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**MAUI PLANNING COMMISSION
PORTION OF REGULAR MINUTES
ITEM C-1
JULY 25, 2017**

A. CALL TO ORDER

The regular meeting of the Maui Planning Commission was called to order by Chairperson Sandra Duvauchelle at approximately 9:04 a.m., Tuesday, July 25, 2017, Planning Conference Room, First Floor, Kalana Pakui Building, 250 South High Street, Wailuku, Maui.

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

Chair Duvauchelle: Good morning ladies and gentlemen. It is, what is today, it's July 25th, the Maui County Planning Commission is now in session. Thank you all for being here. Director, do you want to read our first agenda item?

B. PUBLIC TESTIMONY - Public testimony will be taken when each agenda item is discussed. **Testimony will be limited to a maximum of three (3) minutes.**

Mr. Spence: Sure. Okay, Commissioners we are Item C-1. This is, we're transmitting alternate proposed bills as related to short-term rental homes in the Paia-Haiku Community Plan area. And what this is, I'll just let David Raatz. David Raatz is our, if you don't know is our Administrative Planning Officer. When Mr. Alueta went on to other things we hired Dave from Council...used to be from Council Services. He has a legislative background and legal background and so he is going to present to us this bill and we'll get into the discussion.

Chair Duvauchelle: One moment. Commissioner Carnicelli?

Mr. Carnicelli: Good morning, Chair. Thank you. Before we go forward with this agenda item I would like to make a disclosure for full transparency and to be completely ethical about everything. This is the type of item that my employer might take a position on at the Council level. We do not have a position currently. There's, you know, there's not a position that the employer has taken. However, you know to be transparent to my fellow commissioners, I wanna say that this something that in the future depending upon what happens that my employer might. So I just want to put it forward to my fellow commissioner that if this is something that you feel as though I should go get an opinion from the Board of Ethics on as to whether or not I should recuse myself and it's also...my employer will have no financial interest no matter what happens in this, but they might have a position. This is something...when I first came onto the commission this is the type of things that I went before the Board of Ethics and said, okay, I'm going to disclose if something like this comes about. So anyway so I'm going to put it to my fellow Commissioners to just say this is what it is. If you feel as though I need to go get an opinion from the Board of Ethics I will do that. If you feel as though I should absolutely recuse myself I will honor that. If you feel as though it's okay and I can have my opinion, then that's fine too.

Chair Duvauchelle: Thank you. Commissioners do we have any discussion? Thank you Commissioner Carnicelli for the disclosure. And just for information, as the agenda states we are now taking public testimony after the agenda item has been presented not prior when the meeting starts. Okay, go ahead. Thank you sir.

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

3 **1. MR. WILLIAM SPENCE, Planning Director, transmitting alternative proposed**
4 **bills relating to Short-Term Rental Homes in the Pa`ia-Ha`iku Community**
5 **Plan Area, respectively described as follows:**
6

7 **a) A proposed bill titled “A BILL FOR AN ORDINANCE AMENDING THE**
8 **PA`IA-HA`IKU COMMUNITY PLAN RELATING TO VISITOR**
9 **ACCOMMODATIONS.” The purpose of the proposed bill to amend the**
10 **Pa`ia-Ha`iku Community Plan, adopted by Ordinance 2415 (1995), to**
11 **confirm Short-Term Rental Homes are allowed in Pa`ia-Ha`iku**
12 **Community Plan Area, consistent with Ordinance 3941 (2012).**
13

14 **b) A proposed bill titled “A BILL FOR AN ORDINANCE RELATING TO**
15 **SHORT-TERM RENTAL HOMES IN THE PAIA-HAIKU COMMUNITY**
16 **PLAN AREA.” The purpose of the proposed bill to amend Chapter**
17 **19.65, Maui County Code, to prohibit new Short-Term Rental Homes**
18 **in the Pa`ia-Ha`iku Community Plan Area.**
19

20 Mr. David Raatz: Thank you Madam Chair. Good morning Members, my name again is David
21 Raatz, Administrative Planning Officer with the Department of Planning. I just have a very brief
22 overview to explain why we're here today. It's a very simple slide show regarding the issue of
23 short-term rental homes in the Paia-Haiku Community Plan area. First, just some background on
24 transient vacation rental in Maui County.
25

26 There are basically two types of rentals, as I'm sure most of the members understand that long-
27 term rentals where there's a lease term of 180-days or longer or the category of transient vacation
28 rentals which is when you have a lease term of fewer than 180-days. TVRs are permitted uses
29 in some zoning districts as of right such has Hotel Districts for instance. TVRs may also be
30 permitted by the Council adopting an ordinance providing a Conditional Permit. In addition, the
31 Council has created two types of TVRs that are allowed with a permit in some zoning districts
32 certain to restrictions, standards established in the County Code. These are bed and breakfast
33 homes which are codified in Chapter 19.64 of the Maui County Code. There are various standards
34 and restrictions. Having an onsite owner is one of the key characteristics of B&Bs. Then short-
35 term rental homes which is in Chapter 19.65. Again, there's an array of restrictions and standards
36 in the Code but one of the characteristics is offsite ownership is allowed.
37

38 So there are two different policies on short-term rental homes established by ordinance that we
39 see as not being in harmony and we're seeking the Council to resolve the discrepancy and make
40 it clear policy choice and we're asking the Maui Planning Commission to make a recommendation
41 to the Council.
42

43 First is in the Paia-Haiku Community Plan which some of you had the hard copy it's in this purple
44 binder established by ordinance in 1995. At Page 17 there's a policy that states, "Limit visitor
45 accommodations to owner-occupied bed and breakfast establishments", and that was in the

1 quotes at that time. We didn't have a Bed and Breakfast established, "that are residential in both
2 scale and character. Any proposed bed and breakfast should not be situated near the shoreline
3 so to avoid the proliferation of this use and subsequent changes in the character of the region's
4 coast."
5

6 Then subsequently Chapter 19.65 of the Maui County Code was established by ordinance in
7 2012, and there are various limits of STRHs in the various community plan areas and the Code
8 currently says you can have up to 88 STRH permits in Paia-Haiku. There's currently 47. So the
9 Department's position, we've been regarding the Maui County Code and Chapter 19.65 as
10 reflecting the current County policy that short-term rental homes should be allowed within the
11 Paia-Haiku Community Plan area. That's why we've had 47 permits issued. But we are
12 requesting and proposing that the Council confirm this policy choice by amending the community
13 plan to specifically allow short-term rental homes.
14

15 So before the body today are various options. Number one, you can recommend to the Council
16 the approved...one of the bills that we've drafted and brought before you. The first one is to again
17 reflect our recommendation that the community plan should be amended to allow short-term rental
18 homes. The other option if you want to go the opposition direction and the Code consistent with
19 what the community says you could amend the County Code and change that to current
20 authorization of up to 88 STRH permits down to zero. We would, if that option is taken continue
21 to allow permit holders to renew their applications based on current law. Additionally, you could
22 recommend amendments to one or both of the bills that we've put before you. Could potentially
23 come up with a compromise position for instance to decrease the County Code's cap on short-
24 term rental homes in the community plan area. You could go from 88 to some other number.
25 That would require amending the community plan as well 'cause currently the community plan
26 language seems to essentially say you should prohibit STRHs in the Paia-Haiku Community Plan
27 area. So again, that's a conflict that we see here. That's the basic policy choice before the body
28 and the Planning Director and I would be happy to answer any questions. Thank you very much.
29

30 Chair Duvauchelle: Thank you. At this time, we'll open the floor for public testimony on Agenda
31 Item C-1. Registered to testify is Francine Aarona. Please state your name and you'll have three
32 minutes.
33

34 **a) Public Hearing**
35

36 Ms. Francine Aarona: Good morning Madam Chair and Members of the Commission. Before my
37 testimony I just wanted to ask a question primarily to Will Spence, our Planning Director. In...am
38 I to understand that at the time that this ordinance was done the Chapter 19.65, Ordinance 3941
39 was the community plan amended at that time to include the short-term rental?
40

41 Chair Duvauchelle: Director?
42

43 Mr. Spence: And this is for the benefit of the public and the Commission. The community plan
44 was adopted in 1995. At that time of that adoption it had that...it had that particular policy in there
45 to limit visitor accommodations to bed and breakfast establishments, okay, that are both

1 residential...that are residential in both scale and character. And any bed and breakfast
2 establishments should not be situated near the shoreline so as to avoid the proliferation of this
3 use and subsequent changes to the character of the region's coast.

4
5 Ms. Aarona: Thank you.

6
7 Mr. Spence: The Short-Term Rental ordinance was adopted significantly later than that. And as
8 we were going through that the proceedings and the hearings before the Planning Committee we
9 thought the Council was fully aware of this particular policy. And so they went ahead and adopted
10 a cap within the Paia-Haiku area, what is it, 88? And then you know, and so we're sitting there
11 going okay, we're approving this one and approving that one, and we're bringing Special Use
12 Permits before the Planning Commission for their review and adoption. And you've heard me in
13 a number of meetings bring this particular policy to your attention. Looking back on the minutes
14 of the Planning Committee meeting it's not clear that the County Council was aware of this
15 particular policy. So in order to clarify this and to say, okay we're gonna allow short-term rental
16 homes in the Paia-Haiku Community Plan region or we're not, we need to have the policymakers
17 make that decision. Policymakers in this case by ordinance is the County Council. So that was
18 a long answer to your question Mopsy. This policy existed way prior to short-term rental home
19 ordinance.

20
21 Ms. Aarona: Yeah, and I'm sorry, I you know forgot to state my name. Francine Aarona and they
22 call me Mopsy. I'm known as Aunty Mopsy from Protect Paia, and I'm here to of course ask that
23 question because in the memorandum that was sent out to the Maui Vacation Rental site you
24 know the other thing was the recommendations and the options which he brought up. You have
25 three bullets. One to recommend approval of one of the proposed bills as drafted to the Maui
26 County Council. And one recommend approval of one of the proposed bills with amendments to
27 the Maui County Council or vote to defer action of both proposed bills in order...

28
29 I'm a young person on this process of coming and testifying before the boards but I'm learning.
30 So with that...so I'm assuming that one of your proposed bills which is (a) the purpose of the
31 proposed bill to amend the Paia-Haiku Community Plan which was adopted 1995 to confirm the
32 short-term rental. That means that before you had the cart before the horse and now you're
33 putting the horse ahead to serve out this community plan which you're asking the Council now to
34 amend, to make it right to the 2012. Am I wrong? Am I right?

35
36 Chair Duvauchelle: Director?

37
38 Mr. Spence: Normally testifiers don't—

39
40 Ms. Aarona: I know, I know—

41
42 Mr. Spence: --don't ask questions.

43

1 Ms. Aarona: --and it goes with my testimony 'cause I wanted to be clear. I stayed up till two
2 nights. So I reading all the community plan, catching up on this and I know it's out of the ordinary,
3 but with that said—

4
5 Chair Duvauchelle: So if you can go ahead and begin your testimony and you'll have three
6 minutes.

7
8 Ms. Aarona: I can go with my testimony.

9
10 Chair Duvauchelle: Yeah.

11
12 Ms. Aarona: So the goal of the community plan was a community that preserves the region's
13 small town ambience and rural character, coastal scenic vistas and extensive agriculture land use
14 and accommodates the future needs of residents at a sustainable rate of growth and in harmony
15 with the region's natural environment, marine resources and traditional use of the shoreline and
16 mauka lands.

17
18 Now it amazes me that back in 1995, 13 people met for 21 days as a part of this community
19 advisory committee and they deliberated 225 days to protect the growth of Paia-Haiku District. A
20 well thought out plan that would allow our people to live a peaceful life and allow change to grow
21 with them. I strongly recommend to this board and the Planning Committee that any future
22 amendments that you make to the Paia-Haiku Community Plan that you have a town meeting in
23 the evening so that the community can have an input and be well aware of the changes that will
24 affect them especially our young adults with families who continue to protect their style of living.

25
26 Referring to your second proposed bill. I feel you should stop future short-term rentals and send
27 a taskforce to investigate illegal rentals in Paia-Haiku area. Many of our residents are unaware
28 of filling out an RFS to get your attention. Some of our town friends have short-term rentals that
29 has the community in their best interest. So I ask that you allow those people to have their short-
30 term rental and allow them to renew their permits. We have friends that have short-term rentals,
31 we're not against it. But when you affect the community plan or make any changes to the
32 community plan, I urge you have an evening meeting. Let the community come forth. It is a
33 community plan. You figure 225 days they deliberated to put this plan together, what we're talking
34 a week or a month or so that you're having to make decision. So thank you so much. I really
35 appreciate it.

36
37 Chair Duvauchelle: Thank you. Any questions for the testifier? Commissioner Carnicelli?

38
39 Mr. Carnicelli: Good morning Aunty Mopsy.

40
41 Ms. Aarona: Good morning.

42
43 Mr. Carnicelli: So you said that you have friends that have short-term rentals and you're not
44 necessarily against those.

45

1 Ms. Aarona: Correct.

2

3 Mr. Carnicelli: Are any of them located near the shoreline?

4

5 Ms. Aarona: No.

6

7 Mr. Carnicelli: Okay.

8

9 Ms. Aarona: There is one that is my neighbor that's not my friend that has a shoreline rental if
10 want to be specific.

11

12 Mr. Carnicelli: I'm saying, but near the shoreline. I'm not saying on the shoreline, I'm saying near
13 the shoreline?

14

15 Ms. Aarona: If you consider I'm on the shoreline. My renter is next to me further toward the town.
16 So I'm the shoreline. Yeah.

17

18 Mr. Carnicelli: How would you define near the shoreline?

19

20 Ms. Aarona: The beach is right there. That's my backyard.

21

22 Mr. Carnicelli: Okay. Got it. Thank you.

23

24 Ms. Aarona: Okay.

25

26 Chair Duvauchelle: One moment. Commissioner Robinson you have a question?

27

28 Mr. Robinson: Aloha.

29

30 Ms. Aarona: Aloha.

31

32 Mr. Robinson: You know I think the problem is we have a lot of friends. All of us have friends, all
33 of us want to be nice people and when the Commission comes it hard for us to reject people.

34

35 Ms. Aarona: Exactly.

36

37 Mr. Robinson: Even though this permit right here and this community plan and these 225 days of
38 deliberation says don't do this, we don't want this, we still do it anyway because we're inherently
39 good people.

40

41 Ms. Aarona: Yes.

42

43 Mr. Robinson: But right now there's a situation where you're saying we wanna follow the plan but
44 my friends are okay. So I think that's the challenge we have. And so my question to you is if you
45 had to choose between no short-term rentals and friends get affected or everybody is in the same

1 boat 'cause we can't pick and choose, right, it's America. So that's the question that's in front of
2 us today. So we can't pick and choose, but if we had to go all or nothing which side would you
3 be on?

4
5 Ms. Aarona: No short-term rental.

6
7 Mr. Robinson: Okay.

8
9 Ms. Aarona: And my friends would agree, I mean, would be along my side.

10
11 Mr. Robinson: Thank you.

12
13 Ms. Aarona: And that's why I made that comment.

14
15 Mr. Robinson: Thank you.

16
17 Chair Duvauchelle: Any other questions? Thank you very much.

18
19 Ms. Aarona: Thank you.

20
21 Chair Duvauchelle: Next testifier, Terry Tolman. State your name, you'll have three minutes.

22
23 Mr. Terry Tolman: Good morning, my name's Terry Tolman and I'm a resident of Haiku. I've
24 been living in the Paia and the Haiku area since 1982. Thank you Commissioners, Director and
25 Chairperson for allowing us to testify. I'm testifying on Agenda Item 1. I do not recommend an
26 amendment to outdated community plan nor change to Title 19.65. It's a very complex situation.
27 You got a community plan that should have already been updated but isn't and I know they take
28 a long time. The recommendations in this ordinance don't fit the community of today. At the time
29 of forming legislation for short-term rental there was a lot of community support especially in the
30 Paia-Haiku area. There are a lot of feelings about it we know. Public hearings were held,
31 recommendations from the commission were heard, numerous hearings from the County Council
32 and Corporation Counsel when they approved the Chapter 19.65 or .65. I would suggest don't
33 make a rash decision or a quick decision. Study it better and perhaps see if we can accelerate
34 the updating of the community plan for Paia and Haiku. Nobody wants to see it all vacation
35 rentals. They do provide a viable function and accommodation of place for tourists to stay besides
36 the hotels and give it some thought. It's easy to make a rash decision that you pay the
37 consequences for it later, when either way they get to decide and hope that you give it some
38 thought and I enjoyed seeing the presentation that gave more than two options. Thank you very
39 much.

40
41 Chair Duvauchelle: Thank you. Any questions? Thank you very much. Next testifier Barbara
42 Barry? Please state your name, you'll have three minutes.

43
44 Ms. Barbara Barry: Good morning everyone. My name is Barbara Barry and I'm a resident of
45 Haiku, and personally after looking at luckily three options, I support the idea of stopping...really

1 getting community input on this and making a choice based on the community...updating the
2 community plan and not just making rash decisions with full community input. This is a really
3 delicate topic considering we have such a short...such a housing rental shortage. I see it all the
4 time in my moku where people are needing to move for some reason or another, their home gets
5 sold or the house that they've been renting gets sold and they can't find affordable housing. And
6 the more short-term rentals we have the less affordable housing is available to people that want
7 to raise their families in a rural area away from the tourist zones. And I just think it really needs
8 to be carefully considered before having either a (a) or (b) option. There's too much at stake
9 and...it needs to be fair and across the board for everyone. We have infrastructure problems with
10 roads and traffic jams and you know, adding more short-term rentals without a plan is really not a
11 well-thought out idea. So that's my recommendation. Thank you so much. Any questions?
12

13 Chair Duvauchelle: Thank you. Any questions for the testifier? Thank you very much. Next
14 testifier, Tim Wolfe. State your name, you'll have three minutes.
15

16 Mr. Tim Wolfe: Got my timer ready to go here. Aloha to the Planning Commission and Planning
17 Department members. My name is Tim Wolfe. I have lived and worked on Maui for almost
18 30 years. I'm very involved in community affairs. I serve as the Treasurer of the Haiku Community
19 Association and have recently become a member of the Maui Vacation Rental Association as
20 well. My wife and I are fortunate to own two properties in Haiku at 22 Laupapa Place. I have a
21 cottage that has been in long-term rental for years. It's a terrific spot at an affordable price and
22 my school teacher tenant loves it. It has generated GET revenue for the State for a long time.
23

24 We also own a property on Kahope Place it includes a Maui County permitted B&B vacation rental
25 that generates both GET and TAT tax revenue. When my Hungarian wife was learning to speak
26 English she watched every episode of I Love Lucy and became an extreme fan of Lucille Ball. If
27 you search Airbnb for a vacation rental on the north shore of Maui you may find the Lucy Fan
28 Ohana. What you will also find is a long list of positive reviews from our guests that keeps our
29 modest neighborhood rental continuously occupied. With our guests we create goodwill and great
30 word of mouth about a vacation on Maui. With our neighbors, we enjoy a solid reputation for our
31 low impact on our street which is nowhere near the shoreline. It would be an error in judgment
32 by our county government to cancel our legal status or to fail to renew our permit years from now.
33 The law may have some flaws, it can be addressed over time, but it is responsive to our modern
34 conditions. A 20-year-old island plan is simply out of our touch with our digital economy.
35

36 A final remark, I property manage my neighbor's home across the street because he is working
37 on the mainland for the foreseeable future. That property has two long-term affordable rentals, a
38 three-bedroom, two-bath family rental with a fenced yard for pets pretty rare, and a comfortable
39 one-bedroom studio. The owner may be able to spend more time on Maui starting next year and
40 he hopes to be able to utilize the cottage himself from time to time, but what can he do with the
41 property when he or his family cannot be here? A short-term rental housing permit for the cottage
42 with responsible, knowledgeable, local management would be the best use of that unit. If a STRH
43 permit becomes unavailable what is his option to make the highest and best use of his property.
44 We are ready to file an STRH permit request in the near future.
45

1 We believe that it would be in the best interest of all our citizens to leave the well-established rules
2 in place at this time. It is always healthy to review permit requirements from time to time. It would
3 be a poor choice to climb into the way back machine and create shocks and tremors in a healthy
4 and active segment of our vacation economy. So we recommend deferring action at this time,
5 Option No. 3 in David's presentation. And of course, none of this means anything without
6 confidence in government and business to respect and enforce the law, please police the permits.
7 Thank you for your attention to this(inaudible)...testimony. 3:01.25

8
9 Chair Duvauchelle: Good job. Any questions for the testifier? All right, seeing none, thank you
10 very much. Next testifier Greg Mabel?

11
12 Mr. Greg Mabel: Mabel.

13
14 Chair Duvauchelle: Mabel.

15
16 Mr. Mabel: Thanks for letting me speak today. I'm gonna reiterate some of the things that were
17 already said. I'm Greg Mabel. I live in Paia. I have a short-term rental. I also work in real estate
18 and have a bunch of friends that have short-term rentals or work within short-term rentals meaning
19 housekeepers, landscapers, people who own restaurants, people who own shops in Paia or
20 Haiku. There was a time in Maui when all the short-term rentals were effectively ended and it was
21 a big problem in Paia and Haiku actually for a lot of the business owners and for a lot of people
22 who were employed. There were fewer jobs, et cetera. So that's when everyone kinda put their
23 heads together and created this program to have a short-term rental or B&B permits which is
24 working well. Sure there's bumps in the road but it's the newest thing. It did consult the community
25 plan originally and it just needs to be able to evolve. And I think that this, it sounds like this is part
26 of its evolution looking at this contradiction.

27
28 One issue or two issues I was gonna bring up and just stop me when my times ends up or is over.
29 But one of them is, you know the idea of putting these two documents in alignment obviously is a
30 good idea so there's no questions. Some of the proposed language talks about the shoreline
31 which is...it's undefined what's near the shoreline. Another part of it is whether it changes the
32 character that's also undefined. However, within the short-term rental process every single permit
33 gets scrutinized for exactly that. Does it change the character of the neighborhood? How is it
34 changing? Is it acceptable? All the neighbors have...are asked, they get certified mail, they get
35 an option to chime in every single time. So that's really...it's already been addressed.

36
37 And then finally, you know the numbers here, someone brought up affordable housing in Maui
38 that's a huge a problem. We need, I just heard Paul Brewbaker speak who's a Hawaii economist
39 who said we need 1,400 new units on Maui a year, 14,000...thousand excuse me. What we're
40 talking about are 48 permittees in Paia and Haiku. These are two separate, totally separate
41 issues. If you look at short-term rentals and this as a fix for our affordable housing problem. It's
42 not a fix. That's a separate issue. Anyway, thank you. Any questions for me?

43

1 Chair Duvauchelle: Thank you. Any questions? Thank you very much. That was the last of the
2 people that signed up. Anybody else wishing to testify please come forward? You can just go
3 up, you don't have sign. State your name you'll have three minutes.

4
5 Mr. Tom Croly: I'm Tom Croly and today I'm speaking on behalf as a volunteer of the Maui
6 Vacation Rental Association. The Maui Vacation Rental Association supports all efforts to
7 effectively regulate bed and breakfasts and short-term rental homes on Maui. Having said that,
8 we question the need for what's before you today. Obviously we do not support setting the cap
9 for STRHs for Paia-Haiku at zero. We compare this to abandoning a functioning ordinance. But
10 neither do we support the idea of making changes to an objective in a community plan that is
11 nearly 25 years old. This should be done as part of the upcoming community plan updates.

12
13 The implementing action that's contained in the Paia-Haiku Community Plan related to the
14 proposed policy objective was, and I quote, "establish and enforce regulations for bed and
15 breakfast establishments conducted by owner-occupants within single-family dwellings to ensure
16 that they will be situated in appropriate areas and not adversely affect the surrounding
17 neighborhoods. The regulation should include but not be limited to criteria related to location and
18 size of operation.

19
20 This policy was implemented in 1998 with the adoption of the first B&B ordinance. That B&B
21 ordinance totally failed because it was too restrictive. After more than a year and a half's review
22 and scores of public input and meetings that ordinance was amended in 2008, and was far more
23 successful because the regulations made sense and allowed more properties to comply. Then in
24 2011 and 2012, with tremendous support from the Paia-Haiku community and full consideration
25 of the objectives contained within the Paia Community Plan, the County Council established the
26 Short-Term Rental Ordinance. It contained things that had been learned over 20 years since this
27 was first discussed as part of the Paia-Haiku Community Plan.

28
29 The commission should be supplied with the minute from all the community meetings and the 16
30 public hearings and County Council meetings from when the Short-Term Rental Ordinance was
31 promulgated rather than just being asked to make comment on amending a 25-year-old
32 community plan objectives. Perhaps the community plan objective for promoting sugar cane and
33 pineapple for Haiku might need to be updated as well. I'm being facetious there.

34
35 While community plans are important for guiding policymakers in establishing laws, it is
36 backwards to be going back to an old community plan after laws considering them have already
37 been established. I think Mopsy put it best. We don't want to put the horse before cart, cart
38 before the horse.

39
40 Ms. Takayama-Corden: Three minutes.

41
42 Mr. Croly: So we've come to where we are. It's time to review the community plans, let's do that
43 appropriately. Thank you.

44
45 Chair Duvauchelle: Thank you. Any questions? Commissioner Robinson?

1
2 Mr. Robinson: Hi, do you have...could I have a copy of that on the letterhead of your association
3 that you just spoke for?

4
5 Mr. Croly: Sure I could do that. I don't have--

6
7 Mr. Robinson: I mean you said you're speaking for them right?

8
9 Mr. Croly: I am speaking for the Maui Vacation Rental Association, correct.

10
11 Mr. Robinson: And could you give us copies of that speech that you just read from them, please?

12
13 Mr. Croly: I suppose I could. I don't have that today.

14
15 Mr. Robinson: You don't? Okay, thank you.

16
17 Chair Duvauchelle: Commissioner Carnicelli?

18
19 Mr. Carnicelli: Good morning, Tom. So I guess, you know we're...it's an interesting thing before
20 us because we have a community plan that I think somebody said 225 days-worth and you know
21 all these meetings and things like that, but we also have an STRH and a B&B Ordinance that was
22 the same. When the STRH and B&B Ordinances were vetted I believe there was a bunch of
23 meetings as well as this sort of thing discussed or like...how was this addressed in those
24 meetings?

25
26 Mr. Croly: You know, I can't speak to the exact what was discussed at every single one of those
27 meetings, but I can say that there is a record of those meetings on file and there were community
28 meetings held within the Paia-Haiku community at the time of both the Bed and Breakfast
29 Ordinance and the Short-Term Rental Ordinance promulgation. And those included the
30 community merchants association. Those included the Paia-Haiku Community Association. No
31 one can say that Paia-Haiku was not consulted you know during this process. And then when we
32 got to County Council, both of these ordinances took more than a year to get through County
33 Council where we had meeting after meeting and again, these things were discussed at that time.
34 As well, Corp. Counsel reviewed each of the bills that came through for, you know, their
35 application. So I'm just saying at this moment that I don't think you have a full record before you
36 to be able to be making a recommendation on either of these policies with respect to the Paia
37 Community Association's or the Paia-Haiku Community Plan that was originally discussed let's
38 be clear in 1992 and 1993, although it was finally adopted in 1995. So we really talking about
39 something that's about 25 years old at this point.

40
41 Chair Duvauchelle: Thank you. Thank you very much.

42
43 Mr. Croly: Thank you.

44

1 Chair Duvauchelle: Anyone else wishing to testify? Please come forward. Please state your
2 name and you'll have three minutes.

3
4 Ms. Tiare Lawrence: Aloha Commission. My name is Tiare Lawrence. I kinda looked over this
5 briefly but I do wanna say that for 1b the purpose is to prohibit new short-term rental homes, I
6 think the proposed bill should actually read or maybe should be considered as to just cap it at 88
7 for now until the community plan is updated. I think that's the more logical and fair way to
8 approach it rather than just saying banning, no more new, because there is a lot of legitimate
9 people that have worked really hard and having been complying with County and I'd like to see
10 them maintain that for now and then let the community decide when the community plan updating
11 comes. As you folks know that affordable housing is a huge crisis right now and I personally am
12 not a huge fan of short-term vacation rentals. I understand this is a very complex situation. But I
13 do feel that Haiku and Paia, in Skill Village you have a lot of illegal vacation rentals on Airbnb and
14 all these VRBO sites. You ever have a chance to skim, I like to go and check like every two to
15 three days to see what new ones pop up and I was surprised to find out that there was multiple
16 ones in Skill Village and I know personally living in a neighborhood that is very rural and old school
17 families, I don't like the...I don't like being bombarded with tourism in my neighborhood. That's
18 kinda the main reason why I moved out of Lahaina is because it just got too crazy. Something to
19 consider, but never a huge fan of amending the community plan. I think that we need to get on
20 this community plan soon and try to find compromise within the means of the community versus
21 just saying no or you know, it needs more vetting so, thank you.

22
23 Chair Duvauchelle: Any questions? Thank you very much. Anyone else wishing to testify?
24 Please state your name you'll have three minutes.

25
26 Ms. Catherine Clark: Aloha Commissioners. My name is Catherine Clark and I'm board member
27 of the Maui Vacation Rental Association. When the Bed and Breakfast and Short-Term Rental
28 Home Ordinances were crafted there was significant community outreach and many meetings in
29 Council Chambers. There were many opportunities for community members to come forth to
30 express support or concern and many took that opportunity to let their voice be heard. One of the
31 concerns was proliferation and community plan caps were imposed to be certain that this was
32 tightly controlled.

33
34 From Baldwin Beach out to Huelo and up into the country of Haiku the total number of short-term
35 rental homes that can be permitted is 88. This control was necessary to limit impacts to housing
36 and to address the character of the area. Because there are still many illegal operations we have
37 yet to see the results of what these controls will look like. Keep in mind that visitors are attracted
38 to the north shore. There's a need for short-term lodging for family visiting local residents and to
39 provide jobs in Paia, Haiku where residents can work close to home. Where there is demand
40 there will be supply. Lacking legal rentals the illegal market will simply explode operating without
41 the rules imposed on the short-term rental homes.

42
43 But why are we focused on this one inconsistency? The community plan also has an objective
44 and policy of prohibiting, not limiting, but prohibiting hotel resort development within the region,
45 but just a couple of years ago a change was made to B-CT zoning to allow small hotels. This

1 would seem to be a greater conflict than the one we're discussing today. As you read through
2 the plan, there are many other policies that don't match the activity that's taking place in the area
3 today. This issue is best addressed in the upcoming community plan update which will be an
4 opportunity to review all of the issues that exists in the Paia-Haiku area. It is impossible to isolate
5 one item from the plan and consider it without considering the broader scope of the plan. Thank
6 you.

7
8 Chair Duvauchelle: Thank you. Any question? Thank you very much. Anyone else wishing to
9 testify, please come forward? State your name and you'll have three minutes.

10
11 Mr. Billy Jalbert: Good morning Commission Members. My name is Billy Jalbert and I am a
12 resident of Paia. I am also a owner of a small real estate brokerage in Paia and I am also a board
13 of member of a local not-for-profit. I am deeply entrenched in my community and I care deeply
14 about Maui.

15
16 I recently read an article in Outside magazine, and it was titled, how STRs are killing the mountain
17 town. It was actually an incredibly thoughtful article and I saw a lot of parallels between Maui and
18 these mountain town. But what I also learned as I uncovered and looked a little further was that
19 the STR and B&B legislation that Maui has taken a lot of time and a lot of effort to put in place is
20 some of the most forward thinking legislation in the country when it comes to STRs and it was
21 specifically designed to protect the fabric of our communities while enabling a new type of tourism
22 to our island which is in strong, strong demand. There's an old term called throwing the baby out
23 with the bathwater and I think that modifying the community plan or modifying the legislation to
24 comply with the community plan would be throwing the baby out with the bath water. Right now
25 we have STRs and B&Bs that are providing tax revenues and jobs to members of our community.
26 These are things that will help us with infrastructure, with education and with all the things that we
27 need in our community. We have very, very common laws in place. What I am in strongly in favor
28 of is increased enforcement of those laws. As you've heard over and over from other testifiers
29 and other testimonies there's still a lot of illegal vacation rentals going on on this island. People
30 have worked very hard to comply with the rules. They're doing the right thing. Now we need to
31 do right by them and have increased and more strict enforcement that way we will preserve the
32 fabric of the community that we have and that we all love and we have also provide business
33 opportunities for local residents. That's it. Thank you.

34
35 Chair Duvauchelle: Thank you. Any questions? Thank you very much. Anybody else wishing
36 to testify? Okay, seeing none, public testimony is now closed. Director?

37
38 Mr. Spence: Okay, thank you Madam Chair and I think it's important I make some statements
39 here. First off, when we look back at the minutes I mean there's testimony about how this
40 was...how the Short-Term Rental Home Ordinance was fully vetted through the communities and
41 there was a lot of input from Paia and Haiku residents that's true. However, this specific provision
42 of the Paia-Haiku Community Plan was never discussed in this specificity.

43
44 One of the things that it's fairly constant comment, are you following the community plan? Are
45 you following the community plan? The community plans have the force and effect of law. And

1 there's even in County Code 2.80B requires that all departments follow the provisions of the
2 community plans and the General Plan. That's why this is before you today. 'Cause if we follow
3 this specific provision of the community plan as it is you know, we may just be denying all short-
4 term rental home permits within the Paia-Haiku Community Plan area. That's how seriously we
5 take this. We're not in favor of that. But we can't reconcile the two things.

6
7 We're not in favor of prohibiting short-term rental homes within the Paia-Haiku area. We think the
8 existing cap that stands at 88 should stay in place. That we allow at least that...you know, up to
9 that amount within this community plan area. But we have to have...you know, what we're doing
10 is we're bringing to you a choice. Either we're gonna say, we should allow short-term rental homes
11 within the Paia-Haiku Community Plan area or we're not. We're either gonna follow the
12 community plan which says, no, this community plan provision says, no short-term rental home
13 permits only B&Bs and those should not be situated near situated near the shoreline. I agree with
14 the testifier, I don't know what, near the shoreline means. You know, is that walking distance, is
15 that driving distance, I don't know. That's not very clear. But certainly B&B, owner-occupied
16 B&Bs that's very clear. We agree that this community plan is old. At the time, and I don't think
17 there's anybody here except for myself who were involved with that community plan. I was the
18 staff planner. I see Mr. Frampton hiding in the back. I was one of the staff planners along with
19 Mr. Frampton assigned to this community plan so I remember the discussion that at that time they
20 were very concerned that just B&Bs would be allowed. So that's why that ended up in that plan.

21
22 Okay, to put this decision making off until the community plan is updated and I wish we were on
23 it right now. Unfortunately the way that the General Plan and the community plans have gone
24 down in implementing the new law the General Plan started updating in 2006, and nobody ever
25 really took a look at the timeline and the amount of time it would take to update. So we are very
26 far behind and to wait for decision making on this particular community plan...we're just starting
27 on West Maui. We have Molokai up at Council right now. We're just starting on West Maui, then
28 comes South, then comes Central, then comes Makawao-Pukalani-Kula, then will come the Paia-
29 Haiku Community Plan. We're probably five years out before this discussion ever takes place. In
30 the meantime, there are law abiding property owners who want to come forward and get permits
31 and we think it's unfair to them to wait, you know, to have this dichotomy of okay, you should be
32 following the community plan which says don't permit any short-term rental homes versus you
33 know what the County Council has passed in setting a cap and with the more recent input from
34 the community from you know, all the discussion on the short-term rental homes. So we're trying
35 to reconcile this.

36
37 The Planning Department's decision is we should, we should change the community plan to allow
38 short-term rental home that will not change the cap that will just reconcile what the community
39 plan is saying right now.

40
41 And then the alternative if the Members feel strongly enough that there should be no short-term
42 rental homes at all in that community plan area you can vote to set the cap at zero and follow
43 what the community plan says. Was that...make sure I covered...okay, that pretty much covers
44 my comments. I'm certainly available Commissioners for questions.

45

1 Chair Duvauchelle: Commissioner Higashi?

2
3 Vice-Chair Higashi: I have a question regarding this proposal from the standpoint that it sounds
4 like we could defer it so that the communities in Paia and Haiku will have an opportunity to make
5 input before the Commission itself does action on it. Is that a possibility or is there a time element
6 that says that we must act on it?

7
8 Mr. Spence: That's certainly an option for the Commission to recommend. The problem with that
9 is we have applicants who have applied and they're waiting for their permits and we could very
10 well just...it's difficult for us to say you're approved or you can go forward and we have one
11 applicant here today with the way that things are.

12
13 Chair Duvauchelle: Commissioner Higashi?

14
15 Vice-Chair Higashi: So is there a possibility that this particular ordinance give temporary permits
16 until such time that they community association has input in this proposal?

17
18 Mr. Spence: There's really no such thing as a temporary permit, and how it would create more
19 problems than it would solve to say okay, you can short-term rent now and then let's say the
20 consensus is okay, no permits. Okay, now we're gonna take away your short-term permit. That
21 creates hardship for property owners that I don't want to even approach.

22
23 Vice-Chair Higashi: So our choice basically is either to accept or defer or deny? Those are our
24 three options.

25
26 Mr. Carnicelli: That's not what they presented. That is an option...

27
28 Mr. Spence: The options that we've presented to the Commission, and remember you're making
29 a recommendation to the Council. You're not making the decision. Recommend approval of one
30 of the bills either as they're drafted, ether set the cap at zero thus following the community or
31 amend the community plan to allow the cap of 88 to allow short-term rental homes to go forward
32 and that cap of 88 would remain. That's one option. You can recommend changes to either one
33 of the bills. And then you can defer action on that.

34
35 Chair Duvauchelle: Commissioner Carnicelli?

36
37 Mr. Carnicelli: So after listening to all of the testimony and reading over it, I understand where the
38 Department's coming from, however I will respectfully disagree that this...we have a gun to our
39 head because when we start talking about the community plan one of the things about that people
40 talk about the community plan over, over, and over again that there was so much effort put into
41 the community plans. For us to do an hour worth of three-minute testimony and then to just make
42 a chance and recommendation and say okay, let's go forward I think is a little bit rash. To me,
43 I'm in favor of deferring this at the very least to get additional information because there's still
44 some nebulous language in this, near the shoreline, proliferation, subsequent changes, you know
45 what do those mean?

1
2 Apps didn't exist when this community plan was put together. Uber didn't exist. Airbnb did not
3 exist. You know the shared economy wasn't a thing then so they didn't consider it in 1995. It
4 wasn't considered the shared economy. It's just the way it is. It's the way that things have
5 evolved, good or bad, like it or don't like it, it's just kinda it's the new economy. Airbnbs are gonna
6 work. You like...(inaudible)...surfing wasn't really a thing. I guess it was a thing then, but standup
7 paddling wasn't. Kite surfing wasn't even a thing yet. You know, when you talk about what
8 happens in Haiku and the people that go to Haiku specifically for what Maui has to offer and what
9 the north shore has to offer is obviously this community plan is extremely dated in that, you know,
10 those things didn't exist, we couldn't...you know we couldn't consider those things because they
11 just weren't there. So us to in a meeting say, okay, well we're gonna now change this to match
12 an ordinance which was equally as vetted, and you know, there was just as many conversations
13 as there was in the community plan. I just think that we need to get more information on this of if
14 nothing else just to clean the language up to be more specific so the community knows what
15 they're getting into. You know, multiple testifiers are saying like the community wants more input.
16 You know we had a handful of testifiers show up for three minutes. When we do community plan
17 updates it's 18 months of community input, six months of CRC, six months of planning
18 commission, and then a year at Council and we're doing it in a meeting. I just think that we need
19 to really understand what we're getting into before we just make a recommendation. So I'm gonna
20 make a motion to defer to get more information.

21
22 Vice-Chair Higashi: Second.

23
24 Chair Duvauchelle: Okay, discussion on the motion? Commissioner Robinson?

25
26 Mr. Robinson: I'm an opponent of short-term rentals and I think you know there's been a lot of
27 schematics I thought today you know proliferation is a word which means rapid increase. You
28 know, near the shore. We gave a house on the rocks with the water lapping to the backdoor I
29 think I can call that close to the shore. So I we gotta stop playing around and saying, oh we're
30 not sure, we don't know. You know this kind of misinformation, this kind of you know, schematics
31 it doesn't do anybody any good. And it's unfortunate that it's still happening and you know that
32 kind of clouds the issue here. I have a question still, I know there's a motion, but I have a question
33 still with the Department, you spoke about we, we feel this way, we feel that way, who is "we"
34 actually, Will?

35
36 Chair Duvauchelle: Director?

37
38 Mr. Spence: Certainly as a Director I have issues with what the two, what the community plan
39 says versus what the County Council passed as Short-Term Rental Ordinance with the cap that
40 it has. I would say that's true for the management of the Planning Department. We discuss this
41 regularly, staff planners who process these permits, in Zoning Enforcement they have issues with
42 this. This would resolve...to me deferring doesn't resolve the issue. We're just gonna put a whole
43 bunch of people on hold for I don't know how long until it is resolved.

44
45 Mr. Robinson: Is "we" the Planning Department?

1
2 Mr. Spence: Yes.

3
4 Mr. Robinson: Is “we” the County? Is “we” the Mayor’s Office?

5
6 Mr. Spence: We, the Planning Department.

7
8 Mr. Robinson: We, the Planning Department?

9
10 Mr. Spence: Yes.

11
12 Mr. Robinson: Okay.

13
14 Mr. Spence: I’m charged with administering our Zoning Code and community plans.

15
16 Mr. Robinson: Okay. Fellow Commissioners I feel, I feel our problem here today is two major
17 things. The one major thing is Paia and Haiku is being grouped together. Haiku is a large, vast
18 area, lot of space, lot of rooms for people to do and Paia is a condensed area, very condensed,
19 you know, and business oriented. We know with homes in the background. And with putting the
20 cap at you know, if we were to spread it out per acre, we can see where the majority of these
21 rentals which is a money generating business is in Paia and then Haiku is spread out. I think this
22 Commission has always been open with the bed and breakfasts. I think we enjoy bed and
23 breakfasts. I think bed and breakfasts is the aloha spirit of inviting somebody into your home and
24 having a different type of experience for rental people and for vacations and I think that’s what a
25 lot of people want to talk about. A short-term rental is a totally different category. It’s somebody
26 having a home, renting it out and making money as a mini hotel and we have those, like I’ve said
27 before, we have zoning for that it’s called a TVR. We have areas all over the island where people
28 can do that and we’re always tasked with saying, okay people want to do a TVR in this residential
29 area, can you come here and give a special permit for that because we feel that these people
30 have a special need, but the special need is always finances. Okay, there’s a lot of illegals and
31 the illegal is because the lack of enforcement from the County of Maui, from the Planning
32 Department, from I don’t if it’s funding or the budget and we don’t have any enforcement. We
33 have RFSs, we have people drive-bys, but that’s really our problem. You know, if we were
34 able...like the testifier said, if we’re able to get rid of all the Airbnbs and we’re able to get rid of all
35 the VRBOs and have everybody legit these applicants come up would be not seen you know. But
36 you know we like that. But right now is we have people that are saying they’re part of the
37 community, but they don’t live in the community, they rent the house in their community. There
38 are people who say they have business in the community, but their business is renting out the
39 property in the community but they can’t live in the home because it’s a short-term rental. It’s not
40 a vacation rental. And over the last six months we’ve given at least a handful of Paia, not Haiku,
41 Paia short-term rental even though the community plan says that they don’t want short-term rental.
42 Us, as a commissioners, we have overstepped the community plan and we’ve said well, I know
43 the community plan says this, but we’ve given it anyway. And I feel that that’s where the Planning
44 Commission is like...I mean, the Planning Department is like you know, we gotta define this
45 because if somebody wanted to go ahead and file a lawsuit here we are we’re stuck in court,

1 we've promised people permits to where they can take reservations and have a monetary value
2 to it, and then we have a legal issue where we're going against what we're saying in ourselves.
3 And so to defer this isn't going to fix anything. I think, I think is we should give a recommendation
4 and the recommendation could be to split up Paia and Haiku. Our recommendation could be to
5 do three or four things. It doesn't have to be one, but it's just a recommendation. And then even
6 after our recommendation, the County Council decides when they want to talk about this and as
7 we know it could be three months, it could be two years because they make their agenda. I mean,
8 I'm just being serious. You know, to just defer does nothing. It's going to come back where these
9 people and these permit holders are gonna come and they're gonna, they're gonna ask for permit
10 again, and I'm gonna say the same speech were we're going against the community plan and
11 they're gonna have a permit and the County's gonna have another notch where okay, somebody
12 can still you know contest this permit that we're trying to make people lawful. Is I think that there...I
13 think we should have some discussion about either we're gonna make it lawful or we're not gonna
14 make it lawful. The 88 is a cap, it's not a minimum. We don't have to have a minimum of 88
15 short-term rentals in Haiku-Paia. That's the majority, but we can have a minimum of two. You
16 know, so there's a lot to address and I think deferring is not going to do anybody any good. I think
17 we should try to come to a recommendation and at least work at one and then if we don't come
18 up with something then maybe defer. Thank you.

19
20 Chair Duvauchelle: Yeah, we have the motion on the floor. Commissioner Carnicelli?

21
22 Mr. Carnicelli: I get where Commissioner Robinson is coming from, and I love the fact that he's
23 consistent about being an opponent of short-term vacation rental homes. But that's not the
24 conversation whether or not we like them or don't like them or we agree with them or shouldn't or
25 whether they're money making venture. The community's already agreed that they exist and
26 we're gonna allow them. That's why we have an ordinance. We created an ordinance for them
27 to exist because prohibition has never worked on anything. Oahu has a prohibition on short-term
28 vacation rentals, not allowed. Barack Obama stayed there in one. So prohibition is not going to
29 work. And so to suddenly say, okay you know separate Paia and Haiku, I mean all those are
30 great ideas, but now suddenly we're rewriting the community plan. Now, we're suddenly saying
31 like okay, and there is a lot of discussion that needs to happen, you know, so on one hand saying
32 okay, a lot of discussion needs to be happen, but then okay, well we don't want to defer, so when
33 the discussion gonna happen?

34
35 And I guess so here's...I do have a question for you, Director, and that is this has existed since
36 2012, this discrepancy, five years later we're going oh my God we have to do it now. Why?

37
38 Chair Duvauchelle: Director?

39
40 Mr. Spence: It's more a recent relook at the...this particular conflict has existed for a number of
41 years now and we just finally got down to looking at the minutes, we got down to looking at
42 specifically okay, was this addressed when the County Council adopted the Short-Term Rental
43 Home Ordinance? And the testifiers are correct, there was a lot of input from that area in favor of
44 providing you know some provisions for short-term rental homes in the Paia-Haiku area, but the
45 community plan which we are supposed to follow does not and this was never specifically

1 addressed even though there was lots of testimony from people from that area this provision of
2 the community plan was never addressed in any of that discussion. So we need to follow our
3 community plans and we see this the way to address it.

4
5 Community plan amendments are not unusual. You see them, it's not very usual see changes to
6 the text. But there are fairly regularly there are changes to the land use map, that's what
7 everybody would be most familiar with. You, you know, change the map for a school or for
8 additional housing or something like that and it triggers an EA and all that stuff. It's not unusual
9 to amend community plans. What's unusual about this is is part of it is the text and part of it is
10 the Planning Department is initiating it.

11
12 Chair Duvauchelle: Commissioner Higashi?

13
14 Vice-Chair Higashi: I'm basically very concerned about the idea that we create ordinances,
15 et cetera, but we don't have any enforcement teeth in it. That's why what happens is that we
16 create more laws which creates more illegal because there's no enforcement. And one of the
17 things I think we should first address is how we're gonna get people to follow the ordinance and
18 law and go from there because right now we have not really enforced a lot of the ordinance that
19 we have today and we need to take a look at that.

20
21 Chair Duvauchelle: Okay, any further discussion on the motion? Commissioner Castro?
22 Commissioner Castro?

23
24 Mr. Castro: I have a question for the Director? The community plan right now is capped at 88?

25
26 Mr. Spence: Correct.

27
28 Mr. Castro: So how many are actually operational right now?

29
30 Mr. Spence: We've issued—

31
32 Mr. Raatz: Forty-seven.

33
34 Mr. Spence: Forty-seven.

35
36 Mr. Castro: And I think there's a concern about the enforcement. What are we doing about
37 enforcement in regards to the illegal ones?

38
39 Mr. Spence: We have six enforcement officers. They are responsible for...and that's an increase
40 from a number of years ago and that's been at the request of the County Council they wanted
41 increased enforcement. We handle, I wanna say, three...I wanna say three or four hundred
42 requests for service every year and we do an investigation on each one of those. And we've done
43 quite a bit of proactive enforcement specifically on vacation rentals because that's what the
44 County Council was pushing. Coincidentally, enforcement so everybody understands, enforcement
45 is not a very popular thing because when go out and enforce everybody goes why are you picking

1 on me? So there's the dichotomy in that. Yes, and the illegal operators know they're illegal,
2 so...but anyway, we issue Notices of Warning and if they shut down, great. If they don't shut
3 down, we issue Notices of Violation. We've probably issued 30 or 40 violations I guessing this
4 year. And we're looking into other ways to make that more effective. To say that there's no
5 enforcement I guarantee all six of those people and their supervisor and the Division Chief and
6 myself are very busy with enforcement. There is...you just...you don't see it until the complaints
7 appear before the Commission for some reason or another. We are quite busy and full-time in
8 that.

9
10 Mr. Castro: Thank you.

11
12 Chair Duvauchelle: Commissioner Hudson?

13
14 Mr. Hudson: Well, I need some clarification. The community plan that exists now it already allows
15 for short-term home rental or the problem is it doesn't and we issued permits for it because we
16 weren't aware of it until a couple years back?

17
18 Mr. Spence: The community plan right now does not allow short-term rentals.

19
20 Mr. Hudson: Okay so then we issued it because we were not aware of the problem?

21
22 Mr. Spence: Because we believed that the ordinance that the County Council passed in 2012,
23 they were aware of this provision, et cetera and so they set a cap. It's much more recent and with
24 all the testimony and support from the community they set the cap at 88.

25
26 Mr. Hudson: Okay, that's fine. The current plan does not allow for short-term home rental?

27
28 Mr. Spence: That's correct.

29
30 Mr. Hudson: Okay. We were not aware of this problem but now we are?

31
32 Mr. Spence: Yes.

33
34 Mr. Hudson: Okay. So the basic question before us today is amend the plan to allow it to go up
35 to 88 or say stick with the plan as it exists and keep it at zero?

36
37 Mr. Spence: Correct.

38
39 Mr. Hudson: Or defer. Thank you.

40
41 Chair Duvauchelle: Okay, Commissioner Robinson?

42
43 Mr. Robinson: I'm opposed to deferring. I think we need to give a recommendation one way or
44 the other. I think we haven't even try to even talk about maybe a possible recommendation as a
45 Commission and that's my position. And just to go back to another point, Honolulu has different

1 laws than we do in Maui. Obama, and I'm not against prohibition...I'm not for prohibition. I've
2 actually voted for short-term rentals here. It has to be at the right location at the right time and
3 our former President actually legally stayed at that house because they have a 30-day and one
4 rental per month, so I don't wanna...again, misinformation, let us...(inaudible)...facts and
5 stay...(inaudible)...to what it is. And part of my being opposed to the deferment is I really think
6 that we might need to recommend to the Council that we look at Paia and Haiku as two different
7 areas, you know, and that's where I'm coming from because the proliferation is in one area for
8 short-term rental where there's congestion while Haiku is a large, vast area and to have the 88 of
9 it maybe all being in one, you know, small, you know, three-mile area I think is where the concern
10 might be. Thank you.

11
12 Chair Duvauchelle: All right, are we ready to vote on the motion on the floor or is there any other
13 discussion on the motion to defer?

14
15 Mr. Carnicelli: I'm just gonna...if I may Chair?

16
17 Chair Duvauchelle: Commissioner Carnicelli?

18
19 Mr. Carnicelli: Thank you. We have language in front of us...if we do not defer and basically
20 were gonna have to try to masticate on this particular language ourselves now and the public isn't
21 gonna have any input on what it is that we're going to try and chew on because we're gonna try
22 and chew on it now. We're gonna try and say, okay we'll recommend this or that or...because
23 the language is semantics and it is nebulous and I don't see that we can propose something that
24 might be enforceable or might not because it says, because there's nebulous words in there. So
25 I think that if...the deferral isn't just to kick the can, but to actually work on this with the community
26 to come up with something that we want to recommend to the Council not just to kick the can.
27 Because I get, I mean, it's just like all right, it does need to be addressed, but right here, right now
28 in this setting, I just don't think that it's been properly vetted.

29
30 Chair Duvauchelle: Thank you. Commissioner Robinson?

31
32 Mr. Robinson: Deferment is doing nothing. And we're not deferring it for another meeting, we're
33 deferring it to the Council and then have no recommendation is that what...and a second question
34 is do we have to follow the options given to us on what our recommendations are, can we
35 recommend something else?

36
37 Mr. Spence: That was...that's your option number 2, recommend approval of one of the proposed
38 bills, either one, with amendments. So you can say, County Council we recommend and this
39 would be my preference so I'm not hiding anything here, we recommend that we amend the
40 community plan to allow short-term rental homes, but we really want to have the Department
41 clarify what near the shoreline means or eliminate the language of near the shoreline. You can
42 make those kinds of recommendations. To me, this is a...what we're saying here, what we're
43 presenting to this commission is we want to allow some, some not everywhere, some short-term
44 rental homes in the Paia-Haiku area or we don't want to allow them at all. That's, to me that's
45 what we're presenting to this...

1
2 Unidentified Speaker: What does deferment do?

3
4 Mr. Spence: Deferment doesn't do anything. I'm not sure what we would do that, and if that's
5 what the vote is on the motion then we would look to you for some kind of instructions.

6
7 Mr. Carnicelli: I'll clarify my motion if you'd like.

8
9 Chair Duvauchelle: One moment. I have a question for the Director? Can we...could we defer
10 and ask... and with the recommendation that it come back to this committee after we've been
11 given more information?

12
13 Mr. Spence: Sure.

14
15 Chair Duvauchelle: Commissioner Carnicelli?

16
17 Mr. Carnicelli: So my motion to defer was to gather additional information and to look at the
18 language. Because even though Director you are saying okay, this is...we're choosing either
19 make it legal or move it to zero, no what we're proposing is this particular language specifically is
20 what you're asking us to approve and that's where we're saying is okay, we can change this
21 language. We can also vote to just deny both of them. I mean, it's possible. I mean, it is an
22 option. I mean, it's not probably the best thing to do but you know, so is that's where I'm saying
23 is deferment to take a look at this particular language before we say, okay this is my
24 recommendation to the Council.

25
26 Chair Duvauchelle: Commissioner Higashi?

27
28 Vice-Chair Higashi: I seconded the motion from the standpoint that...well, first of all I agree with
29 Commissioner Robinson that to defer is to just leave it alone. That was not my intention. My
30 intention was to provide time for the...both community Paia and Haiku to be able to give input
31 because we agree that there is room for vacation rental and that I guess the plan is old from 1995
32 so it needs to be updated but I think at the same time a few months to delay it giving Paia and
33 Haiku time to make specific input might be a viable source of a deferment rather than to flatly say
34 no room for any deadline.

35
36 Chair Duvauchelle: Okay.

37
38 Unidentified Speaker: Chair, can we clarify the motion again please?

39
40 Chair Duvauchelle: Yes, Director could you repeat the motion please?

41
42 Mr. Spence: The motion was to defer.

43
44 Unidentified Speaker: With conditions?

45

1 Mr. Spence: I don't recall any conditions on that.

2

3 Chair Duvauchelle: Do you want to clarify Commissioner?

4

5 Mr. Carnicelli: Not conditional but it's just like the deferment in order to gain more information and
6 to work on the language of the proposed changes.

7

8 Chair Duvauchelle: Commissioner Robinson?

9

10 Mr. Robinson: Commissioner are you asking it to be deferred and being brought back on top of
11 our agenda in the future is that what we're hearing?

12

13 Mr. Carnicelli: Yeah, I'm not saying...defer isn't endless. It's not saying okay, deny. It's saying,
14 no...is to me there's some additional vetting that needs to happen in the community and this
15 particular language needs to be worked on and then brought back and we'd still make a
16 recommendation but this particular language needs to be worked. That's what the intention of
17 deferral is is to vet the language we're being requested by the Department to approve or deny.

18

19 Mr. Robinson: Yeah, I think the deferment in front of us was a different deferment. It wasn't for
20 us to be put on another agenda, it was defer the topic altogether, but if you want to bring it to
21 another agenda and with some more information I think that's something I could support.

22

23 Chair Duvauchelle: Okay Commissioners, Director can you...and then could we put a timeline on
24 it. Could we see it in front of the Commission again say in two months, a month, any preference?

25

26 Mr. Carnicelli: I'm reading, hang on. Go ahead, he's got his hand--

27

28 Chair Duvauchelle: Commissioner Higashi, I'm sorry.

29

30 Vice-Chair Higashi: Can I make a motion to say that we'd like to amend the—

31

32 Chair Duvauchelle: We already have a motion on the floor so the maker of the motion would need
33 to amend.

34

35 Mr. Carnicelli: What's your recommendation for amendment?

36

37 Chair Duvauchelle: Go ahead Commissioner Higashi?

38

39 Vice-Chair Higashi: That the information gets back to us within two months so that the
40 Commission can then act on the proposal.

41

42 Chair Duvauchelle: Commissioner Carnicelli, maker of motion?

43

44 Mr. Carnicelli: Sure I'll amend it to put a 60-day timeline on it.

45

1 Chair Duvauchelle: Okay. Discussion? Commissioner Robinson?
2
3 Mr. Robinson: I'm with this motion. We'll be able to submit questions to the Planning Department
4 on things that we'd like?
5
6 Mr. Spence: I don't know what information you're looking for on this proposed language in this.
7
8 Mr. Carnicelli: Community input.
9
10 Mr. Spence: Okay.
11
12 Chair Duvauchelle: Okay, Commissioner Hudson?
13
14 Mr. Hudson: Let's say the motion carries and it's deferred. What are you gonna do with the
15 applications now knowing that something is wrong with it to begin with how could you possibly
16 approve something knowing that there's issues?
17
18 Mr. Spence: Exactly.
19
20 Mr. Hudson: You have stuff that was dated before okay, there was an oversight, an error. We
21 can deal with it. But going forward if you know there's an error you're stuck between a rock and
22 a hard place.
23
24 Mr. Spence: We're probably going to put applicants in some kind of limbo until this is resolved
25 until at least there's a recommendation by this Commission.
26
27 Chair Duvauchelle: Commissioner Carnicelli?
28
29 Mr. Carnicelli: But our recommendation is nothing but a recommendation. It doesn't change the
30 ordinance. So it's...whatever we do today we could say yes, let's accept this language today, it
31 still doesn't change the ordinance until it goes...Council is the only one that can change the
32 community plan. So nothing changes today.
33
34 Mr. Spence: That's correct.
35
36 Chair Duvauchelle: Okay, good conversation. All right, so we have a motion on the floor to defer.
37
38 Mr. Spence: For at least two months.
39
40 Chair Duvauchelle: For at least two month.
41
42 Mr. Spence: And I understand it's to get community input.
43
44 Mr. Carnicelli: Yes.
45

1 Chair Duvauchelle: And any other questions the Commissioners have you will provide.

2

3 Mr. Robinson: I apologize. I didn't hear at least two months.

4

5 Mr. Spence: I heard two months.

6

7 Mr. Robinson: Is it at least or no more than two months.

8

9 Chair Duvauchelle: Let's say 60 days.

10

11 Mr. Spence: I'm just thinking—

12

13 Mr. Carnicelli: At least two months.

14

15 Mr. Spence: --I'm just thinking that if we go to the I forget what Paia Town committee there is as
16 well as the Haiku Community Association and discuss it with them, I'm not...I don't know if 60
17 days.

18

19 Mr. Carnicelli: At least. That's enough time?

20

21 Mr. Spence: I'm hoping it's enough time.

22

23 Mr. Carnicelli: Okay, I mean but if you have...it's deferred at least 60 days which means you can
24 go further than that. So if the Paia Town doesn't have you know a meeting for 90 days you can
25 still do that in 90 days and then come back to us.

26

27 Chair Duvauchelle: Okay, so we have a motion on the floor. All those in favor of the motion to
28 defer for at least 60 days for community input please raise your hands.

29

30 Mr. Spence: Five ayes.

31

32 Chair Duvauchelle: Five ayes. Those opposed?

33

34 Mr. Spence: One opposed.

35

36 Chair Duvauchelle: One opposed. Motion carries.

37

38 Mr. Spence: Yes.

39

40 Chair Duvauchelle: Motion carries.

41

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

43

44 **VOTED: To Defer the Matter to Receive Community Input for at Least**
45 **60 Days.**

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**(Assenting – L. Carnicelli, H. Higashi, K. Robinson, C. Tackett,
S. Castro)**
(Dissenting – L. Hudson)
(Excused – T. Gomes)

Submitted by,

Carolyn Takayama-Corden
Secretary to Boards & Commissions II