 Road.

7
8 That's just a closer up view of the...that same...at the same angle just a closer view of the
9 parking lot. This is the Hanamu entry. They keep it open in the mornings. It's closed during the
10 school day and then after school it's opened. And that's an important secondary access when
11 you're bringing kids in so it lessens the impact of the driveway access on Olinda Road by having
12 this secondary access on Hanamu Road. You can see again they kept the open space along
13 side of that driveway for parking, for grass parking. This is along that same driveway just a little
14 further in showing the paved parking beyond and the grassed parking on either sides of this
15 road. And then to the left over here is where the creative art center is behind these trees, but
16 that's the parking that was the grassed parking that was created for the creative art center and
17 here's the grassed parking for the creative art center looking towards the parking lot with the
18 school over to the left and that's the walkway that goes down to the creative art center.

19
20 So again the purpose and intent is to establish consistency with existing uses of the property
21 and to establish consistency with the land use designations on the abutting main campus area
22 and to establish consistency with the Maui Island Plan's Small Town Growth Boundary, and
23 again, to comply with Condition No. 6 of the Conditional Permit. That's the completion of my
24 presentation.

25
26 Chair Duvauchelle: I'm gonna open the floor back up for public testimony on this particular
27 agenda item before we ask questions.

28
29 **a) Public Hearing**

30
31 Chair Duvauchelle: Anybody wishing to testify on this agenda item please come forward?
32 Seeing none, public testimony on this agenda item is closed. Ms. Canto?

33
34 Ms. Canto: Rory, hello. Roy you know Mr. Cameron's property on Meha, so we know that...the
35 Commission knows now that he is requesting a 100-foot width on the buffer. How long is that
36 strip that he's requesting it for? Is it the entire perimeter of his property?

37
38 Mr. Frampton: Well, this is his parcel right here on the corner of Meha and Hanamu Roads.
39 Again, it's about 4 ½ acres. There's a large portion along Meha that is not being requested to
40 go into zoning and that's mainly because of topography. It's a real steep gulch area. This is a
41 more relatively flat area here. My understanding is he wants to go in 100 feet this way so which
42 would be about here. This leg of the property is 265 feet from this corner to that corner. So if
43 he's requested a 100-foot buffer that would run right along that boundary.

44
45 Ms. Canto: Okay, thank you. Thank you Chair.

1 Chair Duvauchelle: Questions from the Commissioners? Commissioner Carnicelli?

2

3 Mr. Carnicelli: Rory what are the setbacks in Public/Quasi-Public on that...(inaudible)..what
4 would be the setback?

5

6 Mr. Frampton: For P-1, I believe it's on the order of 10 to 20 feet, yeah.

7

8 Chair Duvauchelle: Any other questions? Commissioner Higashi?

9

10 Vice-Chair Higashi: Good morning Rory.

11

12 Mr. Frampton: Good morning.

13

14 Vice-Chair Higashi: Looking at your report I notice there's some figures that don't match
15 especially when it comes to the size of the property itself. There's figures of 14.375, there's
16 14.9, and according to the TMK that I looked at in there it's on Exhibit 26,

17

18 Mr. Frampton: Okay.

19

20 Vice-Chair Higashi: Okay, if you looked at the project area in the middle—

21

22 Mr. Frampton: Right.

23

24 Vice-Chair Higashi: It says, the northwestern portion 3-5 of 15.733 acres. Is that correct or is
25 something wrong with it?

26

27 Mr. Frampton: It was at the time. So I'll give you a little bit of history. It might be best to show it
28 on the TMK map. So originally that parcel, that larger parcel was situated roughly like this as I
29 recall, or no it was this here, the 15.73-acre parcel. And when they built the creative art center
30 they did a consolidation and resubdivision so this original parcel here got consolidated with that
31 parcel and it got bigger and it's now a...oh, I forget the acreage of the larger parcel, and then
32 the gulch lot is a smaller parcel that is 5.028 acres. So the acreage has changed which is why
33 you see different acreages from previous reports and if you notice the date of that report was
34 some time ago.

35

36 Vice-Chair Higashi: If that's the case you have another map that's Figure 2, section tax map
37 showing Parcel 1 corrected 8 Parcel 1 15.733 acres.

38

39 Chair Duvauchelle: Sorry Commissioner Higashi what are you referring to?

40

41 Mr. Frampton: Right, so this is the...so the maps that you're referring to were in the...I believe
42 these were from the archaeological report that was prepared for the creative art center and
43 Parcels 1 and 2 were combined and reconfigured so that Parcel 2 increased in size to
44 approximately 27 acres 'cause they took out five acres for the gulch lot. But yeah, it was
45 reconfigured. So you're looking at an older tax map key.

46

1 Vice-Chair Higashi: So what's the present proposal?

2

3 Chair Duvauchelle: Use the microphone please Commissioner Higashi?

4

5 Vice-Chair Higashi: What the...(inaudible)...

6

7 Mr. Frampton: So the present proposal is to do all of Parcel 41 which is this horseshoe shaped
8 parcel. Yeah, so it's all of the horseshoe shaped Parcel 41 and a portion of Parcel 1, and the
9 total acreage would be 14.95. I know it's a little, might be a little confusing but this shows it
10 again. This shows all of Parcel...this is the new TMK that was created when the consolidated
11 the main campus with this parcel line. So, this is actually a map of the area to be rezoned but
12 it's again, it's a portion of Parcel 1 and all of Parcel 41. And the total acreage is 17.95.

13

14 Chair Duvauchelle: Commissioner Higashi?

15

16 Vice-Chair Higashi: Yes, looking at that same map where is your proposed building to be
17 constructed on this map?

18

19 Mr. Frampton: There are no proposed buildings right now, but on this map the creative art
20 center was built here and the grass parking for the creative art center was there and then paved
21 parking for the when they built the new school facilities is on Parcel 41 and the grass parking is
22 up there along Olinda Road. So those were the improvements that were approved via a Special
23 Permit and Conditional Permit in two different times, one in 03 and in 2011ish and that's the
24 area that we're asking to be rezoned.

25

26 Vice-Chair Higashi: But the reason why I asked was because on the other side of Meha that is
27 residential or agricultural?

28

29 Mr. Frampton: Yes. On this side?

30

31 Vice-Chair Higashi: If the proposed building is built close to that Meha Street that might create
32 some traffic and noise, etc. So my question is if the proposed building is built further in toward
33 the main campus rather than having parking it would eliminate a lot of movement and noise
34 et cetera. So that's why I asked you Rory where would the proposed art center be located on
35 that map is it—

36

37 Mr. Frampton: Okay, it's already been constructed and it's here. It's right there. And so we're
38 asking for after-the-fact zoning if you will for that and it's way inside. It's interior to the school
39 and it's part of the main campus. And you're right, Meha Road when they did the subdivision
40 and reconsolidated these parcels there were because of the steepness they restricted any
41 future access off that road because it wouldn't be a good place to put a new driveway. Certainly
42 not along this top section. They have the existing one there which will be maintained, and then
43 the other access, the new access was built off of Hanamu and that has really nice sight distance
44 for a long ways. It's a flat section of the road.

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46 Vice-Chair Higashi: Thank you.

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Mr. Frampton: Yeah.

Chair Duvauchelle: Any other questions Commissioners? All right, oh Commissioner Gomes?

Ms. Gomes: I have a question. In regards to the parking, I know that there's paved and there's also I believe lawn parking. I'm assuming the lawn parking may be paved in the future? Is that something...

Mr. Frampton: They hope not to. Yeah, no the school kind of...you know the County parking requirements can really start adding up when you start counting all these separate buildings and in reality you don't have people in these buildings all at the same time. So they went through the County parking approval process and we're allowed to substitute grass parking for paved parking and that's allowed by Code. And you know, my understanding and just from being up there and from talking to the trustees is they really don't use those grass parking stalls very often. It's really meant for overflow. Say if you were to have the school occupied during the day and then an event at the creative arts center at the same time you might need that but they tend not to do that. When people are using the creative arts center school's out. So they don't really or it's used by the students so they're already there. So they usually don't have a situation where there's that much parking needed.

Ms. Gomes: I see. And then in regards to just Commissioner...Vice-Chair Higashi I just...considering he had brought up the issue in regards to, correct me if I'm wrong Commissioner Higashi, just noise I think...you know, I mean is the population, the school population I don't believe it's large. I don't believe Seabury's school population is large?

Mr. Frampton: No. And we went over that during the beginning right before—

Ms. Gomes: I apologize.

Mr. Frampton: Yeah, yeah, but it's about 455 students and they intend to keep the student population at approximately that level. There's no major increase in student population anticipated.

Ms. Gomes: Okay, and staff is included in this?

Mr. Frampton: Staff is...yeah, staff, the teacher ratio is about 10 to 1. So for teachers you got about 45, but I think the overall staff is in the 80's 'cause you have all the support staff, the office staff, the groundskeepers and all that. So it's about 80 in terms of staff.

Ms. Gomes: Okay, thank you.

Chair Duvauchelle: Any other questions? Tara, can we have the Department's recommendation?

b) Action

1
2 Ms. Furukawa: Okay, the Department is recommending approval with no conditions for the
3 change in district boundary from Agricultural to Urban. The proposed action is consistent with
4 the criteria of a DBA as stated in the Hawaii Administrative Rules, Title 15, Subtitle 3. The
5 Department is recommending approval with no conditions for the Community Plan change from
6 Agriculture to Public/Quasi-Public. It's consistent with Chapter 2.80b.100 of the Maui County
7 Code. Finally, the Department is recommending approval with no conditions for the change in
8 zoning from Agricultural to P-1, Public/Quasi-Public. The proposed action is consistent with the
9 criteria for a CIZ in Title 19, Chapter 19.510. We're asking that the Commission authorize the
10 Planning Director to transmit said recommendations and record to the Maui County Council for
11 further action.

12
13 Chair Duvauchelle: Thank you. Commissioner Robinson do you want to...

14
15 Mr. Robinson: I'd like to state that my son is in the current process of application and
16 acceptance of Seabury and I'll be recusing myself for any sense of impropriety and I will
17 withhold my support on the vote of this knowing that now we have nine people here. Thank
18 you.

19
20 Chair Duvauchelle: Commissioner Carnicelli?

21
22 Mr. Carnicelli: So I'd like to make a motion to approve as recommended by Staff State Land
23 Use Commission District Boundary Amendment, Community Plan Amendment, and Change in
24 Zoning all together in one motion, approval of all three.

25
26 Ms. Canto: I'll second.

27
28 Ms. Gomes: Second.

29
30 Ms. Canto: I would like to speak to the motion?

31
32 Chair Duvauchelle: Yes, please. Discussion?

33
34 Ms. Canto: Okay, and I'm gonna need help with this from the Director. So my concern is with
35 Mr. Cameron and where and how is it that Rory or how can we work with Mr. Cameron's
36 request within the recommendation of the Department? I'm not sure how that works.

37
38 Mr. Spence: Of course, the Commission is free to recommend conditions on changes of zoning
39 and ultimately it's acted on by the County Council. They may say hey this is a great idea, the
40 may say no need. But you are free to make that recommendation. You could say, if you
41 wanted to recommend a buffer along that area I don't know how I would describe that except
42 right along Meha Road where the parcel abuts Meha Road. The other thing you could do is just
43 say between now and the time the County Council takes it up, you know work with the applicant
44 or you know some agreed upon distance or uses that would go into that area or something like
45 that. You know with all due respect to Mr. Cameron, I don't know if this came up before during

1 the process, but this is the first time I've heard of this. So I think between the parties that could
2 warrant some additional discussion rather than just making a blanket 100-foot recommendation.

3
4 Ms. Canto: Okay, I would prefer that they work together then would that be much better Rory?
5

6 Chair Duvauchelle: Mr. Frampton you wanna comment?
7

8 Mr. Frampton: Yes, thank you very much. And you know, just a couple of comments. Going
9 through this Council initiated action there's the two things that are not required that's different
10 than the normal process. One of them is that there's no requirement to notify neighbors within
11 500 feet. We weren't really comfortable with that so we went ahead and notified everybody
12 voluntarily. We sent letters out to everybody and I think that's how Mr. Cameron, he has my
13 letter in his hand so that's how he became aware of it. But we weren't contacted until this
14 morning by Mr. Cameron, so I think Will's suggestion that we meet with the Camerons and
15 come up with something that's meaningful for them would make sense. You know the arbitrary
16 numbers, I mean, you know we were throwing around a 100 feet. We were just talking before
17 the meeting, but you know we'd like to sit down with him and meet with him so maybe the
18 recommendation would be that we...that Seabury Hall engage in discussions with the
19 neighboring landowners specifically the Camerons and to report to the County Council on what
20 the recommendations are and we'll surely promise to keep him informed of any Council
21 meeting. So we'll let them know when we're gonna be in front of Council so it doesn't go by
22 without him knowing.

23
24 Ms. Canto: Perfect. Thank you. And I want to comment and I'd like to also put it out
25 there...that's fine, Rory. Thank you.
26

27 Mr. Frampton: Thank you.
28

29 Ms. Canto: Putting out there that I support the mission of Seabury. I have two grandchildren
30 that are in upper school so I'm gonna take a vote on this. I don't feel that you know I can be
31 partial or impartial, but I want to be clear on that.
32

33 Chair Duvauchelle: Any further discussion on the motion? Commissioner Higashi?
34

35 Vice-Chair Higashi: I'd like to make an amendment to the applicant saying that they should
36 develop a master plan for this particular campus instead of doing it piecemeal. It sound like
37 they're doing it by sections versus the whole 64 acres that are there.
38

39 Chair Duvauchelle: Director?
40

41 Mr. Hopper: How do you want to take these because it sounded like originally there was a
42 recommendation or a proposed amendment to add as not really as a condition as part of your
43 recommendation by one member and now we're moving onto another one. Do you want to...if
44 you could you could treat that first, that first suggestion as an amendment to your
45 recommendation, vote on that and then move onto any other amendments to either the
46 recommendation...this actually sounds like more of a condition, but do you want to go back and

1 maybe take a vote on the first recommendation to add to...or the first proposal to add to your
2 recommendation essentially that the applicant work with the landowner who has come to the
3 meeting today in order to discuss the possibility of essentially a setback as discussed. You
4 want to take that motion or take that as an amendment, maybe vote on that and then move onto
5 other amendments?

6
7 Chair Duvauchelle: Since we're gonna have further discussion yes.

8
9 Mr. Hopper: Right.

10
11 Chair Duvauchelle: Director do you want to repeat that?

12
13 Mr. Carnicelli: Excuse me, point of order, if it's going to be an amendment, a motion for an
14 amendment we need a second.

15
16 Vice-Chair Higashi: I second.

17
18 Chair Duvauchelle: Okay.

19
20 Mr. Carnicelli: Okay, thank you.

21
22 Chair Duvauchelle: Thank you.

23
24 Mr. Spence: Okay, so my understanding of...this is just part of your recommendation
25 not...you're not recommending a condition, you're recommending that the applicant speak with
26 the landowner and that will be noted in the transmittal to the County Council and as Rory
27 explained they'll discuss with the Council and at the Council meeting.

28
29 Ms. Canto: Yes.

30
31 Chair Duvauchelle: Okay, so we will take a vote on that. Commissioner Carnicelli?

32
33 Mr. Carnicelli: I'm just gonna say that I'm uncomfortable with this recommendation because
34 there's nothing being proposed as far as what's gonna be built and how Mr. Cameron's going to
35 be affected. You know, so as far as like what future could happen and how his property could
36 be impacted and all those other things, we don't know what it's going to be. So for us to
37 recommend okay there's a neighbor that doesn't like what you're doing and so we're gonna say
38 that you should then go...I mean, it's good thing that they're gonna do that and if Seabury Hall's
39 willing to do it then that's fine. But for us to recommend hey listen one neighbor shows up and
40 says oh, I don't like this and now we're recommending you start talking about a setback just
41 seems a little bit counterintuitive to just saying you know, we don't even know what's gonna be
42 there. So what are we talking about setting back because it could be anything there?

43
44 Chair Duvauchelle: Director?

45

1 Mr. Spence: Yeah, and my understanding and Commissioner Canto can correct me, but it's just
2 that they sit down and talk. It could be...it could be a setback, it could be uses, it could be I
3 don't know, whatever. It can be all different kinds of discussions not necessarily a setback.
4 So...I think we should, you know, just...

5
6 Chair Duvauchelle: And since...Commissioner Gomes?

7
8 Ms. Gomes: I apologize Chair, and I don't know if this is a question that at this time or it should
9 have been presented earlier, we are going from Ag to Urban.

10
11 Unidentified Speaker: Public/Quasi

12
13 Ms. Gomes: I'm sorry, from yeah, Agricultural to Urban and a Change in Zoning. Is this...is
14 there a year...is there years attached to this meaning...so this is once it's a change.

15
16 Mr. Spence: Right. This is a permanent change.

17
18 Ms. Gomes: This is a permanent change.

19
20 Mr. Spence: Adopted by ordinance.

21
22 Ms. Gomes: Okay.

23
24 Chair Duvauchelle: So we are going to go ahead and take a vote on the amendment
25 recommending that the Seabury Hall have discussions with the surrounding property owners.
26 All those in favor please raise your hand? One, two, three, four, five, six.

27
28 Mr. Spence: Six.

29
30 Chair Duvauchelle: Six in favor. Opposed? One.

31
32 Mr. Spence: One opposed.

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

35
36 **VOTED: To Add Amendment that the Applicant Have Discussions with**
37 **Surrounding Property Owners.**
38 **(Assenting – P. Canto, R. Higashi, L. Hudson, T. Gomes, C. Tackett,**
39 **S. Castro)**
40 **(Dissenting – L. Carnicelli)**
41 **(Recused – K. Robinson)**

42
43 Chair Duvauchelle: Okay, we will add the amendment. Okay, any other discussion?

44
45 Vice-Chair Higashi: I think that particular proposal covers, so I rescind mine.

46

1 Chair Duvauchelle: Okay, so we will go back to the original motion on the floor and that is for
2 approval. Director, do you want to repeat the motion?

3
4 Mr. Spence: The recommendation is to approve as recommended by Staff and in accordance
5 with the County Council Resolution.

6
7 Chair Duvauchelle: All those in favor? One, two, three, four, five, seven ayes.

8
9 Mr. Spence: Seven ayes.

10
11 Chair Duvauchelle: And with Commissioner Robinson recusing himself. So motion passes.
12 Congratulations.

13
14 **It was moved by Mr. Carnicelli, seconded by Ms. Canto, then**

15
16 **VOTED: To Recommend Approve to the County Council of the Community**
17 **Plan Amendment from Agriculture to Public/Quasi-Public, a District**
18 **Boundary Amendment from Agricultural to Urban, and a Change in**
19 **Zoning from Agricultural to P-1 Public/Quasi-Public as**
20 **Recommended by the Department.**
21 **(Assenting – L. Carnicelli, P. Canto, L. Hudson, T. Gomes,**
22 **C. Tackett, S. Castro, R. Higashi)**
23 **(Recused – K. Robinson)**

24
25 Chair Duvauchelle: You want to take a break? Planning Commission is going to take a recess,
26 we'll reconvene at 9:45.

27
28 A recess was called at 9:45 a.m., and the meeting was reconvened at 9:57 a.m.

29
30 Chair Duvauchelle: Maui County Planning Commission is now back in session. Director, you
31 want to read the next agenda item?

32
33 Mr. Spence: Commissioners, we are Item C-2, Mr. Gal Cohen requesting a Short-Term Rental
34 Home Permit for the Halama Beach Villa, a three-bedroom short-term home on Halama Street
35 in Kihei and again, we have Ms. Tara Furukawa.

36
37 **2. MR. GAL COHEN requesting a Short-Term Rental Home Permit for the**
38 **Halama Beach Villa, a 3-bedroom short-term rental home located in the R-3**
39 **Residential District at 1543 Halama Street, TMK: 3-9-010: 031, Kihei, Island**
40 **of Maui. (STKM T2017/0002) (T. Furukawa)**

41
42 **The subject application is being brought to the Maui Planning Commission**
43 **for review because there are at least two (2) permitted short-term rental**
44 **home operations located within 500 ft. of the subject property.**

45

1 Ms. Tara Furukawa: Okay, this item is under your review because the applicant is requesting a
2 Short-Term Rental Home Permit for Gal Cohen. Cohen wishes to operate a three-bedroom
3 short-term rental home in one dwelling that sits on 9,167 square feet of land in Kihei. The
4 application is before you today because there are at least two other STRHs within 500 feet of
5 the proposed STRH. At this time, I'll introduce you to the applicant's partner Chelsea Dimin
6 who will present to you with the scope and details of the proposed project and after the
7 presentation I'll provide you the Department's recommendation.
8

9 Ms. Chelsea Dimin: Hello, I'm Chelsea Dimin and I am Gal Cohen's partner. I reside at the
10 1543 Halama Street where we're applying for the Short-Term Rental Permit. So today I'm
11 gonna take you through a brief overview of who Gal Cohen is, what the history of 1543 Halama
12 Street has been, how we plan on operating if we are approved the short-term rentals, and what
13 the benefits are of having that type of property in a neighborhood like Halama Street.
14

15 So to begin, we might improvise without pictures, but I think you guys have the presentation as
16 well, do you? We're gonna try using this. Give me one moment while I reset this up. There we
17 go. Okay, it looks like two these slides might not have pictures. We'll improvise. Okay, Gal
18 Cohen, you don't have a picture of him but he is sitting right here. He's a 34-year-old hard
19 working entrepreneur. So he first moved to Maui 16 years ago for windsurfing and he ended up
20 meeting his ex-wife and having his 10-year-old daughter establishing himself with Cohen
21 Landscaping, a landscaping company. From there he worked his way up into the construction
22 business and opened Cohen Construction and recently opened Cohen Development Group
23 which is an umbrella company for his smaller companies. He's currently the general contractor
24 at Hokulani Golf Villas building over a hundred homes in Phases 2 and 3 of the development on
25 top of a few of his own private projects building spec homes. Over time he has acquired
26 ...(inaudible)...properties that are currently supporting local families all across the island. He
27 employs over 70 locals from all different trades. He...some of those properties real quick if I
28 can back up, those long-term rentals, he accepts HUD and they do qualify as affordable
29 housing. The home we are proposing today does not qualify as one of those. He is dedicated
30 family man. He has a 10-year-old daughter who lives with us half of the week. She goes to
31 Kula Elementary and he's very close with his family. They come and stay at the house for
32 extended amounts of time. So this year alone, his family has stayed at our house for three
33 months so far this year visiting from Israel and they make annual trips it's a regular thing.
34

35 He's also a good neighbor. Since moving onto Halama Street since July...we purchased the
36 property in July 2014. He's really integrated himself with the community. He has become a
37 resource for a lot of neighbors that come and ask for advice and...about their own building
38 projects that he supported and assisted them with.
39

40 A little bit about the property. So it was built in 1975, as a two-bed, two-bath main house with a
41 two-bedroom, one-bath area that was connected by a breezeway. It was an interesting
42 construction. There was a small pool house in the backyard and for the past ten years it had
43 been rented by long-term tenants. According to a lot of the neighbors that came over while we
44 were building the house the property came with a really long history. It was problematic. The
45 police frequented the property for noise, for drugs, prostitution, there was whole long list of
46 reports associated that were coming out of this property. Gal purchased the property in 2014

1 out of foreclosure and with his vision he wanted to build his residence. So he cleaned it up,
2 restored it and made a lot of the neighbors happy because it was no longer a problematic
3 source, in fact it helped improve the neighborhood and improve the overall street. Nine months
4 later he built a luxury three-bed, three-bath home with high-end finishes, custom made furniture.
5 He did not hold back on expenses because he intended it to be our long-term residence.

6
7 Here you can see the parking plan. I know this was one of the concerns that people had when
8 we sent out the letters announcing that we were applying for this permit. So there's a two-car
9 garage. There's also a space for two cars in front of the garage where we currently park and
10 then a space behind the...in the gateway area for an additional car. So total, there is parking
11 for five cars on this property. We currently only use two because we have our personal
12 belongings in the garage.

13
14 Here's a floor plan, it's a very open floor plan, three-bedroom, three and a half bath with a pool
15 in the backyard and a detached office and you have the studio. As you can see from these
16 photos you have the living room, the master bath and you see how the indoor/outdoor living
17 areas have been combined with nine-foot glass pocket sliding doors.

18
19 He invested a lot of money in designing the landscape to create an oasis with a lot of privacy so
20 there's fences all around, a big rock wall on the front of the property. He can see his daughter's
21 room on the bottom left. The guest room is on the right, bottom right and then another picture of
22 the living room that looks at the detached office in the backyard.

23
24 So looking out from the house to our left we have our direct neighbors Leslie and Ralph and
25 they're currently remodeling their home. They currently reside in San Francisco but purchased
26 the property in November and have visited every now and then. So they are on the south side.
27 And then from the back of the house, that's the view into their same property. As you can see
28 there's lot of trees, shrubbery, lots of privacy. Looking west from the house towards Haleakala
29 you have another neighbor who that house currently sits vacant. It's listed on the market.
30 Looking from the front of the property, the bottom right picture is looking towards the ocean.
31 That house is also listed and for sale on the market. Looking towards the north is our neighbor
32 Dominique who's here as well and that is his licensed bed and breakfast. We have a very good
33 relationship with him and are supportive of his business. And then looking from our backyard
34 towards his house as well from the pool area.

35
36 So why short-term rental? When Gal originally purchased the home with the intention of it being
37 a permanent residence he didn't know about an opportunity that would show itself a year later
38 down at 1731 Halama Street. It was a big lot and he purchased that, prefers that location and
39 wants to build there. Because he built 1543 Halama Street and spent so much money and
40 really invested in it we love the house, it's a piece of art, we're proud of it, we don't want to sell
41 it, we don't want to get rid of it and it makes sense to host a lot of our family and friends that
42 come and visit for extended stays. In order to sustain the cost of the property though, we can't
43 just keep the home for our family when they come visit, we have to rent it out several times
44 short-term and that's why we're doing it through permit application now. So Gal plans on
45 building his permanent residence down at 1731 Halama Street and long-term if we can keep
46 1543 Halama Street, wanna keep it in the family.

1
2 So something else worthy of mentioning is the high expenses of 1543 Halama Street. It wasn't
3 built with being a vacation in mind therefore it is very expensive to maintain. A lot of the
4 services, solar panels, cleaning, even the media is very complicated. RTI systems, Sonos
5 sound systems, Lutron electric shades, video surveillance, a lot of things were built with the
6 intention of one user being able to operate. And here you can find a list of the expenses.
7 These expenses per month they don't even include any unexpected big repairs. It ends up
8 being just over \$7,500 a month which is more than what we could possibly long-term rent this
9 house for based on neighboring comps.

10
11 So what is the plan as far as if we get the permit how will we operate it? I think it's most
12 important to note that we are aware of our neighbor's concern of the ones who did send in
13 protest letters and we respectfully hear their concern for noise, for traffic, for parking, all very
14 legitimate concerns. And because of that we plan on strictly regulating our property. By
15 building our permanent residence down the street two blocks at 1731 Halama Street we will be
16 close by to regulate it. It's also important to note that we don't just want anyone renting the
17 house. We will be choosing who stays there in between our family when they are living there.

18
19 So following strict County laws for noise, also not allowing any street parking. We have ample
20 parking. Keeping the maximum occupancy of six guests although we prefer much smaller
21 groups like couples and making sure that our guests are vetted, verify their identify that we
22 know these people staying in our home will take care of it. They won't ruin the house. We also
23 have a very strict zero tolerance noise policy where if the neighbors do complain, if there ever is
24 an issue, we will give the guests one warning. If that ever happens again, if there's another
25 concern they will be required to relocate and no refund will be given. And this will be part of
26 their rental agreement that sign off to and agree before renting the house. We want to make
27 sure that noise is not an issue and it's very clear and transparent before they agree to rent it.
28 We also want to have a good neighbor policy. So our neighbors who we have an established
29 relationship with feel comfortable coming to us 24/7 if there's any issues with any type of
30 concern. So as I mentioned before we'll be living two blocks down the street to regulate it. And
31 how we plan on listing it, mainly through local real estate brokerages that focus on luxury realty
32 so Elite Pacific Properties or Locations Maui possibly using the VRBO, Airbnb, Trip Advisor,
33 sites that can verify and have...where you can have an open dialogue with potential guests to
34 really become familiar with who would be staying in your home.

35
36 So the advantages of a permitted short-term rental. I would say one of the great things about
37 short-terms is that because of the consistent presence of people coming there they require
38 constant maintenance. They are always kept in good condition. And they're strictly regulated.
39 So following all of the house rules, County regulations. There's also a consistent presence of
40 guests and our family which keeps the community vibrant. It also helps contribute more tax to
41 the County through Transient Accommodation Tax. And then the people that actually come and
42 stay on the property are contributing to the local economy through going to local restaurants,
43 using services, rental cars, activities. So I'd say the final benefit is that the property itself
44 employs local services such as those listed there to help maintain the property.

45

1 So that's the end of my presentation. I think the biggest, most important thing to leave you with
2 is that we are aware of neighbor concerns and we've tried very hard to address that and include
3 that with any type of house rules and that Gal's very proud of the house and he wants to keep
4 the house which is the main intention of us applying for this permit.

5
6 Ms. Furukawa: Okay, so I created this map just to show you where the letters came from I
7 guess and if they're in support, the concerned or opposed, and as you'll see there are five
8 permitted STRHs within 500 feet. There are two permitted B&Bs. Fourteen letters of support
9 were received, one letter of concern, and then four letters of opposition. As of March 31, 2017,
10 there were permitted STRHs in the Kihei-Makena Community Plan region and the cap was 100
11 permits. And here are 38 permitted B&Bs within the community plan region. The cap is 100
12 permits. Neighbor notice was provided twice, once for the short-term rental home application
13 and more recently for the STRH application public hearing. And as a result of the process we
14 received all of those letters. This concludes the presentation.

15
16 Chair Duvauchelle: Thank you.

17
18 **a) Public Hearing**

19
20 Chair Duvauchelle: So we will open the floor up for public testimony on this agenda item. I
21 have listed Anders Lyons?

22
23 Mr. Anders Lyons: Thank you Chair and Director Spence and Commissioners. I am here to
24 represent Sam and RainbowStar Dolphin who are adjacent landowners across the street at
25 1554 Halama Street. You have before you two letters in opposition generated by adjacent
26 landowners, the Dolphins as well as the Jeschkes who are right next to these...this property.
27 They are very concerned about the direct impacts of parking, vehicular noise, of people walking
28 down the nearby beach access making noise during early mornings and late evenings, and
29 trespassing that occurs because of unfamiliarity with the lay of the land and the fact that the
30 beach at Halama Street is quite degraded and at high tide it's impassible or it's frequently
31 impassible this brings people onto properties. And the inclusion of so many nonresident people
32 on Halama Street has meant that there is a draw for predators looking for, looking for loot out of
33 either the homes or the cars or the people themselves. So there's an increased trespassing
34 involved...involving theft of even just the regular homeowners that live there. There are five
35 permitted bed and breakfast and short-term rentals within 500 feet. There are 11 total on
36 Halama Street and the neighboring Aupuni Place. This has brought a small sleepy community
37 a lot of these negative effects that I've already described by they include trespassing, vehicular
38 noise, people parking on the street. I would note that it was noted in earlier testimony that
39 there's personal belongings in this garage that seems to be a common theme with some of the
40 permitted places. They have personal things in the garages so people are forced to park on the
41 street.

42
43 The County Code allows this Commission to deny the application. I've given you two avenues.
44 Adjacent landowner opposition and then the cumulative impact of these approvals. There are
45 two landowners who are adjacent to the property who are in opposition to this permit and there
46 are 11 permitted and at least one unpermitted short-term rental occurring at Halama Street.

1 This impact has had a significant negative effect on the ability of the Dolphins to enjoy
2 this...their own property and they urge you to deny this application.

3
4 Chair Duvauchelle: Thank you. Any questions for the testifier? Commissioner Canto?

5
6 Ms. Canto: Mr. Lyons you mentioned the lay of the land. How difficult is it to find your way
7 down to the beach from where they are?

8
9 Mr. Lyons: Well, there's across the street there is a public right of way owned by the County
10 and that public right of way traverses right next to the Dolphin's home so they are aware of
11 people walking up and down there and they have no particular opposition to people walking on
12 the right of way. I mean, the beach is there for everyone's enjoyment. However, because the
13 beach has been degraded by erosion there are large scarps or you know cliff like areas where
14 it's 10 to 12 feet down or you have to crawl over shoreline protection revetments that are
15 sandbags that have been put on the shoreline. And the cumulative effect of that is that the
16 beach frequently is so far eroded that water comes right up to those bags and make the
17 beach...makes it so you can't walk on the beach so people are climbing onto people's property
18 to traverse properties.

19
20 Ms. Canto: And when you say people's property you mean whose property?

21
22 Mr. Lyons: Owner...landowners on the shoreline have people who are trying to traverse to
23 other shoreline properties on their yards because people can't use the beach.

24
25 Ms. Canto: Okay, so I have a follow up Chair?

26
27 Chair Duvauchelle: Go ahead Commissioner Canto.

28
29 Ms. Canto: So would you think, would you say that the problem is then the County's regarding
30 that access and not so much the applicant?

31
32 Mr. Lyons: No, it's a region wide issue. It's not just this property that's having people walking
33 on it. It's really all the landowners on the shoreline there that are having the problem.

34
35 Ms. Canto: Okay, thank you Chair.

36
37 Chair Duvauchelle: Any other questions? Commissioner Carnicelli?

38
39 Mr. Carnicelli: Thank you Chair. So the people you are representing are across the street from
40 the applicant?

41
42 Mr. Lyons: Yes.

43
44 Mr. Carnicelli: Okay, so they're not next door, they're across the street.

45
46 Mr. Lyons: They are across the street.

1
2 Mr. Carnicelli: Thank you.

3
4 Chair Duvauchelle: Thank you.

5
6 Mr. Lyons: Thank you.

7
8 Chair Duvauchelle: Okay, the next person on the list is Joe and I will let you say your last name
9 for me again please?

10
11 Mr. Joe Delucia: Hi Commissioners. Hi my name's Joe Delucia. My wife Mary Ann who by the
12 way has her first house on Maui was 35 years ago across the street on Halama Street. She
13 had her first child there. So we're very familiar with the area. We purchased our house I think
14 about a year or so before Gal at the same that I think, well ours was a foreclosure also when we
15 purchased it. It had been abandoned for two years. And it had been somewhat of a problem
16 property because the owner had gotten in trouble and was ruining every single thing in the
17 house that he could. So we cleaned that all up. I believe I have an unbiased approach to this
18 because my house is in a three old...newer three-lot subdivision. It was approved in I believe
19 1988 so it does have a restriction for only long-term rentals. But personally I approve...not
20 approved but I've endorsed every single short-term rental and bed and breakfast and I believe
21 for the reason having had quite a bit of experience in my prior careers as a developer it has just
22 been an immense improvement to Halama Street that I've seen over the last four years that
23 we've been there. We respect the neighborhood.

24
25 I've know Mr. Cohen now for about four years and he has the utmost integrity and as you can
26 see by their presentation he's an extremely professional businessman and I think he'll run this
27 operation as good if not better than the ones that's already there which there are five. But I
28 believe the previous man mentioned there were 11. There are currently five short-term rentals
29 approved and I believe currently operating on Halama, two of them right down the street that
30 are just impeccably maintained and I've never seen any problems there. I've never heard of
31 any complaints.

32
33 Just a few stats. There are 47 parcels on Halama Street or 47 on the oceanfront and 47 on the
34 mountain side. So there's 94 parcels. How many houses that equates to is probably give and
35 take the same. I manage for several owners across the street from me who are vacation...not
36 vacation rental people, but absentee owners and I just manage their gardeners and everything
37 'cause they don't rent houses out. And out of the seven oceanfront homes or in the area
38 between Waimahaihai Street and the first beach access which I'll give you an example four of
39 the homes are second residence homes. People use them, I would say the Canadian uses it
40 128 days a year because that's the maximum allowed contrary to popular belief it's six months,
41 the formula actually equates down to 128 days and the other ones are from Seattle and they
42 use it about on average probably at best one week a month. So there's very minimum impact.
43 And that's probably indicative of the whole oceanfront along there as far as second homes
44 versus permanent residents.

45
46 Ms. Takayama-Corden: Three minutes.

1
2 Chair Duvauchelle: Please conclude.

3
4 Mr. DeLucia: Pardon me?

5
6 Chair Duvauchelle: Please conclude.

7
8 Mr. DeLucia: Okay.

9
10 Chair Duvauchelle: Your three minutes are up.

11
12 Mr. DeLucia: I believe that the benefits are...I believe it will be improved security for the
13 neighborhood. The short-term renters tend to have more respect for the property and the
14 neighborhood's long-term enhancement. It will enhance County revenue for both the sales tax
15 or use tax and the property tax I believe changes and it will enhance the private ownership of
16 the neighborhood.

17
18 Chair Duvauchelle: Thank you. Any questions for the testifier? Seeing none, thank you very
19 much.

20
21 Mr. DeLucia: Thank you

22
23 Chair Duvauchelle: Would anybody else like to testify at this time regarding this agenda item
24 please come forward? State your name you'll have three minutes.

25
26 Mr. Dominique Martin: Thank you. My name is Dominique Martin and I'm Gal's and Chelsea's
27 neighbor to the north. I'm the one with the legal bed and breakfast. I have to say I was a little
28 bit concerned when they told me they want to do vacation rental with the property because they
29 are actually wonderful neighbors for the last three years, the best we ever had. We had as they
30 say drug homes, we had like everything you could think about child molesters and alcoholics,
31 you could not sleep for till morning and three, four. We have police out there. We have the
32 ...(inaudible)...teams coming in. And since they actually moved to the property and improved
33 everything it is really nice. That whole front end of Halama Street it came really good. And
34 when I said I'm concerned because I have a bed and breakfast and we have strict rules with
35 noise and people, I have people in there, three parties all the time, for most of the time and they
36 want to sleep morning at 7:00, they don't maybe go to bed for a vacation they do on a regular
37 base because they only here short time they tend to go to bed early and going up in the
38 morning. But I was concerned about having parties and stuff. You know, if you have to
39 go...they would not be regular people. But I know these two very well for the last years and it's
40 the best thing ever happened and they always when we had a problem on our property they'll
41 be helpful if they have friends over. It was always quiet. They looked good for the property. It's
42 very beautiful. They maintain it really good and so I totally believe that they will do what they
43 told you and taking really good care for it. And my concern was on the...or is actually only that
44 we have nice neighbors and my guests can enjoy the neighborhood and I believe that they will
45 do that. That's my thing. And I not normally talk against neighbors and stuff but you heard the
46 statement about that beach access. It is not quite what it seem to be after that statement. That

1 beach access is totally overgrown because...I mean, I don't know who has to cut it down, but
2 it's not done so it's really hard to get to the beach in the first place. And if people go into the
3 beach they get sprinkled on by the person who actually complained about us doing vacation
4 rental. It's like not...people are not welcomed on that beach access so my guests as example I
5 send them all to the other beach access. But there is not really like good and bad here. There
6 is really I think...there is no negative impact on Halama Street.

7

8 Chair Duvauchelle: Please wrap up.

9

10 Mr. Martin: Huh?

11

12 Chair Duvauchelle: Please conclude.

13

14 Mr. Martin: Yeah, so my conclusion is so far I didn't see any negative impact. All the TVRs you
15 don't see any cars from the TVRs parking because those are big property. They park inside.
16 So I will just say you have my blessing if you're given the permit.

17

18 Chair Duvauchelle: Thank you. Any questions for the testifier?

19

20 Mr. Martin: ...(inaudible)...

21

22 Chair Duvauchelle: Oh no, we're good. Thank you very much. Yes, thank you. Okay, any
23 other public testimony? All right, seeing none, public testimony is now closed. We'll take
24 questions from the Commissioners.

25

26 Ms. Canto: Just one.

27

28 Chair Duvauchelle: Commissioner Canto?

29

30 Ms. Canto: Chelsea, has your partner or client has he ever discussed long-term at all?

31

32 Ms. Dimin: Initially we thought about it but then the issue with long-term is that we can't kick
33 long-term people out whenever family comes to visit. And they come frequently for long
34 amounts of time 'cause they're coming all the way from Israel and Chile. So they'll stay for
35 about a month and a half at a time and they come separately. So it's one of the biggest issues.
36 The second reason why long-term, the expenses of the house alone per month you couldn't
37 rent it out for that much. It doesn't hold against the long term rental market on that
38 neighborhood especially on that side of the street. It's not oceanfront.

39

40 Ms. Canto: Thank you. Thank you Chair.

41

42 Chair Duvauchelle: Any other? Commissioner Carnicelli?

43

44 Mr. Carnicelli: So it seems a little bit like you're going in two directions here. 'Cause on one
45 hand you talked about how no expense was spared and how it's just like you you know spent all

1 kinds of money to make this beautiful house and then on the other hand you're saying but it's
2 really expensive. So if we don't approve this you still gonna be able to make those expenses?

3
4 Ms. Dimin: Um, you know, we want to build down the street so we wouldn't be able to have
5 both properties without having some sort of income from 1543 Halama Street. So we would
6 probably have to sell it. We couldn't keep both. We definitely couldn't afford to build a whole
7 nother property and keep this one with these expenses.

8
9 Mr. Carnicelli: Okay, thank you.

10
11 Chair Duvauchelle: Commissioner Gomes?

12
13 Ms. Gomes: And I'm sorry for clarification purposes you want to build down the street and live
14 there long-term or—

15
16 Ms. Dimin: Yes.

17
18 Ms. Gomes: --and coming back—

19
20 Ms. Dimin: We want to keep 1543—

21
22 Ms. Gomes: --and requesting short-term rental, I'm sorry.

23
24 Ms. Dimin: So we want to keep 1543 for family that comes to visit and operate that as a short-
25 term rental in between them visiting.

26
27 Ms. Gomes: Okay.

28
29 Ms. Dimin: We want to permanently reside at 1731 Halama Street. We prefer that location. So
30 it's a bigger lot as well.

31
32 Chair Duvauchelle: Commissioner Robinson?

33
34 Mr. Robinson: Good morning.

35
36 Ms. Dimin: Good morning.

37
38 Mr. Robinson: I saw your math on your expenses. Do you have math on what you think you're
39 gonna make off of this property?

40
41 Ms. Dimin: No because I haven't planned for what we would possibly rent it out per night yet
42 until we were approved. But we would have to be able to make that \$7,500 a month mark.

43
44 Mr. Robinson: So you want us to give you a permit but you got no thought into what you would
45 actually make off this permit. Mr. Cohen's a pretty smart guy. He has a successful business.
46 He built a beautiful home. You got a second property you're gonna build and you're gonna tell

1 this Commission honestly that you guys don't have no idea of what you could possibly make but
2 you want a permit anyway?

3
4 Ms. Dimin: I would say that a rough estimate per night what you could rent across the street for
5 a home like that, a \$1,000 a night, \$900 a night, maybe more. I would have to actually contact
6 local brokerages. I mean we looked on VRBO for neighboring properties to see what they
7 rented and they're all pretty comparable. The majority of them are oceanfront though so they
8 rent for a lot more.

9
10 Mr. Robinson: You know it's...can I go?

11
12 Chair Duvauchelle: Commissioner Robinson?

13
14 Mr. Robinson: This has been a recurring theme and it's not indicative of you but it's indicative of
15 the short-term vacation rentals where people come over here and they want us to save their
16 investments. You know they talked about drug dealers and prostitution and pedophiles and I
17 got no...we got the police report right here where there's none of that that showed up. I didn't
18 know that short-term vacation rentals, I know the bed and breakfast guy said alcoholics. I didn't
19 know that you screen for alcoholics. I didn't know that there was a website for that. It looks to
20 me like you guys, you know, you guys wanna move up and there's nothing wrong with that.
21 There's nothing with being a successful person, seeing a business and then building a beautiful
22 home and saying you know what now I want a bigger property. The problem is is when you
23 want to do it all for you. You know you hire 70 locals but locals people don't do that. These are
24 all short-term mainland people that come in here with these second homes. Local people aren't
25 building second homes to rent out at exorbitant rates and changing neighborhoods. It's all
26 nonlocal, nonlocal people do this. People from not Hawaii do this. Local people let their
27 families live there like how you let your families come over and stay and they help 'em, they do
28 it for free, and if they buy a second property usually they go and build couple houses for their
29 families to live in. And how I know that is because I do that, my friends do that, and when I hear
30 the word local being thrown around a lot it's just, it's just not right and to have math and to say
31 that oh my mortgage is 4,800 and that's an expense. You're a business guy. You know that
32 you can write your interest off of that. So I know your expenses isn't \$7,500 a month off the top
33 end, the AGI, we all know that. We all own homes here. So part of a...part of the thing that's
34 going it's just, you know it's we're losing neighborhoods and I'd like to say this to the
35 commission that because we have a limit of 100 homes doesn't mean we have to hit 100
36 homes. It means we cannot go over 100 homes. And Halama Street seems like every month
37 it's getting inundated with more and more rentals. And so what we're doing is we're gonna lose
38 a neighborhood soon and I don't know if this one's already too late. It's an expensive area. It's
39 probably not a terrible area to have vacation rentals but it's just snowballing. It's just
40 snowballing. And when I hear about people wanting to build their dream home, again after two
41 years later building their dream home then in two years we're gonna have another one and
42 they're gonna say, well we found a even bigger property even in a nicer area and can you
43 please support me because I can't afford all the construction that I just did even though I'm a
44 general contractor and have these huge projects. Thank you.

45
46 Chair Duvauchelle: Any other questions? Commissioner Hudson?

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Mr. Hudson: This is for Mr. Spence.

Chair Duvauchelle: Director?

Mr. Hudson: One of the STRH requirements is that the single-family structure existing and constructed at least five years prior to the date of application. Do you know what the intent was of that?

Mr. Spence: The intent was that people don't just purchase properties, build homes with the expressed purpose of short-term renting.

Mr. Hudson: So I think the intent was for the person to actually live in the house for five years would that be putting words in somebody's mouth?

Mr. Spence: Yeah, I don't...that was not something that I recall coming out of Council but it was the idea that you're not just simply going to build a house so you can short-term rent it.

Mr. Hudson: Thank you.

Chair Duvauchelle: Corp. Counsel?

Mr. Hopper: No, that's just correct. I mean, living in the house is actually not a requirement for a short-term rental home. That's what makes it a short-term rental home. There's a bed and breakfast ordinance where you would have to live in the house and the short-term rental home is when someone doesn't live in the house. I think Director Spence is correct. Can always check the minutes, but I remember that meeting the issue was they wanted homes to be...they didn't want home to be built just so they would be used for short-term rental home purposes.

Chair Duvauchelle: Thank you. Any other questions? Commissioner Robinson?

Mr. Robinson: This question is for the Director. With that being said Director and this home is built in the last three years how does it still carry a recommendation from the County.

Ms. Dimin: It wasn't built, it was remodeled, improved.

Mr. Spence: And that was what I was going to ask was when was the date of the construction and...

Ms. Dimin: It was originally built in 1975.

Mr. Spence: Okay, so it was just...and you said it was remodeled?

Ms. Dimin: Remodeled. New floors, new cosmetically, re-gunited the pool. Just cleaned it up.

Chair Duvauchelle: Commissioner Robinson?

1
2 Mr. Robinson: So Director a person could buy a one-bedroom and then add a pool house and
3 add two more bedrooms and that is only considered a remodel by putting new floors? I mean,
4 what is the criteria or is it just open and everybody has to interpret it the way they want to?

5
6 Mr. Spence: Well I think we would as a Department we would look at it on a case by case
7 basis, but I understand the point.

8
9 Chair Duvauchelle: Any further questions from the Commissioners? Seeing none, can I have
10 the Department's recommendation please?

11
12 **b) Public Hearing**

13
14 Ms. Furukawa: Okay, I just wanted to for the record make it clear too that the police transmittal
15 it doesn't precede ownership of the property. So we looked just for the past year. So...the
16 application complies—

17
18 Chair Duvauchelle: One moment, one moment please—

19
20 Ms. Furukawa: Yes.

21
22 Chair Duvauchelle: --Commissioner Robinson?

23
24 Mr. Robinson: Tara you say that but this has 2004. I mean you can make the statement but the
25 data what we have here is 2004.

26
27 Ms. Furukawa: The ...(inaudible)...information.

28
29 Mr. Robinson: The R—

30
31 Ms. Furukawa: Oh the RFS is the complaints submitted to our Department. So the raids info is
32 the Police Department. So all the complaints to the Department preceded ownership and then I
33 only looked as of like a year ago for police complaints.

34
35 Mr. Robinson: Thank you Tara.

36
37 Ms. Furukawa: Yeah, so I just wanted to make that clear. And then the criminal part I didn't
38 even know about until we put together the presentation. So, the application complies with the
39 applicable standards for a Short-Term Rental Home Permit so the Department's recommending
40 approval based on 22 standard conditions. And we're recommending that the Maui Planning
41 Commission adopt the Planning Department's report and recommendation prepared for the
42 June 13, 2017 meeting as its findings of fact, conclusion of law and decision and order and to
43 authorize the Director of Planning to transmit the decision and order on behalf of the Planning
44 Commission.

45
46 Chair Duvauchelle: Discussion? Motion?

1
2 Mr. Carnicelli: I'll move to approve as recommended by Staff.

3
4 Chair Duvauchelle: Do I have a second?

5
6 Mr. Castro: I'll second it.

7
8 Chair Duvauchelle: Moved by Commissioner Carnicelli to approve. Seconded by
9 Commissioner Castro. Discussion on the motion? Commissioner Carnicelli?

10
11 Mr. Carnicelli: Thank you Chair. These are becoming harder and harder as we go on. You
12 know...I as kinda was part of the discussion and the questions for someone that has a you
13 know nearly \$5,000 a month mortgage payment to cry poor and like okay, I need help with this
14 is difficult. However, I don't want to be someone that's against rich people either because it's
15 like you know what good for you. When I look at 100 STRs that can be in Kihei I was having a
16 conversation with a friend of mine yesterday about where else will they go? We're going okay,
17 Maui Meadows is capped out. That would be one place that they're gonna go. So they got a
18 bunch of B&Bs. Halama Street is one place, but when you look at the character of Kihei there's
19 not a lot of places that STRHs can go in Kihei. Halama Street's one of those neighborhoods.
20 The neighbors themselves, there's a few people that don't like them. A lot of people in the
21 neighborhood tend to like them or appreciate them. Anyways, this is just...it's a challenge and
22 it's tough 'cause I think that's what gonna happen is we're gonna start seeing more and more
23 and more of them. I don't wanna see your new property that guys own if this gets approved,
24 suddenly it's in your name and then you come and you know, this whole thing that Commission
25 Robinson has talked about before you get one STRH but then you know get you to buy another
26 one and then another one things like that. So anyways I made the motion and I will support it.
27 However, it's like yay and wholeheartedly and that's just sorta where I stand.

28
29 Chair Duvauchelle: Thank you Commissioner. Any other discussion? Commissioner Canto?

30
31 Ms. Canto: I have a difficult time supporting the application. Ordinarily I would give it the
32 benefit of the doubt, but this time around you know the client has an option of building two,
33 having one and having potentially another. So in this particular case I won't be supporting the
34 motion. Thank you.

35
36 Chair Duvauchelle: Thank you. Commissioner Robinson?

37
38 Mr. Robinson: This is to Commissioner Carnicelli. I'm not against rich people either, but this is
39 a special permit. It's a special permit and I don't think that they necessarily need the break
40 either. I think special permits used for special circumstances. Where would they go? There's
41 plenty places to go.

42
43 Ms. Gomes: Hotel.

44
45 Mr. Robinson: Yeah, Maui's growing. My concern is where is the home development gonna
46 be. I think our challenge is and again I think what we get stuck with is we see the numbers 88,

1 100, 88 here like we're supposed to fit them in this area. And you know part of that is when we
2 always thought that there was gonna be growth in certain areas and there hasn't been the
3 growth. There hasn't been the homes being built to where this wouldn't be as affected. But
4 shoreline, Halama Street there's not gonna be another Halama Street. You can't go up the
5 mountain and say this is Halama. How many local families are still there? Very few because
6 they have been displaced because of the cost and that's their own choice. Short-term vacation
7 rental is a money making business. And we have hotels, we have hotel associations, we have
8 you know unions, we have things that make sure that everybody follows and tries to
9 ...(inaudible)... of this experience that we as Hawaii, as our number one industry count on that
10 our guests will always see. And it's not against the short-term vacation rental. This particular
11 applicant I don't see it different as the other three dozen that I've seen. It's never their home,
12 it's always their second home. It just so happens that their second home is gonna be down the
13 street instead of in Seattle or Vancouver or wherever it is. Nothing against them, good for
14 them. But we have TVRs. We have a Code where you can buy a transient vacation rental that
15 you can own and you can rent out to family members that you rent out to other people. We
16 have this zoning available to everybody who wants to buy and make money off of the tourist
17 industry. But when you ask for a special permit you're asking in a change zoning. We have
18 TVRs, we have hotels, we have condos where people can rent it out and make it a second
19 income. So it's not against, it's not against money, it's not against people trying to make a profit
20 off of the tourist industry. It's these weren't meant for that and that is why I will not be
21 supporting this. Thank you.

22

23 Chair Duvauchelle: Thank you. Any other discussion? Commissioner Gomes?

24

25 Ms. Gomes: I just wanna piggyback on Commissioner Canto and Commissioner Robinson.
26 And I'm in agreement. I'm not against rich people as well with Commissioner Carnicelli, but I
27 believe in our last commission meeting that we did speak of, correct me if I'm wrong that and I
28 think Director you could correct me if I'm wrong that at some point that I see the commission
29 was or will be in discussion of possible areas that will be looked at you know, maybe specifically
30 for vacation rental homes because that's...there are areas that are just being convoluted with
31 short-term rental vacation homes. And if that's the case then maybe that's where we should be
32 headed whether it's doing a proposed resolution to, you know County Counsel or County
33 Counsel to take a look at. Maybe that might be easier for us as Commissioners because what
34 we're doing is we're looking at numbers and we're trying to decipher you know where should we
35 say yes, no in these specific areas and I just wanted to notate that and state that on record.

36

37 Chair Duvauchelle: Thank you. Commissioner Carnicelli?

38

39 Mr. Carnicelli: I just wanna say for the record that the mention of wealthy people was not
40 directed at any other commissioner. It was directed at myself.

41

42 Chair Duvauchelle: Thank you. Commissioner Higashi?

43

44 Vice-Chair Higashi: I have mixed emotion about this particular application. One is that I think
45 the Cohens should be commended for provided affordable homes for people and I think that's
46 great. Shoreline beach homes are getting more and more in demand and I think it's to the point

1 where we have to carefully look at how many are being applied in a certain area. Looking at
2 Kalama Street there's a lot of vacation rental homes there and I think that's part of the problem
3 with when you have beach homes is that the tourists would want to go there rather than at a
4 hotel because the price of a vacation rental home is much cheaper than going into a hotel
5 especially in Kihei-Wailea area. I have, I have deep reservation in this particular area because
6 Kalama Street is not a real wide street and you have the local people who wanna park there to
7 go to the beach and I don't know what the access is in that particular area, but I think we gotta
8 start looking at how can our local people as well have an area to go where they can fish or swim
9 or surf or whatever it is, and with that I have reservation about the approval of this application.

10
11 Chair Duvauchelle: Thank you. Commissioner Hudson?

12
13 Mr. Hudson: Thank you Chair I'll be brief. My concern is what our parameters area in our
14 guidelines and one of the guidelines is just as a reminder and I quote from our notes that we've
15 been taking Council's intent, Maui Planning Commission's job is to protect residential housing
16 and character of the neighborhood. I think the amount of short-term home rentals in this
17 neighborhood is a cluster and I cannot support it. Thank you.

18
19 Chair Duvauchelle: Thank you. Commissioner Tackett? You shook no? All right, any other
20 discussion? Director would you repeat the motion?

21
22 Mr. Spence: The motion is to approve as recommended by Staff.

23
24 Chair Duvauchelle: All those in favor please raise your hands?

25
26 Mr. Spence: Two ayes.

27
28 Chair Duvauchelle: Two ayes. Opposed?

29
30 Mr. Spence: Six opposed.

31
32 Chair Duvauchelle: Motion fails. Thank you.

33
34 **It was moved by Mr. Carnicelli, seconded by Mr. Castro, and**

35
36 **The Motion to Approve the Short-Term Rental Home Permit FAILED.**

37 **(Assenting – L. Carnicelli, S. Castro)**

38 **(Dissenting – L. Hudson, K. Robinson, P. Canto, T. Gomes, C. Tackett, R. Higashi)**

39
40 Chair Duvauchelle: Oh, I'm sorry, one moment. Do I hear another motion?

41
42 Mr. Robinson: I make a motion to deny?

43
44 Ms. Canto: Second.

45

1 Chair Duvauchelle: Moved by Commissioner Robinson, seconded by Commissioner Canto.
2 Any discussion?

3
4 Mr. Hopper: It would be helpful and just to state for the record the basis for denial. If there is a
5 denial there would be a formal order with findings of fact, conclusions of law and a decision and
6 order. There's a criteria in the Short-Term Rental Home Ordinance it lists several factors in
7 determining whether or not to grant a permit. It's under 19.65.030 and the correction
8 Subsection I believe is (n) and there's several criteria there. Among them they include the
9 potential adverse impacts including excessive noise, traffic and garbage. The number of
10 permitted rental homes surrounding the proposed short-term rental home property and the
11 distance to the property, the number and substance of protests to the short-term rental home
12 application and protests related to the cumulative short-term rental homes in the neighborhood
13 or area and several other factors. I just want the Commission...just remind the Commission
14 that there is a permitting process and a criteria for approval or denial of the permit for the
15 Commission to follow.

16
17 Mr. Robinson: Can I?

18
19 Chair Duvauchelle: Commissioner Robinson?

20
21 Mr. Robinson: I'd like to move for the reason for my motion for the denial is the amount of units
22 in this area and the cluster as well as opposition letters. Thank you.

23
24 Chair Duvauchelle: Any other discussion? Commissioner Higashi?

25
26 Vice-Chair Higashi: I voted to oppose to oppose from the standpoint that I think looking at
27 Kalama Street and the amount of traffic that goes through there would be a detriment to this
28 particular area. And also I think the concentration of the amount of application although
29 according to the community plan it says that there is a hundred but it includes Kihei-Makena
30 which is a very wide long area. So if you look at percentage wise the amount of vacation rental
31 homes in this particular street I think is overburdened already. Consequently I vote against it.

32
33 Unidentified Speaker: I think Mr. Higashi meant Halama Street.

34
35 Chair Duvauchelle: Yes.

36
37 Vice-Chair Higashi: Halama.

38 Chair Duvauchelle: Any other discussion? Commissioner Gomes?

39
40 Ms. Gomes: And I just wanna say for the record my dear that it's...and it's not personal, I
41 mean, you know I just wanna state that.

42
43 Chair Duvauchelle: All right, Director you want to repeat the motion please?

44
45 Mr. Spence: The motion is to deny the application for Short-Term Rental Home Permit.

46

1 Chair Duvauchelle: All those in favor of the motion?
2

3 Mr. Spence: That's six ayes.
4

5 Chair Duvauchelle: Those opposed?
6

7 Mr. Spence: Two opposed.
8

9 Chair Duvauchelle: Thank you. Motion carries. Application denied. Thank you.
10

11 Ms. Dimin: Thank you for your time.
12

13 **It was moved by Mr. Robinson, seconded by Ms. Canto, then**
14

15 **VOTED: To Deny the Short-Term Rental Home Permit.**
16 **(Assenting – K. Robinson, P. Canto, L. Hudson, T. Gomes,**
17 **C. Tackett, R. Higashi)**
18 **(Dissenting – L. Carnicelli, S. Castro)**
19

20 Chair Duvauchelle: We're going to take 10-minute break, we'll reconvene at 11 o'clock.
21

22 A recess was called at 10:50 a.m., and the meeting was reconvened at 11:00 a.m.
23

24 Chair Duvauchelle: Okay, Maui County Planning Commission is back in session. Director, our
25 next agenda item?
26

27 Mr. Spence: Okay, Commissioners we're on Communications Item D-1, Mr. Keoni Gomes of TJ
28 Gomes Trucking requesting an amendment to their Land Use Commission Special Permit and
29 Paul Fasi is our Staff Planner.
30

31 **D. COMMUNICATIONS**
32

33 **1. MR. KEONI GOMES of T.J. GOMES TRUCKING CO., INC. requesting an**
34 **amendment to their State Land Use Commission Special Permit to include**
35 **asphalt, concrete, and earthen material recycling, crushing, and processing**
36 **in addition to the existing approved uses for the Puunene Base Yard at 301**
37 **Hansen Road, TMK: 3-8-001: 002 (por.), Puunene, Island of Maui. (SUP2**
38 **2008/0002) (P. Fasi)**
39

40 **The Commission may take action on this request.**
41

42 Chair Duvauchelle: Paul, before you start Commissioner Gomes?
43

44 Ms. Gomes: Yes, thank you. I would like to make a disclosure that will be recusing myself from
45 voting. Reasons for that fortunately he is my husband, for him. Akaku can edit that.
46

1 Chair Duvauchelle: Paul, I'm sorry, go ahead.

2
3 Mr. Paul Fasi: Thank you Director. Good morning Commissioners. We also have Jordan Hart
4 from Chris Hart & Partners is gonna give you a real brief presentation. So my presentation will
5 be brief also. The applicant, TJ Gomes Trucking is requesting an amendment to its existing
6 SUP permit to allow the use of asphalt, concrete, and urban material, recycling, crushing, and
7 processing. By allowing this use it will accomplish two things. It will free up space at the Maui
8 Landfill and it puts construction waste to good use by recycling it for other projects. I'm not
9 aware of any other site that does offer this type of proposed service.

10
11 In a letter dated February 1, 2017, the Director of Department of Environmental Management
12 sent a letter to Director Spence in support of this request. This is in your department report as
13 Exhibit 3. On March 10, 2009, the Planning Commission granted the original Special Use
14 Permit for three years. This is Exhibit 7. And then on November 25, 2014, the Planning
15 Commission voted to extend the permit for another 18 years to 2032 and this is Exhibit 11.
16 Condition 11 of the Special Use Permit require the applicant to render the existing cesspool
17 that's onsite filled and brought back to ground level. This was the cesspool that's a remnant
18 from the old Puunene Hospital. The applicant never used. It's just basically a hole in the
19 ground and there's pictures in the department report of them accomplishing this task. As far as
20 agency comments all three State agencies that responded had no comment. All County agency
21 comments were nonsubstantive and as I mentioned earlier we have one letter of support from
22 the Department of Environmental Management. That concludes the Department's comments.
23 If there are no questions, I'm gonna let Jordan Hart do his quick presentation. Thank you.

24
25 Chair Duvauchelle: Thank you.

26
27 Mr. Jordan Hart: Thank you Paul. I'm Jordan Hart of Chris Hart & Partners, the land use
28 planner for the project. Keoni Gomes is here as the applicant. This is an existing Special Use
29 Permit. It's basically an industrial use. It's in an appropriate location and the application is
30 requesting the addition of recycling for asphalt, concrete and urban materials.

31
32 One point of clarification I do wanna make is that there is one existing permitted operation. It's
33 Hawaiian Cement it's operating near the Waikapu quarry, but with the Department of
34 Environmental Management's letter of support I think it's an indication that there's a need for
35 more of these services and I also think that the location of this service in close proximity to the
36 Central Maui Landfill is appropriate.

37
38 Basically it's 12.778 acre site. The land use designation is State Ag. It's within the County of
39 Maui's Urban Growth Boundary. It's community planned for Light Industrial and it's zoned Ag.
40 It's not within the flood zone.

41
42 This is a parcel location map so basically Pulehu Road and Hansen Road. This is an aerial
43 location map of the project site. This is a State Land Use Commission State Land Use District
44 Boundary Map. As you can see it's within the Ag District but it's separated from any sort of
45 residential uses. This map indicates Light Industrial and Heavy Industrial uses in relation to the
46 Central Maui Landfill and I think that the concept of this is that basically it's community planned

1 for Light Industrial and appropriately located away from residences, around other heavy uses
2 and near the landfill.

3
4 This is the existing approved site plan and so basically it's a trucking and towing baseyard with
5 vehicle processing, permitted vehicle storage and processing permitted. And the proposed site
6 plan is here where basically some of the area that has not been being used for vehicle
7 processing and storage would be used for asphalt and material recycling. So again, this is the
8 aerial photograph with an outline specifically of the area we're talking about a change of
9 permitted uses that would be for the material recycling happening there. This is a photograph of
10 the intersection of Hansen Road and Pulehu Road looking right at the project site here.

11
12 Project site, this is looking toward Haiku which is East on Hansen Road slightly in towards the
13 project site. This is right in front of the project access which is on Pulehu Road looking towards
14 Kahului so that would be north. And then this is turn around looking towards the Central Maui
15 Landfill south, down Pulehu Road and towards the intersection of Hansen and Pulehu. This is
16 from Hansen looking down the project's drive access here looking from the access back
17 towards Pulehu Road. And then this is the project area where the...within the area proposed for
18 material recycling. And so it's generally just an unused portion of the property that's got
19 previous approval for light industrial and so there's a need for this use in the community. TJ
20 Gomes provides this service and they're proposing to locate it here on this parcel that's
21 appropriately suited.

22
23 And so in consideration of issuing a State Land Use Commission Special Use Permit there's a
24 series of criteria we're gonna go through those. That's it's not contrary to Hawaii Revised
25 Statute Chapter 205 and Chapter 205A and so this proposed use is clearly not and it would not
26 cause an adverse effect on surrounding properties. So as I showed you in some of the other
27 maps on land uses there's no residential uses within this area. There's no commercial retail
28 type uses. It's a very industrial, agricultural industrial type area and that's how it's operated for
29 many years. It's approximately 1.2 miles direct distance to the nearest residences which are
30 near the Dairy Road fire station. The applicant has also installed fencing to limit views from
31 Hansen Road of the uses that are occurring. Would not unreasonably burden agencies
32 providing services. We did go through the agency review and comment process for this
33 amendment request and as our planner indicated that there were no substantive comments or
34 negative comments for the project. There's actually one comment from a County agency in
35 support of this request. That would be the Department of Environmental Management. And
36 then unusual trends may have occurred in the area to basically warrant this use. That would be
37 the closure of the Maui Demolition and Construction Landfill and there's basically generated a need
38 for more processing and use of these types of materials in order to alleviate some of the burden
39 on Puunene Landfill. And then the final criteria is that the project site is not appropriate for the
40 uses permitted within the district. And so for this particular site it's in the State Agricultural
41 District but it hasn't been operated as an agricultural site since 1913. And so this is a
42 continuation of that same pattern. And that really concludes the presentation of information on
43 the project and we're available to respond to any questions.

44
45 Chair Duvauchelle: Paul you have more? Okay then we're gonna open the floor up for public
46 testimony. Anybody wishing to testify on this agenda item, please come forward? Seeing none,
47 we'll close public testimony. Questions, Commissioners? Commissioner Canto?

1
2 Ms. Canto: Somebody, you know adjacent to the subject parcel there's an ag parcel rather
3 large do you know of any immediate plans that anything will be happening there soon?
4

5 Mr. Hart: There's a composting business that's occurring here. Which direction do you mean?
6

7 Ms. Canto: Well, I saw one of your...
8

9 Mr. Hart: Okay, go to the State Land Use Map here, so it's basically, it's completely surrounded
10 by Ag. Primarily this had been HC&S fields and then there was a...basically this parcel was
11 sold by A&B and there's a series of uses that occur in there including material composting right
12 here directly abutting. And so that's actually another reason why this use would be very good is
13 because they recycle top soil and they separate out the vegetated material and so there's could
14 be synergy between the two uses that are occurring right next to each other in that context.
15

16 Ms. Canto: Okay, thank you
17

18 Chair Duvauchelle: Commissioner Robinson?
19

20 Mr. Robinson: Chris, I see that...I don't know if it's Exhibit 9 or 10 you have some pictures of
21 ground and holes is that something that is a concern or is that something you guys treated?
22

23 Mr. Hart: I believe you're looking at the old cesspool that was retired by the applicant and
24 basically what those photos are of is the applicant uncovering the cesspool and then going
25 through the process of filing and compacting in increments so that that is a completely safe and
26 closed cesspool.
27

28 Mr. Robinson: Thank you.
29

30 Chair Duvauchelle: Any other questions? Commissioner Carnicelli?
31

32 Mr. Carnicelli: This is actually for Paul. Paul I noticed in the changes here in the
33 recommendation 8, 9, and 10 are being removed. Yeah?
34

35 Mr. Fasi: Correct.
36

37 Mr. Carnicelli: Why is it that we're removing those?
38

39 Mr. Fasi: They're no longer applicable. These were pertinent when they were applying for the
40 Special Use Permit but under the current guidelines of what they're doing and processing and
41 with their truck yard it's no longer applicable. So we want to clean it up and bring all the
42 conditions up to date.
43

44 Mr. Carnicelli: If I could follow up?
45

46 Chair Duvauchelle: Yeah.

1
2 Mr. Carnicelli: Is I guess, you know I mean if...like say No. 9, the applicant shall submit a
3 revised TIAR traffic to Public Works when doing additional improvements. Why would we not
4 want that there?
5

6 Mr. Fasi: Because this is not generating any additional traffic. In fact, it's probably gonna
7 lessen the amount of traffic going to the landfill area. This was...the idea behind this TIAR is
8 that they developed project and they were going to have uses that actually increased the traffic
9 demand on this road and we would request the TIAR. This Department under its current use,
10 this proposed use doesn't feel that a TIAR is warranted. And the department, State Department
11 of Transportation had no...basically...(inaudible)...comment.
12

13 Mr. Carnicelli: Okay.
14

15 Mr. Fasi: Thank you.
16

17 Chair Duvauchelle: Any other questions? Okay, Paul can we hear the Department's
18 recommendation please?
19

20 Mr. Fasi: The Planning Department recommends that the Maui Planning Commission adopt the
21 Planning Department's report and recommendation for the June 13, 2017 meeting and
22 authorize the Director to transmit the findings of fact, conclusions of law, decision and order on
23 behalf of the Planning Commission.
24

25 Mr. Robinson: Motion to approve.
26

27 Mr. Hudson: Second.
28

29 Ms. Canto: Second.
30

31 Chair Duvauchelle: Moved by Commissioner Robinson, seconded by Commissioner Hudson.
32

33 Ms. Canto: Speak to the motion.
34

35 Chair Duvauchelle: And discussion on the motion please? Commissioner Canto?
36

37 Ms. Canto: Chair, I'd like...I support the motion based on the knowledge knowing Keoni Gomes
38 and his loyalty to the community and much of what he's done for the community most
39 ...(inaudible)...to my heart. He's always there when the County needs him or when anybody
40 needs him for that matter. But yeah, I do support the motion. Thank you.
41

42 Chair Duvauchelle: Commissioner Robinson?
43

44 Mr. Robinson: I'd like to thank the applicant to stepping up and taking over this needed service.
45 Last year we knew that this was gonna be a dire time for the construction industry, you know,
46 having a place to take scrap and it also slows down construction. So lucky for us somebody
47 wants to take on responsibility and thank you to Gomes.

1
2 Chair Duvauchelle: Any other discussion? Director you want to repeat the motion?

3
4 Mr. Spence: The motion is to approve as recommended by Staff.

5
6 Chair Duvauchelle: All those in favor raise your hand?

7
8 Mr. Spence: That's seven ayes.

9
10 Chair Duvauchelle: Thank you. Motion carries.

11
12 Mr. Fasi: Thank you.

13
14 Mr. Hart: Thank you.

15
16 **It was moved by Mr. Robinson, seconded by Mr. Hudson, then**

17
18 **VOTED: To Approve the Amendment to the State Land Use Commission**
19 **Special Permit as Recommended by the Department.**
20 **(Assenting – K. Robinson, L. Hudson, L. Carnicelli, P. Canto,**
21 **C. Tackett, S. Castro, R. Higashi)**
22 **(Recused – T. Gomes)**

23
24
25 Chair Duvauchelle: All right, Director next agenda item? Are we rolling?

26
27 Mr. Spence: We are. We have a workshop at 1:00. We could take the other items out of order.
28 Minutes and...

29
30 Mr. Hopper: Well, it says to begin at 1:00 p.m. so really can't have it any earlier because that's
31 what it's noticed on the agenda.

32
33 Mr. Spence: They may not even be on island right now.

34
35 Chair Duvauchelle: Shall we...

36
37 Mr. Hopper: Do the rest of your agenda, other than that.

38
39 Chair Duvauchelle: Yeah. Shall we go ahead and go to Item F and then we'll break early for
40 lunch.

41
42 **E. ACCEPTANCE OF THE ACTION MINUTES OF THE MAY 23, 2017 MEETING,**
43 **REGULAR MINUTES OF THE AUGUST 23, 2016 MEETING AND PORTION OF**
44 **REGULAR MINUTES OF THE MARCH 28, 2017 MEETING (ITEMS E-1a and E1-b)**

45
46 **It was moved by Mr. Carnicelli, seconded by Mr. Robinson, then**

47

1 **VOTED: To Accept the Action Minutes of the May 23, 2017 Meeting and the**
2 **Regular Minutes of the August 23, 2016 Meeting and Portion of the**
3 **Minutes of the March 28, 2017 Meeting (Items E-1a and E-1b).**
4 **(Assenting – L. Carnicelli, K. Robinson, L. Hudson, P. Canto,**
5 **T. Gomes, C. Tackett, S. Castro, R. Higashi)**
6

7 Mr. Carnicelli: Move to approve the...(inaudible)... Meeting Minutes as circulated.
8

9 Mr. Robinson: Second.
10

11 Chair Duvauchelle: Moved by Commissioner Carnicelli, seconded by Commissioner Robinson.
12 All those in favor to approve the minutes.
13

14 Mr. Spence: That's eight ayes.
15

16 Chair Duvauchelle: That's eight ayes.
17

18 Mr. Spence: We also have the...we can go through the Director's Report and Future Agenda
19 Items.
20

21 Chair Duvauchelle: Okay.
22

23 **F. DIRECTOR'S REPORT**
24

25 **1. SMA Minor Permit Report**
26

27 **2. SMA Exemptions Report**
28

29 Mr. Spence: Commissioners we also have your SMA Minor Permit Report and your SMA
30 Exemptions Report and those are just for your information and I think your rules say that you're
31 supposed to acknowledge receipt.
32

33 Chair Duvauchelle: All those acknowledging receipt, raise your hand. That's eight. Eight
34 acknowledgements.
35

36 **3. Discussion of Future Maui Planning Commission Agendas**
37

38 **a. June 27, 2017 agenda items**
39

40 Mr. Spence: For the June 27th Planning Commission meeting, we have...we're gonna have a
41 full day. You're gonna have six public hearing items. The first one is Nation Land Company
42 requesting change in zoning, conditional permit and SMA permit for commercial buildings and a
43 plant nursery and condominiumization of single-family residences. I know where this is it's
44 gonna be interesting. The second one is Ms. Suzanne Case from DLNR requesting a shoreline
45 setback variance for the small boat harbor ferry here in Lahaina. Third one is Mr. Michael
46 Tenkoff requesting a short-term rental permit home in Lahaina. Fourth is Mr. Mark Clinton

1 Kynaston, Lloyd and Lizet Christiansen requesting a short-term rental home in Paia, and then
2 Ms. Kathy Davey requesting a B&B permit in Launiupoko and then Mr.....excuse me, the sixth
3 public hearing item is Ms. Shannan Kaurin and Mr. Josh Metzler requesting a Special Use
4 Permit to operate a bed and breakfast in Makawao. Then you're gonna have a Communication
5 item requesting a ten-year time extension and transfer of permit for Kamaaina Kids.

6
7 Mr. Carnicelli: Chair, just for the record, Item 5, Ms. Kathy Davey that address is actually not
8 Launiupoko I don't think. I think that's the Coffee Estates, Kaanapali Coffee Estates.

9
10 Mr. Spence: I don't know it say...

11
12 Mr. Carnicelli: Okay, anyways.

13
14 Mr. Spence: Yeah.

15
16 Chair Duvauchelle: Okay, then if there's nothing else to get accomplished we will break early
17 for lunch. Commissioner Hudson you're excused for the afternoon based on an appointment.
18 Commissioner Robinson.

19
20 Mr. Robinson: One o'clock...(inaudible)...

21
22 Chair Duvauchelle: Yes. Any other discussion? Okay, we'll reconvene at 1:00 p.m.

23
24 A recess was called at 11:19 a.m., and the meeting was reconvened at 1:02 p.m.

25
26 Chair Duvauchelle: Good afternoon. Maui County Planning Commission is back in session.
27 It's a couple of minutes after 1 o'clock, and Director, our next agenda item?

28
29 Mr. Spence: Commissioners, we are on your very last agenda, next to the last agenda item for
30 today. You have a work with Coastal Zone Management and we have staff here from State
31 Office of Planning.

32
33 **WORKSHOP** (to begin at 1:00 p.m. or soon thereafter)

34
35 **Coastal Zone Management (CZM)/Special Management Area (SMA)**
36 **Presentation to the Maui Planning Commission – State Office of Planning,**
37 **Coastal Zone Management (CZM) Program Manager Justine Nihipali**

38
39 **For information purposes**

40
41 A power point presentation was done by Ms. Justine Nihipali, Planning Program Manager for
42 the Coastal Zone Management Program regarding a general overview of the Coastal Zone
43 Management Program and Mr. Shichao Li, Project Analyst provided detailed information on the
44 Special Management Area and how the Commission role plays in decision making for these
45 types of permits.

1 **H. NEXT REGULAR MEETING DATE: JUNE 27, 2017**

2
3 **I. ADJOURNMENT**

4
5 The meeting was adjourned at approximately 1:58 p.m.

6
7 Submitted by,

8
9
10 Carolyn Takayama-Corden
11 Secretary to Boards & Commissions II
12

13 **RECORD OF ATTENDANCE**

14
15 **Present**

16 Pua Canto
17 Lawrence Carnicelli
18 Stephen Castro
19 Sandy Duvauchelle, Chairperson
20 Tina Gomes (in attendance at 9:14 a.m.)
21 Richard Higashi, Vice Chairperson
22 Larry Hudson (excused at 11:19 a.m.)
23 Keaka Robinson (excused at 11:19 a.m.)
24 Christian Tackett

25
26 **Others**

27 Will Spence, Director, Planning Department
28 Mike Hopper, Deputy Corporation Counsel, Department of the Corporation Counsel
29 Rowena Dagdag-Andaya, Deputy Director, Department of Public Works
30