

**MAUI PLANNING COMMISSION
REGULAR MINUTES
OCTOBER 24, 2017**

A. CALL TO ORDER

The regular meeting of the Maui Planning Commission was called to order by Chairperson Sandra Duvauchelle at approximately 9:23 a.m., Tuesday, October 24, 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. Maui County Planning Commission, October 24th, 9:23 a.m., is now in session. Thank you all for your patience. I'm sure in everybody's world it's been an interesting night. So we welcome you here and thank you very much all of you for being here. Director, 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: Okay, Commissioners we have for you this morning our digital zoning map presentation and hopefully a recommendation for adoption of some ordinances and with us this morning is Kathleen Aoki and Peter Graves and Ann Cua and David Raatz, but he's sitting over there.

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

1. MR. WILLIAM SPENCE, Planning Director, transmitting two proposed bills relating to zoning maps and districts, respectively described as follows:

- 1) A proposed bill titled "A BILL FOR AN ORDINANCE ADOPTING A DIGITAL ZONING MAP AS THE OFFICIAL ZONING MAP FOR THE ISLAND OF MAUI." The purpose of the proposed bill is to adopt a digital zoning map for the Island of Maui.**
- 2) A proposed bill titled "A BILL FOR AN ORDINANCE AMENDING TITLE 19, MAUI COUNTY CODE, RELATING TO ZONING DISTRICTS AND MAPS." The purpose of the proposed bill is to establish updated County policy on determining boundaries for zoning districts. The bill also provides an updated list of zoning districts. (D. Raatz)**

Ms. Kathleen Aoki: Good morning Commissioners. This morning we are very happy to be here to finally present to you what's known as DSSRT which is what we...a nickname we sort of or an acronym we gave for the Dead Sea Scroll Replacement Team. And what this program is...what we're trying to do here is create a digital zoning layer for the County. So this project has been going on for many, many years. It started off with the Managing Director's Office back in the early 2000's. It was transferred to the Planning Department around 2005. So 12 years, yes we have been working on this project.

So the goal of the project is to replace all these wonderful zoning maps which we carefully brought over an example to you this morning. This is the Kihei Land Zoning Map 5 and it is literally held together by tape, duct tape, there's post it notes, there's handwriting on it, there's all kinds of things that have happened these maps over the years.

So this project included a team that comprised many different people in the Department from all the different divisions. Today we have Peter Graves who is from Plan Implementation. I'm also from Plan Implementation. We have Ann Cua from the Current Division and David Raatze is the Administrative Planning Officer from the Zoning Division and he will be presenting to you the bills at the end of our presentation. With this project you do have to amend Title 19 which is what we're here today 'cause there's language that needs to be changed in Title 19 that talks about a digital layer and not a paper map. We've also made some minor amendments to Title 19 to actually try to clean it up and make it a little bit more understandable.

So for this project just so you know there are two maps that we're asking for adoption. The first map is going to be an "as is" map which we will go over with you and that is the way zoning is today if we were to just transfer everything onto a digital layer without rectifying it and without making any kind of corrections to mistakes or inadvertent errors. The second map is that map which has been adjusted and Peter will go over that with you.

With this project just so you know we sent out over...about 900 postcards to all owners who are impacted by little tweaks and changes that we're adjusting on the map on the digital layer. So everyone was notified. We have four public meetings. We wanted to go out to the community. We let people know on those postcards that we were having these meetings. So we had meetings in Kihei, Wailuku, Lahaina and Pukalani. We also created our own website, our own email address or not our own website but on our Planning Department website there's a link to the DSSRT Project. We have our own email, we have own phone number so that way anyone who's curious about the project or if they got a postcard and couldn't come to one of these meetings could call us and Peter can go and tell you exactly what's happening with that parcel. So we've really tried to go out and make this known. We had a press release in the paper. The good news is we haven't really gotten too many inquiries which to me is a positive. The inquiries that we did get when we explained to them what was happening to their parcel they were relieved 'cause everybody walking out the door with zoning they think they always had. They never knew they had say a proposed road going through their property that never got built. So we're not doing anything that isn't consistent with community plan. It has to be consistent with community plan in order for us to make those tweaks.

So with that, I will...oh, one last thing just so you know, we did take this to the Lanai Planning Commission for their review, unanimous thumbs up, no brainer quote from one of the planning commissioners. We took it to Molokai, they also gave a unanimous thumbs up and approval. Their recommendation though is that when we do the Molokai Map, today we're just talking about the Maui layer so that I want to make clear. This layer is only for Maui Island then we'll go to Molokai and Lanai and do theirs. So Molokai's recommendation was when do the Molokai layer is to come back to Molokai and have a meeting which we would do anyway. So with that, I'll turn this over now to Ann Cua who will go through the power point.

Ms. Ann Cua: Good morning Chair and Members.

Chair Duvauchelle: Morning Ann.

Ms. Cua: You know Kathleen mentioned that this really was a labor of love from a lot of people in the Department and it's taken...it took such a long time that some of our Staff moved on to retirement and just doing other things and I was really happy when Kathleen was talking to see that one member of our team, Joe Alueta walked in and so we're just really excited about that. It was...it was a lot of work to put this together but we are very excited to be before you today.

So just to give a little bit of background. You know the goal of this project way back when was to replace the County's old maps like the one you saw on the wall. Some of them are up to 50 years old. They're paper maps been you know, written over, taped over, just in very poor condition. Another goal is to make digital zoning maps available online for public use, to confirm existing zoning for all parcels in the County of Maui and that was a task to go one parcel at a time. Because it's not a simple as bring out one map and you'll kinda see there's been different layers over time to get the zoning that we have today and so we have to cross reference a lot of maps at times. And then as Kathleen mentioned this is such a huge project and we couldn't do Maui County at one time so we're doing Maui Island first and we will get to the other islands after we're done with Maui.

So first of all what is zoning? Zoning determines how property may be used and where structures may be placed and you see that in your applications that come before you. It also promotes orderly pattern of development and it separates incompatible land uses. And zoning is the first thing that a landowner must be aware of before developing their property. You get a piece of property, what can I do with this piece of property? Well your zoning dictates what you can do with the property.

How is property zoned in Maui County? Well, basically there's three different layers and I'm gonna go over that. It's comprehensive zoning maps, individual changes in zoning and comprehensive ordinances. So prior to 1957 there was no zoning and so we basically had Interim Zoning. And Interim Zoning was intended to be a temporary zoning until we actually zoned and we still have Interim Zoning today. In 1960's we did comprehensive land zoning maps and that is like what you see on the wall. The map that you see on the wall is the Kihei area and it is the largest rectangle that you see on the slide. And then all other areas that you can see that are squares and rectangles those are our comprehensive land zoning maps, limited around the island so you can see still there's a lot of Interim Zone.

And then what you are most familiar with is individual zoning changes and that was from the 1960's to the present. And most properties comes in you know one parcel at a time but then you also see large parcels sometimes five, six hundred acres for a change in zoning and those are individual changes of zoning.

And then there were two comprehensive bills. First the Rural Zoning Bill in 1997 and the parameters of that bill, that zoning that created Rural Zoning in these areas were you had to have community plan and State Land Use Rural designations. The lands also had to be less than 15 acres and not in the Hana Community Plan. Those were the parameters that comprehensive Rural Zoning was granted by. And then in 1999 comprehensive Ag Zoning was

established for areas that were community planned Ag. And so there is our current Zoning Map and it is made up of all the layers that we've just discussed and you can see that there still exists Interim Zoning.

So you know what were some of the challenges to accomplish our goals? Well, as you saw the age and the lack of detail of the original maps was a challenge, very poor quality, worn out, falling apart so sometimes hard to read. There's no single complete set of maps for the island as you saw it's a patchwork. You know, the Interim Zoning, then comprehensive zoning, individual zoning, and then the comprehensive Ag and Rural bills.

You know this is an example of some of the challenges that we had. You know the scale of the maps made it...individual parcel determinations difficult. You see these this large line here going through this...here's a subdivision that was created and then we realized, we found out that this line actually means something and we'll explain some of those examples to you later on.

And you know, another thing is that we found zoning that actually exist on the map that we didn't realize existed like proposed road and drainage and those go through properties. So when Kathleen mentioned that at the end of the day with this project people are not gonna be surprised at their zoning. Their zoning is gonna be what they always thought it was. For example here, these people that live in this subdivision have no idea that part of their lot is zoned Drainage. So when we make the correction to be back to what it was, what it should be which is probably R-2 or R-3 no one will be surprised because that's what they always thought they had.

The benefits of this project that we were able to confirm zoning accurately and efficiently. There will be greater public access to accurate zoning information. We will be able to reduce the zoning determinations by the Department Staff and for example between Fiscal Year 2013 and 2016 the Department processed 21,457 zoning verification forms and so that is either people coming into the Department bringing their form, waiting, having a staff person pull out a few maps to take a look at what the zoning is and then filling out the form or people can email the form in. Now what they'll be able to do is sit at home, with their cup of coffee with their laptop at their desk and check it at home so that is very exciting. That's a great public service that the County will be able to provide. It will also improve coordination between government agencies. Government agencies need zoning information as well to plan CIP projects so they'll have it at their fingertips as well.

And then I'm not sure if you are aware of our upcoming County online permit process. Right now we have the KIVA System but we are going to soon, hopefully soon be having the MAPS Permit Tracking System. This zoning digital layer is a key foundation for that MAPS process.

So that concludes my presentation. I'm gonna turn it over to Peter now and he's gonna take you through some examples that we found to show you kinda what we were dealing with and what we're gonna change in our maps.

Mr. Peter Graves: So these are just a few of the examples of issues we ran into that need to be fixed but we as a team can't unilaterally fix them. They were you know the maps were adopted

by the Council and if we want to fix a mistake basically it has to go back to the Council to be fixed. You know when we started this we just wanted to make a digital layer, but these are some of the kinds of things we ran into. Here's the North Kihei area that was shown previously, I forget the streets, ... (inaudible)...paradise, et cetera and this is the portion of the original map and these are actually the...these aren't on the map, these are the digital...these red lines are the digital parcel layer overlaid with it.

And this, you know what you see in the bill is there's a kind of a...Map 1 and a Map 2. This is the before map. The dirty map as we call it taken directly from original LCM5. When they created LCM5 the highway didn't exist yet so this was just the proposed highway with...this is the proposed highway with open zone around it. But when the highway was actually built it was built out here and that was never adjusted in the zoning maps. And because of some Hanohano court case and some other court decisions we realized we can't just, we can't just shove this out. It should have been what the Department previously did on that map up there just adjusted things. So what you end up with is people whose homes should be R-2, but they're actually within this legacy proposed road zoning and open zone. This is the fix, this would be referred to as Map 2 where the highway is actually adjusted up to where it's supposed to be. The homes are in R-2 again. There's actually a drainage shown, a very wide drainage zoning shown here. We just eliminated it because the actual drainage is just a very narrow concrete channel along the parcel line so that way no one's...no one has their lot in the drainage zoning.

This is another that posed a problem. Wailuku Heights. Originally Wailuku Heights was given R-3 zoning I believe this was in the late 70's, Map 407. Then the Ag Bill came along was in 1998 or 99 saying that if it's zoned...if it's CP Ag then it will be zoned Ag. In most places this didn't cause much of an issue but in Wailuku the Wailuku-Kahului the CP map that was in effect in 1998 was still the 1987 map there was a draft CP map that actually closely followed the parcel lines to delineate Single-Family from Ag but that hadn't been adopted yet. So in effect when the Ag Bill was passed this is what happened. These people lost their zoning. So these houses up off the tip here down along the bottom here have been legally zoned Ag you know for the past 20 years and something we just realized recently when we were going through the different layers we had to look at to see what the zoning was. So this would be the before layer, they'd been zoned Ag and this is just showing the...this is what the current CP looks like where they actually recognize based on the parcel lines and this is the after, this is the fix that we just want to get these people back to R-3 zoning where they're supposed to be.

Pukalani Golf Course, we have some maps. The Pukalani Map and actually the Wailea Map they're very general and bit cartoonish. As you can see here when the actual development was done the roads placed and subdivisions place, you can't really see on this scale but the development didn't match what was on the map and then this is the actual zoning taken literally, the legal zoning today, but when you overlay the parcels the zoning does not match precisely where the development is and you can't really see it this scale but if you zoom in and see this is where the, you know, this little subdivision was, the zoning does not match. The roads do not match the road parcels. This piece of duplex here does not match the duplex parcel. So if someone were to come in today and say what's my zoning, you're zoning...you're zoned half Golf Course and half R-2. And this is just the...this is the after. This is the fix, not really changing anyone's zoning radically just making the lines match where they should and this is

just a broader view of the after. I think, yeah, this is the last, our last example. This is just an overview of the after zoning which you can't tell from this scale that there is any difference yeah at all because there aren't any huge changes, it's more just the minutia. Anyway thank you. David is gonna take over.

Mr. David Raatz: Thank you Peter. Good morning Commissioners. I'm David Raatz, Administrative Planning Officer with the Planning Department. We do have still a very brief power point on the legislation itself and just for background again as Kathleen alluded to we're here today asking you to sit in your capacity as advisory to the Maui County Council land use ordinances which is your authority under the Charter. The legislation we have before ultimately will be acted upon by the Council but pursuant to the Charter we need your advice to the Council just as we received from the Lanai and Molokai Planning Commissions before we got here today.

I would say as it's been shown there was great technical effort by the Department in getting us to this point but the legislation itself I would say is very simple as you'll see in this brief presentation or as might you have may already seen it, you had a chance to review the material that we sent you earlier for the September 12th meeting. So we just want to briefly give...(inaudible)...

So we talked about the existence of these Dead Sea Scrolls and the fact that there's inadvertent errors that exists on the maps that we currently have. These are the official maps and by going digital and making the maps available online to anyone at any time not only we will have increased ease of use by the public and government officials who have to use the zoning map, but we'll have much more accuracy and clarity in zoning designations for the County of Maui. If you got to the next slide please?

So here's what we currently have on the books for zoning maps in the County of Maui. The Charter grants the Planning Director the authority to enforce zoning ordinances and zoning maps and also prepare and administer those documents. And then...and further into that Charter authority the Code currently says in Chapter 19.06 that paper zoning maps are the official maps and those are kept on file with the County Clerk. The current Code also establishes policies for determining the boundaries of zoning districts.

So the Department's position again, and the reason we're here today is that we think it's time for Maui County zoning maps to go digital and this will further a number of General Plan Policy Objectives and some of them are pretty obvious but we think they're very important. Government services will be transparent, effective, efficient and responsive to the needs of residents. The government should facilitate the community's ability to obtain relevant documentation. The County should use advanced technology to improve efficiency and the County should expand government online services.

So we have two bills before you today and as usual when we present legislation you have the ability to recommend that the County pass one or both of the bills as is or you might want to recommend amendments to one or both of the bills or if you do need additional information from us you have the ability to defer action and we can get back to you on that.

So if you want to look at the legislation I have just a very brief power point presentation. We could call it up if you need to but I think you have it in your material. The first bill does two simple things it establishes the policy that digital zoning maps will now be official and again starting first for the Island of Maui and also adopt the first digital map of the Island of Maui the what we call the "as is" map that reflect the status of current zoning designations even with the flaws that were alluded to in the presentation.

The second map would...excuse me, the second bill would do a couple of additional things. It would establish a legend or a reference or directory of all the zoning designations that are available. As you can see here on the paper map there are legends, if we put acronyms on the maps for ease of reference and we want to provide a comprehensive and clear updated legend so they receive B-CT on a digital map you'll be able to know exactly what that means, where the standards are found in the County Code in the Comprehensive Zoning Ordinance. So again, it's providing an updated current and accurate legend for all the different zoning designations that are available to the County and then also tightening up and clarifying the language on determining the boundaries of zoning districts.

So that's the legislation in a nutshell and we appreciate your consideration.

Chair Duvauchelle: Thank you, thank you. At this time we'll open the floor for public testimony.

a) Public Hearing

Chair Duvauchelle: And if anybody wishing to testify please come forward, state your name, you'll have three minutes.

Mr. Joe Alueta: Hi, my name is Joe Alueta, resident of Waihee Valley. I used to...I was the former Administrative Planning Officer. I was the...you could say, it was kind of a...if you're into the Lord of the Rings, this was kind of like our journey to the get to the one map to unite them all instead of throwing it into the volcano which we wanted to do several times. This is an option to get all of these old maps and throw them into the volcano and have only one map to basically unite all of Maui County or at least Maui at this point in time. Very happy to see it finally come to fruition at this stage. It was kind of like, a lot of the things stayed the same I know, and it's very much improved. All I can do is say that I hope you will adopt it wholeheartedly because inaction is not an option. It's actually worse a lot of times.

So for the past 30, 40 years a lot of times we've had inklings of problems with the paper maps. I used to have a slide up there that had basically an ostrich sticking its head in the sand and that's basically what the County has done for the last 34 years is ignore the problem. We've gotten to the point where we've had a number of lawsuits and court rulings that have said you know, the map is the map, you know the problem, you had opportunity to fix them, you never fixed them and plaintiffs have often won against us because of that.

So this is an opportunity to correct all of these errors which were inadvertent. A lot of it, you know everyone did their best on a technical basis but you don't with today's technology, GPS and stuff like that it does, it makes it difficult. So hopefully you will adopt this and we can move forward and this will be the first step and the next steps will be to finish off some of the other

unfinished that I think is more complicated and needs a little more attention but I think this is the basis of it. So hopefully you'll support it.

Chair Duvauchelle: Thank you, Joe. Any questions? Thank you. Thanks for all your hard work when you were here.

Mr. Alueta: Thanks.

Chair Duvauchelle: Anybody else wishing to testify on this agenda item? Okay, seeing none, we'll close public testimony and we'll take questions, discussions from the Commissioners. Okay...

Mr. Robinson: I got one.

Chair Duvauchelle: Commissioner Robinson?

Mr. Robinson: I'm not sure who to address this to. It is a no-brainer that we needed to update the maps. I don't think there's any dispute about that. My concern is is we're updating the maps but just like we saw in Pukalani where things were zoned one way, we're changing it to another to correct it and that's where I'm not sure if I understand what we're doing because if we're correcting something we're changing something and I would assume that we would take a neighborhood like we did in Waikapu and we said, okay these four houses were supposed to be zoned this it didn't can you guys approve that and I remember us doing that. But to say this whole island we're gonna just approve all these zoning changes it concerns me. You know, I know we're trying to make everything right, I know we're trying to make everything go forward. You know, I appreciate that this administration finally is attacking this problem, I know it's a problem but my concern is I want to make sure that the people before followed the rules. I want to make sure that people knew that this wasn't zoned right, but they said you know what we're just gonna build those 10 houses anyway 'cause it's supposed to look this way. If the map was the map, the map was the map and we all have to follow the rules. And the reason why I'm bringing this up because I was at Olowalu this morning, I see these houses that aren't supposed to be built next to the ocean but they are. But is this map gonna be another thing that's gonna make what we did wrong for the past 25 years okay today because we're gonna change the zoning to make it okay. And so that's where my concern comes from.

Ms. Aoki: Thank you for that question. Trust me we've gone through that too. I think what's important though the map is the map only came sort to our eyes a few years ago. So that's why we know we have to come to you and the Council in order to fix these little changes. And while we are changing zonings per se like in Pukalani it's only because either things weren't built where they said they were gonna be built or it's rectifying what actually is a digital layer versus these old maps that have big, fat lines on them. You know, you get a Sharpie pen it's like that could be a distance of feet you know. So if in Pukalani you have situation where things got built and maps are overlaid on top of each other what's now on a map shown as golf course is actually dwellings, it's got permits for that, it got approvals for that, everything has gone through the process of those homes being built you know with County approvals saying that it's residential and it wasn't until we started looking at these old maps, laying them on top of each other, getting a digital version, getting the Real Property Tax boundary...Real Property Tax

maps when you start seeing that there's these slivers that are outside and it's only because we've gotten more technical, we've gotten better. When you get a better view of looking of where these lines actually are versus a 1960's map, that are quad maps and have you know, ranges that are not as detailed as what we have today.

The other thing too is that we notified like I said everybody who's been impacted. So we're not doing this in a vacuum and everyone had the opportunity and we're not changing it to something other than what they think they've already had, already gotten permission to build on it. ... (inaudible)... Joe was saying it's worse to keep it the way it is because if you came in now and we're on this lot in Kihei that has a proposed road on it, it makes it convoluted to say the least because we could say you know what half your property is in proposed road and they say well, what's proposed road, and we say, well we don't have any standards for proposed road because we don't. The zonings on these maps that we never did any standards for drainage, proposed roads, there's like a beach access and there's all these kinda different things that we never did standards for. So we're actually making things 100 times better by going in and properly taking out these zonings that don't exist, roads never got built, drainages never got built and putting them in the category that they always thought they were and we've always done approvals for.

So I don't know if that helps to ease... and the last one too, one of the questions came up before was about community plan, we are not doing anything that's inconsistent with community plan. So if you're community planned single family and you're in this drainage zoning but subdivisions got approved. I mean, you can see from Kihei, that example in Kihei, all those things got approved based on well, it was residential, but nobody back then went in and really took the time or looked at it or like Joe said we stuck our head in the sand and said, oh never mind that drainage or that proposed road. The road got built somewhere else. It's residential. And what we have learned through court cases is we don't have that right to do that. We did that but we don't have that right to do that. So we need to have Council go in and make those changes not the Planning Department.

Chair Duvauchelle: Commissioner Higashi?

Vice-Chair Higashi: I agree with Commissioner Robinson that I think this particular proposal is overdue and needs to be corrected. My problem is, my concern is that the new zoning is gonna affect specific property owners because they're going according to the old maps and whether the County is gonna guarantee that those people who are now in a particular zoning that's updated that they will be grandfathered in, that they will not have any problem with property or drainage. It's like it shows over there. I think one of the photo also showed Piilani Highway and there was a property that was inside of the highway itself and those are the kinds of stuff that will the County protect the private owners that they will not have any problem with condemnation et cetera? That's my concern on the maps that you have.

Ms. Aoki: Okay, well maybe we can bring up that map. So if we could cut the lights so we can kinda show you. So what happens here is this, this was where there was a proposed road, proposed highway. That's where Piilani Highway was supposed to be built on this map over here. If you look at the old DSSRT map. Then they also had like a greenway buffer along here.

What happened though if you look at the Real Property Tax Map and this all digital layers, this is where the actual TMK is, this is where the road got built.

So subdivisions came in, all got approval based on Residential zoning which is this yellow here, and it's kinda hard to see but if you look at the satellite imaging you can see how those have been built. You see all these drawings here. So they all got approval, they all got their subdivision. Life went on as we know it. Nobody really taking into consideration the old layer that still had this proposed road. County just said, oh no the road got moved. This is our Single-Family. So when we come in and we clean it per se, we're effectively making these people that originally had this proposed highway underneath their property really their residential and the highway is being moved so nobody is getting their land condemned and like I say we actually had people come in to our Kihei meeting that brought their postcards with their TMK and it was kind of ironic that the people that came either had this drainage or they were along this road. There's a drainage and another road and we told them oh by the way, right now your property is half residential and half drainage. I mean they were like what? We said, yeah, we're fixing that, you know you got your house, it's obviously you got all your approvals, we're making you Residential. Everybody left those meetings happy. It was wonderful. That doesn't happen very often, but they all left happy. So again, Commissioner nobody is gonna get condemned. The County is in more liability, the potential for liability keeping the way it is versus correcting it and that's why we've been sued and that's why we've had to pay a lot of money for parcels because of these kind of errors.

Vice-Chair Higashi: Thank you.

Chair Duvauchelle: Corp. Counsel, did you want to...?

Mr. Galazin: Yes, thank you, and just to speak to the Commissioner's question. As far as grandfathering goes that doesn't apply to zoning that being legislative act. That's more something that it applies to uses and here I think what the Planning Department is trying to explain what they're doing is just making that conform to what it should be and again, I think it's been clearly explained that there's not going to be any issues of condemnation or issues of you know, regulatory takings or something like that. What we're doing is just making sure these maps align comprehensively through a legislative act which is clearly not something that's grandfathered in, it's the use that's grandfathered in.

Chair Duvauchelle: Thank you. Commissioner Robinson?

Mr. Robinson: Just a last thing. I understand I think. I think cleaning everything up is a great point. Where I'm coming from is people made mistakes and they're not being held accountable. We gave permissions and we looked at zoning that wasn't correct and we're correcting it now and I don't think anybody should lose their house because there was mistakes made or there was not clear direction on what something should be and I understand that, but I don't understand how we can give, you know, when we turn in plans for a subdivision and we look at a zoning map and it doesn't match that it happened. That's what I don't understand. I don't understand you know, and I said and we've been...the County's been to court a few times about decision makings happening in the Planning Department that the taxpayers have to pay for it. So I know this is going to wipe the slate clean and we can start all over and hopefully not have

to deal with it anymore, but at some point I still think the community should know what mistakes were made or what things were overlooked, if there is a pattern of the same people making the same generalities on subdivisions and if it was certain people always getting the don't worry about it, we'll fix it later type of thing. And if so, it's more, it's we're gonna fix it, it's gonna go ahead but to do away with the information if somebody wants to know in the future, you know, that's where I'm coming from. You know, fixing the map not having to deal with it anymore, I think it helps every single person, a purchaser, a developer, a seller and of course the Planning Department. But the misdeeds done prior is I don't think it should be swept under the rug.

Chair Duvauchelle: Director please?

Mr. Spence: In the last whatever 50 years of zoning in this County I don't think there was any malintent or trying to sweep anything under the rug or anything of the sort. What happened when the 1960's when Council adopted this map and they said okay, this is what everything is zoned, they did so by a legislative action and so when things happen like...and so they adopted for instance where Piilani Highway is supposed to be and then State Department of Transportation said, oh we have a better location that's mapped as an...we have a better location for this, so they built it in another place. So we just went, the Planners at that time probably I mean, 70's, 80's went okay, well there's no roadway there so this line magically moved. This line moved up and what's left is Residential zoning. That was the thought process at that time. I mean, you're talking about 50 years of thought going into this piece of paper that's up here. Nobody have said, I'm gonna do something for my buddy or whatever like that as far as moving lines goes, but when we went through and I wasn't here when we went to court over this one thing, but basically what the court said is, okay no this piece of paper up there was adopted by Council, you can't move any of these lines around. Those lines are there. So if you have a 50-foot wide drainage that shows on that map, done with a Sharpie at scale whatever, that's what those properties are zoned. All these properties that you thought I mean when we drew this map, okay, there should be a drainage way here. They didn't stop to think that this 50-yard wide swath was the actual zoning and we were going to have a 50-yard wide drainage way in this location. It was an indicator of where a drainage should be and they were gonna let the engineers figure it out later, but that's not what the court said. The court said, no this map says what this is. And so we allowed, they put in the drainage way and we allowed people okay, that fulfills the intent of this map and we're gonna let people build around it. We didn't have that authority at least according to the court because what's located on that map is 50 yards wide and you know, you can't just allow people to build apartments and single-family dwelling and all the rest of the things in there.

So basically we're going oh my God we allowed a whole lot of stuff to go through that the court is now saying you know our practices over the last 50 years are incorrect so let's correct it all. We're not getting rid of the history of this. On Peter's hard drive there and backed up in several different places are all the old zoning maps with all of the incorrect metes and bounds descriptions, with all of the, you know, everything that went on, the ordinances, et cetera, all the conditions of zoning, all that stuff is still there. We aren't getting rid of the history. If somebody really wanted to a forensic study on what happened we have all that information for them. But from going on here, I...we can't readily live, if somebody wants to come in and put in an ohana and we go, no you're future roadway, you can't build an ohana because you're actually zoned future roadway. That's not something we want to live with. We are...I mean, really it's been

said numbers of time, we are zoning to what people already think their zoning is and what the county has already responsibly issued building permits for and people are living there, et cetera. So this is just making corrections. This isn't...we are...we're not erasing the sins of the past, but boy we sure are correcting them so people's lives can go on and we can continue to issue permits.

Chair Duvauchelle: Thank you. Any other questions?

Mr. Graves: I just wanted to sort of expand a little bit on what Will said. Part of the problem here is that we're taking 50 or even 30-year-old maps and holding them up to impossibly high standards. I mean standards that they were...this map was drawn, you'd lay it out on a table and a bunch of people would say, oh I know where that is, I know where that is, you know, it's a model, it's a representation. But for us to, you know, in a lot of communities that would have been refined over time so by the time you go to make a digital map you're not taking this 50-year-old map and laying it down under, you know, our base for figuring out where these maps were in the real world is using the tax map parcels which at this point are accurate within feet you know. So you just...you're using these maps in a way that they were never meant to be used but it's all we have. It's the only way we can figure out where the zoning is. More recent maps, even maps 20-years-old line up much better. I mean, like Lanai City, Lanai City is a no-brainer. You put the map down and it lines up perfectly with the parcels and we have very little problems on Lanai or even Molokai where most of the zoning is just either comprehensive or small changes in zoning. It's just in Maui where we've got as you saw all these layers on top of each other and trying to line that all up with parcels that are now accurate within feet or less than feet. So again yeah I don't think it's any...there was any bad intent, it was just byproduct.

Chair Duvauchelle: Thank you.

Ms. Cua: I think the last comment and we can't hit home enough is that everybody that worked to provide zoning information for the last 50 years did the best they could based on information they had. So we need to really stress that there was no malice intent anywhere. It's just the technology now is so advanced and we need to move with that, we need to move with the times, we need to put ourselves in a better place to serve the public better and we can sit here and we can ask questions all day long and you know...or we can say, you know what we need to have a base layer that is accurate, that we can give correction information or we can do Joe's example of continue to keep our head in the sand. And so we hope that you can come along with us and make the positive recommendation as the other commissions did to the County Council so that the County can finally have a digital zoning layer whereby we move forward. Thank you.

Chair Duvauchelle: Thank you, Ann. I'll make a comment. I'm a frequent flyer of your current zoning confirmation process and I think this is long overdue. I know it's been a lot of work and I'm really happy to see it step up to the next century and really clean things up. So I mean I think it's a really positive move and I applaud the work you guys have done. Commissioner Hudson?

Mr. Hudson: Just a quick comment. Several years back the Police Department that does dispatching had to redo all of their maps similar to that. There was a plane that flew over and

took pictures and we took what was as our beats, you know, for officers to respond to this include paramedics, this included the fire districts and all of that and we did an overlay and it was so bad that one of our beats was a half mile out at sea. Since squad cars can't over there we found that these digital maps were definitely the way to go. I think, I agree with the people that have been working on this this is long overdue. I understand accountability but let's fix some problems first. That's my comment. Thank you.

Mr. Spence: I wanna say for Staff you know they were working on this before I ever became director in 2011 and one reason this has taken so long is they have been so careful, they've gone parcel by parcel confirming the community, confirming what is there an issue with the property or is there not or whatever, I mean the carefulness in which they went through this I wanna thank them. It was painful at times how tedious and how they minutia that they paid attention to. So what we're coming up here with now is something that I mean, the accuracy we will have when this is adopted is gonna be light years ahead of what we have now.

Chair Duvauchelle: Any other comments? Commissioner Carnicelli?

Mr. Carnicelli: I'd like to move to approve both proposed bills as drafted to the County Council.

Chair Duvauchelle: Thank you.

Mr. Hudson: Second.

Chair Duvauchelle: Moved by Commissioner Carnicelli, seconded by Commissioner Hudson. Director?

Mr. Carnicelli: Can I make a comment on the motion?

Chair Duvauchelle: Please.

Mr. Carnicelli: I just want to make a comment on the motion. I'm just going to reiterate what everybody already said just to put it on the record that I think that this is a consumer protection bill actually is what this is. This is actually helping the public as Commissioner Robinson said, I mean, you know you gotta go someplace to be able to say what's my zoning and right now, the public can't do that. In this new millennia that's just crazy and status quo is not okay, so and the fact that everything lines up with the community plan, it's kind of a no-brainer for me.

Chair Duvauchelle: Any other discussion on the motion? Okay, Director would you repeat?

Mr. Spence: The motion is to recommend approval of the two bills to the Maui County Council and the adoption of the zoning map.

Chair Duvauchelle: All those in favor please raise your right hand?

Mr. Spence: That's five ayes.

Chair Duvauchelle: Motion carries. Thank you. Thank you very much.

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

**VOTED: To Recommend Approval of the Two Proposed Bills to the County Council.
(Assenting – L. Carnicelli, L. Hudson, K. Robinson, C. Tackett, R. Higashi)
(Excused – T. Gomes, S. Castro)**

Chair Duvauchelle: All right, shall we move on or do we...we'll take a five-minute recess

A recess was called at 10:20 a.m., and the meeting was reconvened at 10:30 a.m.

Chair Duvauchelle: Director would you like to read our next agenda item?

Mr. Spence: Yes, Commissioners we're on Public Hearing Item 2, Vintage Rentals, LLC requesting a Community Plan Amendment from Single-Family to Business Commercial, a Change in Zoning from R-1 Residential to B-CT for the Paia Trade Center Project located at 150 Luna Place in Paia and our Staff Planner is Candace Thackerson.

2. VINTAGE RENTALS, LLC requesting a Community Plan Amendment from Single-Family Residential to Business/Commercial and a Change in Zoning from R-1 Residential District to B-CT Country Town Business District for the Paia Trade Center project, the proposed renovation of an existing single-family to a commercial building located at 150 Luna Place, TMK: 2-6-005: 005, Paia, Island of Maui. (CPA 2016/0002) (CIZ 2016/0001) (C. Thackerson)

Ms. Candace Thackerson: Aloha Commissioners. So today's purpose is that you guys will be giving your...you'll be reviewing the project and then giving your recommendation onto County Council for the community plan, the proposed community plan amendment and change in zoning for Vintage Rentals.

Just as a refresher I wanted to let you guys know this is the third time the project has been here before. It was here previously for the Draft EA which we gathered your comments and sent out for agency review and then it was before you again for the Final EA which you guys approved a FONSI, a Finding of No Significant Impact. That has been published on the State OEQC website. There was been no formal challenge filed against the FONSI through the State website as of today's date.

So today we're gonna be going over the CPA, the community plan amendment and change in zoning for your recommendation onto Council. There is no associated SM1 for this because the project while it is in the SMA, the scope of the work will probably be a minor and something that we can approve administratively.

The applicant is here as well as the consultant and they will be doing a short presentation on the project. So I'll just turn it over to them.

Mr. Jordan Hart: Good morning Chair and Members. My name is Jordan Hart of Chris Hart and Partners. Thank you very much for being here in light of the weather. I do want to make a comment just in the context of the weather. We need to make use of the Final Environmental Assessment power point. There would have been some slight updates but our office didn't have electricity this morning and so as a result of that we'll be doing a presentation that's dated July 25 but substantively it's the same, the only difference is that now the Final EA has been granted a FONSI by the Planning Commission and has gone through the publication process.

So with that, Cinco and Tricia Young are the applicants and landowners. They operate Vintage Rentals which is the applicant here. They're here with us today. David Sereda is our landscape architect and Raymond Cabebe is our lead project planner and I'm Jordan Hart from Chris Hart and Partners. Architect is Greg Skog, civil engineer is Linda Taylor and our traffic engineer is Phillip Rowell. Unfortunately, Phillip has had some health issues recently after completing this report and so he hasn't been able to be here with us in prior meetings and he wasn't able to be here today. We have reached out to another traffic engineer to be able to continue to represent the project but we don't have one today.

So the requested action is a Change in Zoning. The current designation is Single-Family, it's R-1. We're requesting a Change in Zoning to Country-Town Business and a Community Plan Amendment from Single-Family to Business Commercial. Preparation or processing of a community plan amendment is a trigger for Environmental Assessment and so we've done that process. We got a Finding of No Significant Impact. We are in the Special Management Area but as I'll show you the proposed action is a renovation of the existing single family residence and so the dollar value is less than \$500,000 which qualifies for an SMA Minor Permit. So that's why we're not doing an SMA Major Permit along with the other applications that we are doing, but we did do an Environmental Assessment which is a robust analysis process and it actually requires more technical studies than an SMA Major Permit.

So the project is right on Hana Highway in Paia. I'm just gonna kinda skip through some of these, the tax map key. You can see the pattern of development. So basically abutting Hana Highway there are commercial uses on both sides of the street. To the Haiku side of this project there is a church which is Public/Quasi-Public use and so there's basically a non-residential use on both sides of the property and on both sides of Hana Highway. And so what we're proposing to do is change that final piece that's Single-Family abutting Hana Highway from Single-Family to Commercial.

So this is the Community Plan designation. You can see where single-family if you take a look at the red dot that's the project site to the east or the Haiku side is Public/Quasi-Public and then to the west which is the Kahului side is Commercial. And so there's just this single home that's got a private road on one side and is facing Hana Highway. It's has the parking lot for Charley's is its neighbor and then it has a church property as its neighbor on the Haiku side.

This is the land use map so the red is the Commercial, the blue is Public/Quasi-Public and then you can see on the north side of Hana Highway which is the makai side in Paia all the properties across the street are all commercial and so you know this is the last lone single-family parcel and we're basically asking to take that out of Single-Family and put it into a Country Town business scale commercial operation.

So I discussed the triggers for Environmental Assessment the community plan amendment. We presented some of the time line for the project. We presented the Draft Environmental Assessment in November of 2016. We received comments from the Planning Commission, responded to those comments. We also received comments from State and County agencies. We went to the Urban Design Review Board two times and received comments from them. We went two times because there was a rendering face, the west face of the structure we didn't have a rendering for it and that was because in order to take a photograph of it from Luna there was really...anyway, long story short they wanted to see one additional rendering so we had two meeting there. We went back to them to show that additional rendering and received a recommendation for approval. The Maui County Council is the final approving agency or body for the land use designation changes.

The County agencies that commented on the project as it is proposed now are the Department of Environmental Management, Housing and Human Concerns, Department of Public Works which administers roadways and right of ways, the County of Maui of Maui Department of Transportation, the County of Maui Department of Water Supply, State of Hawaii Department of Accounting and General Services, State Department of Health, State Office of Environmental Quality Control and the State Office of Planning.

We did receive comment from neighbors on Luna Place during the Draft EA process. There was a concern that Luna Place was too narrow. The applicant proposes to pave Luna Place up to the project from the back end of the project up to the intersection with Hana Highway. There was a concern that parking on Luna Place would hamper emergency vehicles and access. The applicant will add additional no parking signs to Luna Place and then there was a concern that traffic drives down Luna Place down to the dead end of the street and basically you know, has no reason to be down there and interferes with the general enjoyment of the community and so the applicant's proposing to add signage at the end of their property instructing people that the remainder of Luna Place is a private driveway and encouraging them to turn around within the project parking lot. I'll show you a diagram of that.

So we are talking about actually a very small parcel. This is 4,402 square feet. There's an existing 948 square foot single family residence which is the same structure that's going to remain and is proposed to be converted into a commercial building. And there's a 221 square foot garage and a small storage structure. The garage and the storage structure are proposed to be demolished.

These are photographs of the project site. This is looking at...upper left is looking at Luna Place from across Hana Highway with your back to what was Paia General. On the upper right is with your back to the Charley's parking lot looking at the back parking area. On the lower left you have your back heading mauka up Luna Place and you're looking makai at the backside of the

project site and then on the lower right you have your back to Luna Place and you're looking across at what used to be Paia General.

On the upper left photograph you are across Hana Highway looking at Luna Place and the parking lot of Charley's. And so this is kinda what I was explaining as far as the relationship of commercial bar operation parking lot and residential use. It's not exactly the ideal use, and so we believe that changing it to a commercial use is appropriate for the pattern of development and the existing uses that are surrounding. The upper right photograph is looking towards Kahului. The upper...the lower left photograph is looking towards the Paia Fire Station past the project site and then the lower right is looking again towards Kahului on the mauka side of Hana Highway.

This is a survey of the project site. You can see it's a relatively small parcel and then there's a single family residence that dominates the center of the project site. That residence is going to be converted into the commercial building or is proposed to be. This is a head on photograph of the building.

This is the proposed site plan. So basically there are three parking stalls proposed in the back in the location where the garage currently is, one ADA stall and then an ADA accessibility ramp on the west side which is the Luna Place side. You can see it let's see here, here is an ADA ramp and then there's going to be a front deck. Those are the improvements that are proposed as a result of this project. There's also going to be landscape improvements including planting a tree to comply with the County's parking ordinance.

This is the landscape plan imposed over the existing project site so you basically have the existing dwelling, one required parking...one required tree for the parking lot and then three additional trees proposed, three stalls. There's a ADA ramp would be under those trees on the west side of the property and then there's that front deck that's gonna be on the Hana Highway side.

This diagram shows the existing single family residence on the left and the proposed open floor plan with a restroom on the south end of the building and then the ramp is on the west end.

This is a rendering of the proposed project which basically just removes the existing fence, patch, scrape and paint the existing building and converts it into a commercial operation the existing structure. There's a deck added on. This is the south elevation. This east elevation is the reason we went to Urban Design Review Board two times. They were trying to understand what the treatment of the east side was going to be because of the fence on the Charley's parking lot we couldn't get a photograph that had the perspective of the east or the west...sorry the east...the west elevation excuse me, in order to impose the proposed design on top of it. So we had to settle for showing them the rendering and showing them a panoramic view of the corner.

So again the street elevation in relation to Charley's it's consistent with the existing character of the community. It's going to be consistent with the Paia Town Design Guidelines. As discussed three stalls are proposed, a small 45-square foot porch and a 80-square foot pedestrian

entrance. Door and window details will comply with the Paia Town Design Guidelines. The residence is existing and has been there for some time. The roof is gonna remain. The site plan again. The plant selection is consistent with the Maui County Planting Plan, third edition and appropriate for the region. It's an existing water meter and a four-inch fire line installed. There's access to sewer. Drainage is gonna increase by .08 cubic feet per second and it's gonna be contained on site in retention. The main access is off of Luna Place which is a driveway and the County and State have no requirements for the improvement of Luna Place. The applicant is proposing to pave the full width of Luna Place to the extent of the project's boundary. There's also one thing to emphasize is that the fence that surrounds the private residence right now is approximately six feet high. It currently does inhibit sight distance and so when the three-foot fence is added and replaces that it will improve sight distance looking towards Haiku.

We had a traffic engineer prepare a study. We had comment from the Police Department. The comment from the Police Department was concern on vehicle and pedestrian movement during construction phase. They had no concern or statements of warning regarding the operation phase of the project site. The peak hours that were measured was 7:30 a.m. to 8:30 a.m. There were 1,110 vehicles that passed during the peak. Now that is on Hana Highway. Hana Highway is uncontrolled in this area so it's basically a T-intersection Luna Place with Hana Highway. In the afternoon 4:00 p.m. to 5:00 p.m., there was 1,347 vehicles. The way the traffic analysis was done...what we're requesting is outright zoning so the proposed action is a retail or office use because of our parking we're not able to provide adequate parking for any uses beyond that. As you saw the property is small. We did try to work with the Department to see if there was any methods to address that beforehand and the conclusion was that the only way to do it is to provide the amount of parking that we can onsite, the applicant wanted to preserve the existing residence and convert that into a commercial structure rather than demolishing an existing building and reconstructing new. And so that really, that really dictates what can be operated there under existing conditions. And so we used the most intense amount of vehicle generation when we did our traffic impact assessment report and that was for a restaurant which cannot be developed here under existing conditions, but that results in ten a.m. trips and nine p.m. trips.

So this is some explanation of what level of service is. So level of service is basically a grade for any intersection and it's based on the amount of time that a vehicle has to wait to pass through the intersection. Long story short there's no impacts whatsoever to Hana Highway. It remains operating as an A. The Luna Place does operate at levels of service below C and that's because there's no stop light there and it's...you know, Hana Highway is prime highway through the region and this is a side private street that serves a few properties. The wait durations that you see are what was measured, 25.9 seconds, 24.9, 35 and so on.

So in conclusion we did a thorough analysis of the infrastructure and environmental impacts from the proposed action. The Planning Commission granted a Finding of No Significant Impact. We do feel that the proposed change in zoning and community plan amendment are consistent with the land use pattern that's existing in the area and it's also consistent with the evolution of Paia Town. You know there was a time when Paia Town was a plantation town and the plantation is closed now and there are a lot of tourist that use that area now. They walk up

and down Hana Highway and this is an opportunity to basically complete the consistency of the uses on Hana Highway in that area and convert an existing property that's maybe not the most ideal location for a single family residence abutting a bar or parking lot but could be functioning quite well as a retail or commercial space. That concludes my presentation. Thank you.

Chair Duvauchelle: Thank you Jordan. At this time, we will open up the floor for public testimony on Item C-2. We have registered to testify Lance Holter.

a) Public Hearing

Chair Duvauchelle: Please state your name and you'll have three minutes of testimony time.

Mr. Lance Holter: Yeah, hello my name is Lance Holter. I've been a 33 resident of Paia, 23 resident, year resident of Luna Place and have been the President of the Luna Place Road Association since 2000. I want to mention that I have never been noticed about the Draft EA meeting, the FONSI meeting nor the Paia Town meeting. I'm with the 500-foot radius where my residence is and I'm the adjacent manager of the road association which manages the road for easements and so forth. Had I been, I would have contributed my concerns and my concern is and I have some photographs I'd like to provide if it's possible Madam Chair?

Chair Duvauchelle: You can give them to Candace.

Mr. Holter: And this is in regards to the vehicular access in and out of Luna Place and also the continual situation of tenants at 150 Luna Place parking on Luna Place preventing trash and utility services to our roadway and some of the...in cases, some of them spending two, three nights with their cars parked in the road. Even though I've repeatedly I asked the landlords to please stop people from staying on that road. Now I purchased many, many signs. I've been put signage on the stop sign and still nothing has been resolved. And so, I also want to add that the last part of July your former County attorney Bennie D'Enbeau was run over in the sidewalk by a car coming out of Luna Place and this is because there's a telephone pole right on the edge of Luna Place that prevents you from looking west down Hana Highway and so it's a impact which I think we need to consider of this ingress and egress of this residence. Further, there's nothing that stops this commercial development from becoming a larger commercial development for example, maybe a two-story commercial development.

Presently there's two parking space and one handicapped parking space. Now where the shopkeeper or the office people would park I'm not sure because there's only presently two parking spaces for private or public use. In past meetings regarding the Paia Town Center I spoke at the County Council...I mean at the Planning Commission and also at the County Council and they placed a condition on Luna Place to the Paia Town Center that there would be no public or employee parking from their development on Luna Place. They also agreed to remove access to their former residence and no longer use Luna Place for access. So I respectfully request that at least at the very least this condition be placed on the development that they monitor and prevent any of their employees or any of their people coming to that property of using Luna Place as a parking area. Thank you very much.

Chair Duvauchelle: Thank you. Any questions for Mr. Holter? Thank you. Candace would make sure that the applicant is able to get a set of the photos that Mr. Holter passed out? Thank you. All right, thank you very much. Next testifier, James Huntington?

Mr. James Huntington: Aloha, good morning. I'm James Huntington and I live at 15 Luna Place so I'm directly adjacent behind the property there. And I just wanted to tell you that I'm not summarily opposed to a commercial rezoning. That it seems like a very reasonable thing but I still have concerns of the roadway and the traffic it's going to bring. The problem we have now is that it really requires a very vigilant, constant policing of that roadway to keep it clear. There are at least 16 homes, maybe it's 15 now but they're older vintage wood construction homes and any vehicle parked in that roadway would prevent the Fire Department from getting in and emergency vehicles from getting in and I think that's a really important thing to consider. I realize that it's a private roadway and I don't know how much of a concern that is for you. It's not a public roadway but still that really would impact the rest of us. So I guess I'm not completely convinced that just the paving of that first area and a few signs is gonna solve that problem. It certainly is ongoing today. I do like that they're keeping the existing plantation cottage. I think that the charm of Paia is really about the old original structures. I think it's really important. It's not just the bigger, fancy Victorian mansions like the Baldwin Estate. To me, plantation architecture like that is so important to I think so many people that have grown up here and you know they really made Maui what it is so really like that they're keeping that and refurbishing it. But one concern is the future. Once it's rezoned Commercial is it's my understanding is that it really just changes the setbacks you know to a commercial setback and then at some future point it's possible to just create another one of those new buildings that's there that go up 30 feet and so I don't know if there's any consideration for that. I realize they're not asking for that now, but I just think it seems to me it sort of clears the way for that and it would be a shame to lose another plantation cottage in Paia. And you know, in my home which is not historic, it was actually moved there it was two homes that were combined and stuff so I've spent a considerable amount of effort and money refurbishing it just because I just think it's really important to keep those older homes. But thank you very much for listening.

Chair Duvauchelle: Thank you. Any questions for Mr. Huntington? Thank you very much. Our next testifier is Francine Aarona. I'll open the floor for public testimony after all of the...this people who signed up are finished. Good morning, state your name, you'll have three minutes.

Ms. Francine Aarona: Aloha Madam Chairman, Commissioners my name is Francine Aarona also known as Aunty Mopsy, Protect Paia. Protecting Paia has become a journey of passion and love for the aina and its people. We can no longer call it historical town expect for Hew Store that remains boarded up. No saimin, no hot bread. Mom and pop stores are gone. What do we have today? A lot of boutiques, t-shirts, jewelry store and a lot of vacation rentals and commercial businesses that we don't need. Private owners, LLC partnerships come with intentions of building their bank account. I am very upset with the information that has been shared by Vintage Rentals of the community's acceptance of their project. Three-fourths of the community have no idea of their intent and unless you become an activist like myself and consistently keep track of the meetings that are held, it gets lost in the shuffle.

What is the County's intent in allowing developers to amend the community plan that was designed to keep life simple and sustainable for its people, to hang onto the culture and sacredness of the aina? And what is the board of commission's intent in your decision to allow more growth where it is not welcomed. Have a meeting with the community and find out for yourself. My intention in being here is to be a voice for the people of Paia and of Maui. To tell you who sit on the board, the Planning Department to stop amending plans until you finish the Maui plan. It has already been proven that the plans contradict itself with the short-term rentals. This project on Luna Lane has created intentions of other residents to get a permit for short-term rentals. No matter how hard we try to forget about the overthrow of our islands, the intentions of those who come with the attitude I want what you have and I'm gonna take it. Our way of our life, our mannerisms become one of intent. So we continue to fight like warriors to hang onto what is ours. I ask you not to defer but to stop this project. They can always do a long-term rental. Mahalo for listening.

Chair Duvauchelle: Thank you. Any questions? Thank you very much. Anybody else wishing to testify please come forward, state your name and you'll have three minutes.

Mr. Steve Paselk: Good morning, I am Steve Paselk and I speak in opposition as a homeowner at 19 Luna Place and I speak on behalf of the concerns of 42 homeowners, renters and business owners within 500 square feet who could not be here today. Nine out of 13 homeowners on Luna Place are currently opposed to this project. Luna Place is a rural country town neighborhood of mostly historic plantation era homes on a one-lane private gravel road. Residents embrace the benefits of close proximity to town but also value boundaries, protection of residential property rights and the quiet enjoyment of our neighborhood without the intrusion of commercial traffic.

A business here will invite and exacerbate an existing town overflow parking problem as evidenced by 16 no parking signs up and down our road. A successful high turnover business such as a deli food, take out store using three parking stalls each turning over every 30 minutes would generate 60 visits to our road per day and many difficult left-hand turns onto congested Hana Highway at a crosswalk creating a potentially dangerous hazard and bottleneck.

I submit to you for public record 42 signed testimonies of opposition from homeowners, renters and business owners within 500 square feet. I can attest to strong community sentiments and concerns about Hana Highway congestion, lack of town parking, pressure from increased commercial development and growing tourist impact on our town and quality of life. Please do a site visit and experience a left-hand turn onto Hana Highway before deciding. Please listen to the concerns of the community and solve traffic and parking issues before approving new commercial development and please listen to nine out of 13 property owners on Luna Place that currently oppose this and preserve the integrity of the Luna Place residential neighborhood. Thank you for listening.

Chair Duvauchelle: Any questions? Thank you very much. Thank you. Anybody else wishing to testify on this agenda item please come forward? Okay, seeing none, we'll close public testimony. Questions and discussion from the Commissioners? We're making a recommendation to Council. This is what our role is today. Okay, you know what that's not a

bad idea. We're gonna take a five-minute recess at this time so we can pass that around and we'll reconvene at 11:07.

A recess was called at 11:02 a.m., and the meeting was reconvened at 11:07 a.m.

Chair Duvauchelle: Okay, Planning Commission will go back in session. So where we were is the moment of questions or discussion from the Commissioners regarding the request. Okay, do we take the Department's recommendation at this point? Okay, Candace give us the Department's recommendation.

b) Action

Ms. Thackerson: The Planning Department recommends to the Maui Planning Commission that it recommend approval onto the Maui County Council for the change in zoning from R-1 Residential to Country Town Business as well as the community plan amendment from Single-Family to Business Commercial and that you recommend approval onto Council.

Chair Duvauchelle: Thank you. Any discussion or a motion? Commissioner Carnicelli?

Mr. Carnicelli: I'm gonna go ahead and make a motion to approve as recommended by Staff.

Vice-Chair Higashi: Second.

Chair Duvauchelle: Thank you. We have a motion to approve by Commissioner Carnicelli, a second by Commissioner Higashi. Would you like to have discussion on the motion? Commissioner Carnicelli?

Mr. Carnicelli: So I'll start the conversation. To me this is an interesting one. I mean, I understand the concerns of the residents of the Paia, I understand the concerns of the residents of Luna Place. The thing that's interesting is what most people are bringing up parking's bad in Paia. It's a nightmare in Paia. Traffic is a nightmare in Paia. The character of the town has completely changed. It's not what it was. You know there's like two things left in Paia for local people. You know all that that stuff is true. Is this one house going to save Paia? Is it gonna completely decimate Paia? You know those are the things that I guess I'm trying to mull over in my mind. What is the highest and best use for this one particular property sandwiched between a church and a bar right on the road where we do have shops on all around it, across the street? You know the character of the town is important and yet I feel as though what this one particular property can do and you know what is the highest and best use they sort of jumped through all the hoops and quite honestly we're recommendation and so I think this is one of those things that at least for me I'm gonna go ahead and vote in favor of the motion to move this onto Council and let them make the final decision.

Chair Duvauchelle: Thank you. Any other? Commissioner Higashi?

Vice-Chair Higashi: I recommended, seconding the motion based upon the fact that this particular property is appropriately situated in a commercial area. It is not directly involved in

residences although it was residence earlier. But I think the location of it...yeah, parking is a problem with Paia anyway and I know that behind Charley's Restaurant there is public parking if you really need parking for the use of the facility or visiting it so I see it as something that can be done.

Chair Duvauchelle: Thank you. Any further discussion? Commissioner Hudson?

Mr. Hudson: I will not be in favor of the recommendation. Luna Place is adjacent to the bar that's true, but rural and town eventually have to be adjacent some place. It's zoned as a residential right now. My concern is the neighbors right in back of it and three of the four people that testified today are actual neighbors that live there and there's nobody that's gonna tell me that it's not gonna have an impact on that tiny itsy, bitsy, little roadway. There's nobody that's gonna tell me that it's not gonna change the neighborhood. Just looking at it you know it's gonna change. I understand where my fellow commissioners are coming from. One house is not gonna save it that's true, but one house could be a crack that moves along and causes more cracks. You take one down and then another one because one house isn't gonna change it, one house isn't gonna change it, one house is gonna, well 30 houses might. I think no, I can't support it. I can't support it because I think it's gonna be detrimental to the neighborhood that exists over there. Thank you.

Chair Duvauchelle: Thank you Commissioner Hudson. Commissioner Robinson?

Mr. Robinson: I think the owner of this property went through the process the correct way. I think this is the third time in front of us. You know the applications, you know they have their visions and they weren't trying to slide anything or being a illegal rental and commend that of anybody doing that. Having said that I'm not for changing homes into commercial especially in Paia. Paia needs to make a decision, this community plan as a community. They need to decide what they want the community to be. It is not the Paia...(inaudible)...we all know that. What it's gonna be I don't know. I don't even go to Paia any more, tell you the truth I don't like it. I think it's crowded. I think locals and tourist really don't get along there. I think the crime rate and the violence that happens there is a portion of that. I think it's getting commercialized and you know, it's...so it's not something that I think I want to be around. I'm not trying to knock Paia down but it's just, when you have a idea of what something used to be, there's other areas on the island that aren't tainted that way. I think the Council is also gonna have a challenge with this because it's going into commercial and I think my recommendation to the applicant is get everything ready and see what the community plan holds, see what the community says and if they're with you and the community wants to move it a certain way then people who are opposed might unfortunately have to be...you know, decide something else, but I won't be in support of it either. Thank you.

Chair Duvauchelle: Any further discussion? All right, Director would you like to repeat the motion?

Mr. Spence: The motion is to recommend approval to the County Council for both the Community Plan Amendment and the Change in Zoning.

Chair Duvauchelle: All those in favor of the motion please raise your hand?

Mr. Spence: That's two ayes. Opposed?

Chair Duvauchelle: Opposed?

Mr. Spence: That's three opposed. Motion fails.

It was moved by Mr. Carnicelli, seconded by Mr. Higashi, and

The Motion to Recommend Approval of the Community Plan Amendment and Change in Zoning to the County Council, FAILED.

(Assenting – L. Carnicelli, R. Higashi)

(Dissenting – L. Hudson, K. Robinson, C. Tackett)

(Excused – T. Gomes, S. Castro)

Chair Duvauchelle: Thank you. Do we have another motion on the floor? Commissioner Carnicelli?

Mr. Carnicelli: Move to deny.

Chair Duvauchelle: Thank you.

Mr. Hudson: Second.

Chair Duvauchelle: Motion to deny by Commissioner Carnicelli, seconded by Commissioner Hudson. Any other discussion? Commissioner Carnicelli?

Mr. Carnicelli: I may sound like I'm standing on both sides of the fence here but you know it is a very sensitive issue, but I think that where I stand with this is when you come to the fork in the road you can go left, you can go right, you can go backwards or you can just keep standing where you are. I don't think that it's fair to anybody to just keep kicking the can on this. To think like okay, we're gonna end up with seven people here and we're gonna get, you know a bunch of votes and we're gonna be able to actually have a debate. I think when we have bare quorum, five, six people, we gotta make decisions just so people can move on with their lives. I just think that's what's fair. I may not agree with the decision. I may not like it, but I think that we live in a society where majority rules and unfortunately when we're at a bare quorum minority rules you know 'cause you can just force your own hand. So in a way is...if we have five people here that want to deny this then, that may not be what I completely agree with but I can also understand it. So I think for the sake of the conversation and for the sake of everyone that rather than just saying hey, let's defer this, let's try and make a decision.

Chair Duvauchelle: Thank you. Any further discussion? Okay, Director?

Mr. Spence: The motion is to recommend denial of the Change in Zoning and the Community Plan Amendment to the County Council.

Chair Duvauchelle: Okay all those in favor please raise their hand?

Mr. Spence: That's three ayes.

Chair Duvauchelle: Opposed?

Mr. Spence: One opposed and one abstention that's four ayes.

Chair Duvauchelle: This is when it's no fun to get to be the Chair. I actually...I understand the challenges too, but also agree with Commissioner Carnicelli's earlier statement about the location, the usage and the sensitivity, so I would not be in favor of this motion to deny.

Mr. Spence: So the motion fails.

It was then moved by Mr. Carnicelli, seconded by Mr. Hudson, and

The Motion to Recommend Denial of the Community Plan Amendment and Change in Zoning to the County Council, FAILED.

(Assenting – L. Carnicelli, L. Hudson, K. Robinson, C. Tackett)

(Dissenting – R. Higashi, S. Duvauchelle)

(Excused – T. Gomes, S. Castro)

Mr. Spence: Madam Chair we could send, I mean, unless somebody wants to make another motion we go ahead and send this to the County Council with no recommendation noting this is something that the Commission struggled with and with six members present, et cetera, seven...six members present.

Chair Duvauchelle: Would Commissioners be in favor? Commissioner Hudson?

Mr. Hudson: I would make that motion no recommendation either way.

Chair Duvauchelle: Okay. So do I have a second?

Mr. Carnicelli: Second.

Chair Duvauchelle: Moved by Commissioner Hudson, seconded by Commissioner Carnicelli. Director the motion is?

Mr. Spence: Is to make no recommendation to the County Council.

Chair Duvauchelle: All those in favor please raise your hand.

Mr. Robinson: One second. Make no recommendation or not able to agree on a recommendation.

Mr. Hudson: Yeah...(inaudible)...

Mr. Robinson: Well, he's saying that we don't have a recommendation.

Chair Duvauchelle: Please speak into the microphone Keaka, you guys, speak in your microphones.

Mr. Hudson: I believe the motion was that we struggled with it and we're not making a recommendation either way.

Chair Duvauchelle: Commissioner Higashi?

Vice-Chair Higashi: At this point I feel that we are emotionally not stable with one or the other and I recommend that we let the County Council make that decision.

Chair Duvauchelle: So the motion is to make no recommendation to County Council. All those in favor please raise your hand. That's five ayes.

Mr. Spence: That's five ayes.

Chair Duvauchelle: Motion carries.

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

**VOTED: That No Recommendation Be Made to the County Council on the Community Plan Amendment and Change in Zoning.
(Assenting – L. Hudson, L. Carnicelli, K. Robinson, C. Tackett,
R. Higashi)
(Excused – T. Gomes, S. Castro)**

Chair Duvauchelle: Thank you. All right Director next agenda item?

Mr. Spence: Commissioners we're on Public Hearing Item No. 3. Mr. Chris Bolte and Mr. Gary Bolte or Bolte I'm not sure requesting Short-Term Rental Home to operate Huaka Mahina Short-Term Rental at 2773 Kolepa Place in Lahaina and it appears Ms. Callentine is not here today so Jeffrey are you the one?

Mr. Jeffrey Dack: Yes, I will be presenting in Ms. Callentine's absence.

- 3. MR. CHRIS BOLTE and MR. GARY BOLTE requesting a Short-Term Rental Home Permit in order to operate the Huaka Mahina STRH, a four (4)-bedroom short-term rental home located in the Urban District at 2773 Kolepa Place, TMK: 4-4-006:039, Lahaina, Island of Maui, Hawaii (STWM T2017/0010) (L. Callentine)**

This application is being reviewed by the Commission because there are at least two (2) permitted short-term rental operations located within 500 ft. of the subject property.

Chair Duvauchelle: We kinda threw this on you quickly do you need a moment or are you okay?

Mr. Dack: I'm fine. I'll just pull out my notes and be ready to go. So again, Ms. Callentine was the Staff Planner for this project. She had to be on leave due to circumstances beyond her control so I am her supervisor and will be presenting this to you. My name's Jeffrey Dack.

So this matter arises from an application for a short-term rental home permit filed in December the 2nd of last year by Gary Bolte and Chris Bolte. There is one dwelling on the property that is proposed for the short-term rental home use. In addition to the four bedrooms there's five bedrooms, a kitchen, a dining room, a living room, media room, two laundry rooms, a pool and lanai. There's a two-car garage and driveway that can accommodate two cars. Again, all of this at 2773 Kolepa Place in Lahaina.

Pursuant to Maui County Code Chapter 19.65.060, the Planning Commission is the approving authority for the STRH because there are two or more existing short-term rental homes operating within 500 feet of the property.

The land use designations for the property are State Urban, it's with the Urban Growth Boundary for the Maui Island Plan and it has a Single-Family Residential community plan and County zoning designation each of those. Surrounding uses include a single-family residential to the east, Kaanapali Golf Course to the south, Kaanapali Golf Course and Honoapiilani Highway to the west, and the International Colony Club, Kaanapali Course and Plantation Condominiums to the north.

The applicable regulations are listed in the report beginning at Page 3. The proposed use is in conformance with the Hawaii State Plan, the Urban District designation. The land use designations for community plan and zoning which are Residential and as indicated is inside the Urban Growth Boundary for the Maui Island Plan.

On Pages 12 to 20 of the report that addresses how the proposed short-term rental home relates to the various short-term rental home criteria in Sections 19.65.030, 070 and 080 of the County Code. A special note is criterion 19.65.030(n) that's listed on Page 15 of your report. That criteria reads, short-term rental homes shall conform to the character of the existing neighborhood in which they're situated. Subsection 19.65.030(n) directs the department or the applicable planning commission to consider a set of nine criteria, subcriteria that are listed in the report.

I want to speak a little bit to criterion no. 6, and I'll read that, again, that's on Page 16 of the report. That criteria is and again trying to help you determine if a project is consistent with the character of the neighborhood is the number of permitted short-term rental homes surrounding the proposed short-term rental home property and their distance to the property. There are 26

permitted short-term rental home operations within 500 feet of the subject property. Now note for example International Colony Club if you look at one of the exhibits you'll see that the 500-foot radius touches just the southerly boundary of the overall International Colony Club property but it does technically mean that property is within the 500 feet and so that is how in part how we get the 26. So the 22 actually with the International Colony Club, there are also four Kolepa Place. There is one B&B on the same street as the subject property. And as of June 30th of this year there was permitted 65 short-term rental homes in the West Maui Community Plan region where the cap is 88 and there were 10 permitted B&Bs in the region where the cap is 88.

As this may be a high concentration which among other things could affect the commission's conclusion as to whether or not the proposed short-term rental home conforms to the character of the existing neighborhood the Department will offer no recommendation of approval or denial of the commission. I believe the applicant or their representative Debbie Mitchell would like to give a power point presentation. Thank you. Are there any questions at this point? Thank you.

Ms. Debbie Mitchell: Good morning Commissioners. Madam Chairman, Mr. Spence, counselor. My name is Debbie Mitchell and I am the consultant for the owners of 2773 Kolepa Place which is in Kaanapali. They've applied for a Short-Term Rental Home Permit and as Jeff said it is located on Kolepa Place at which we have had several other permitted homes as well.

All right I'll bring you in the...to the area itself. You see where the marker is it's just mauka of Highway 30 and located right above North Kaanapali Beach in the center of the resort area. Here again, a little farther you can see the International Colony Club up there to the north and The Masters Condominiums and then the developments of the Westin, Maui Eldorado, Royal Lahaina Resort. Moving in on the aerial view you can see where the house is located. Again, this group of houses is located right on the 11, 12, and 13 holes of the Royal Kaanapali Golf Course. So it's on kind of a little island right out there. Moving in straight above there are 16 homes on this particular development. It's accessed by Kalapu Street which runs past the corner of the International Colony Club that you can see to the top of the picture and then empties out into Kolepa Place and that is the main road through the development.

This is looking over the house. As you can see it fronts the golf course and has a significant driveway down to the property so it has very adequate parking per the regulations of this ordinance. Again taking a look down, it's at the end of the cul de sac and again has significant mature foliage which add...is very helpful for noise abatement.

This is the surrounding area. It shows you the turn off from Highway 30. It's heading up the Kaanapali Hillside. The little side street there is Kalapu Street and there are the old railroad tracks for the sugar cane train as well as the access road. This is Kalapu Drive which is you drive up to reach Kolepa Place. It is a privately held road, both of those streets are privately owned. And this is Kolepa Place. The top left picture at the very far end is where this residence is located. This is the house itself and it has the advantage of being set down into the topography of the land so as you look in you're looking straight at the middle of the house. It's makes also more noise abatement there because it is lower than the surround street. Again, you can see the significant mature foliage surrounding the house.

There is a large two-car garage and plenty of parking for two in the driveway as well. So there is a total of four parking spaces which is more than adequate for the ordinance purposes. The exterior of the house this gives you an idea of what it looks like from the outside. It's really very similar to the Sea House Restaurant. It has a lot of rockwork, very nice rockwork and a lot of rich wood faces out towards to the Airport Beach and the Island of Lanai. The views again once looking out there towards Lanai. On the bottom left photo you can see the stairs you much come down to enter the house so you can tell how that house is located downward in the property. The other two views north and south are completely covered by landscaping.

It is a two-story residence, the bottom floor has a master bedroom and a second bedroom. They're an ensuite baths, so each has a separate bath for it. And then up the stairway there are two additional bedrooms and bathrooms and a media room. This is the entry of the house. Some leaded glass doors. The kitchen which is large and spacious. A dining room and a kitchen nook. The living room is again very large and spacious and opens to the west to make the most of the view. The media room upstairs is large as well. And the four bedrooms, the two on the top are the bottom floor bedrooms and the two on the bottom are the top floor bedrooms. You can see they're large and very spacious as well. The baths are very well appointed, very high quality appointments.

There's a large pool and the location of the pool is to the front of the house so that any noise from the pool to any other neighbors would be muffled much by the house and the topography of the land in addition to the foliage there.

As a little bit of interest this house was built in 1975 and it was owned by Dennis Day and his wife Peggy. He was a Irish Tenor and he sang on the Jack Benny Show, starting to show my age a little bit here, but they were regular visitors to Maui until his death and then Peggy, also known as Peggy McNulty moved out here and lived in the house until her death. She moved back just right before she passed away. The house saw a lot of interesting visitors during their time there because they had very much Hollywood connections and so it just has that point of interest.

In terms of the ordinance we did notify everyone twice within 500 feet. An ad was placed in the Maui News and we did receive two protest letters which are in your packets. They are...as you know I've done several of the applications in this area and they are ones that have received from before. The first is from a Joan Merrill which is in your packet and she lives in The Masters Condominium section and she is worried about traffic although there are no shared roads other than the highway that The Masters has with this particular location. The other gentleman was across the street, Mr. Klein. He is also...he actually was writing in to protest three of the applications of which two have already been granted. Ours is the third. So the letter that he sent as I mentioned they're in your packet. Ours was one of the TMKs that he listed. We did write to these folks and the owner has gone to the houses to meet with them and discuss. However Mr. Klein does not live on island so was not able to make connection with him other than the letter. And again, as Jeff says there are four other permitted homes within 500 feet and the one bed and breakfast home.

I do have a little graphic that shows you the 500-foot radius. At the very top there is recently granted a short-term rental home, the blue dot at the very top and you can how very small the incursion is into his lot and then the 22 that is for the International Colony Club you can see that the only incursion on that lot, but of course because it's one TMK you have to consider it all. So it just shows you the location of the blue dots are the STRHs and the yellow dot is the bed and breakfast. Here's an aerial view so you can see where those are. Again it shows you how they're kind of spread out throughout. Ms. Merrill lives in the brown buildings to the right of the side of the screen and that's The Masters Golf Course, I'm sorry, Masters Condominiums. So that just gives you a little visual on what's there already.

So we thank you for your attention. Thank you for letting us bring this to you and hope that you give us any questions you might have. I also have Mr. Bolte here who would like to say a few words if that would be appropriate.

Chair Duvauchelle: Okay, would you like to do that during public testimony or would you like to speak now?

Ms. Mitchell: Is now okay?

Chair Duvauchelle: Now is just fine.

Ms. Mitchell: Okay, thank you.

Mr. Chris Bolte: My name is Chris Bolte. I'm here on behalf of my father and myself. Give a little story about us. My grandfather was stationed in Hawaii during World War II. I came back into Maui in the early '80s. And my father and my grandfather purchased a condo at the Maui Eldorado in the mid- '80s. Fortunately my aunts, uncles and my 11 cousins have enjoyed Maui for the last 30 years. For the last 30 years my family and I have spent many holidays on the island. Our family has grown and we have outgrown the one-bedroom condo. My sister's had children and I've had children also. We're very excited for our family to spend more time on Maui and now also be all at one time to spend the holidays also on Maui. ...(inaudible)...this year family is staying from Thanksgiving through February at different times with different groups of people. I have personally reached out to the neighbors on the street. I've tried to eliminate or answer any concerns that they at all would have. I would ask the Commissioners approve our short-term permit so we can share our property on Maui with many other people also. Thank you.

Chair Duvauchelle: Thank you. We'll have questions from the Commissioners after. Right now we're gonna open the floor for public testimony on this agenda item.

a) Public Hearing

Chair Duvauchelle: Anybody wishing to testify please come forward. That was easy, seeing none, we'll close public testimony. All right so questions from the Commissioners, comments? Commissioner Carnicelli?

Mr. Carnicelli: I'll address this to the Director since Jeffrey you sort of just took this on. Why does this particular one have no recommendation from the Department?

Mr. Spence: With the map that was shown and then something similar also on 6A I just look at this little subdivision and...and if this is granted then 37 percent of the homes within this small subdivision are going to involve some kind of rental. There's one bed and breakfast, the other...this would be the fifth short-term rental on this one, on this 16-lot subdivision. Now there's a number of ways you can look at that.

First off, I look at that and I go okay, what was the purpose and intent of the Short-Term Rental Home Ordinance? It was to protect the character...to allow these kinds of uses but to protect the character of the neighborhood. Okay, so is five short-term rentals and one bed and breakfast is the character of that neighborhood still protected? I really can't say one way or another. There's also an argument to be made that okay, since this is Kaanapali and it is a resort resort area why not concentrate these within a certain area and these are large lovely homes. From everything we can see with the aerials and whatnot, you know it appears that everybody within this subdivision takes very care of their properties. You know looks like a very nice place to live. It's hard weighing...is it changing the character of the neighborhood or is it better to just concentrate the uses, these kinds of uses within the area that's largely resort oriented anyway? I think that's a judgment call for the Planning Commission.

Mr. Carnicelli: Okay.

Chair Duvauchelle: Any other questions from the Commissioners? Commissioner Robinson for the applicant?

Mr. Robinson: It would be yourself or it could be Debbie, whatever you feel more comfortable with. Looking at your presentation I see on the street you guys have a sign and a entrance and steps to the house. So has that always been...when you purchased the property was that already there?

Mr. Bolte: That was, yes.

Mr. Robinson: And is that...do you guys propose to receive people at that location or have you discussed that with your agent?

Mr. Bolte: It would be through the driveway and through the garage as there's plenty of ample spots in the driveway and the garage. It's more of a decorative area. There would be no people parking on the street.

Mr. Robinson: Yeah, 'cause I could see where that could you know? If I'm coming in I would see that as little—

Mr. Bolte: Hundred percent, there's four cars you could easily get in the driveway and two cars in the garage. Obviously we only plan on having a couple cars there total. But there's garage parking and also driveway parking.

Mr. Robinson: Thank you.

Chair Duvauchelle: All right. Commissioner Robinson?

Mr. Robinson: Director, are driveways considered parking spaces?

Mr. Spence: What?

Mr. Robinson: Can driveways be considered parking spaces?

Mr. Spence: Yes.

Mr. Robinson: They can?

Mr. Spence: Yes.

Mr. Robinson: Okay.

Chair Duvauchelle: Okay, any other questions? So do we still ask for the Department's recommendation? Yes, Department's recommendation?

Mr. Dack: Yeah, thank you there are some important points as indicated we do have no recommendation regarding the requested short-term rental home. That also note that should you favor it we do have a series of 22 normal conditions you should find familiar that are listed in the recommendation report should you favor it we would ask you recommend...you approve with those 22 conditions but also, if you should favor it, that you would find that it complies with all the applicable standards for a short-term rental home listed in Chapter 19.65.030. But should you not favor it, should you favor denial instead that you conclude that it doesn't meet those applicable standards and then please help us out by identifying which standards with which you feel it does not comply so that the Department can do justice and do some service to you as far as capturing your concerns adequately to bring back to you subsequently a draft decision and order if should you choose to go the denial route. So in consideration of all of the reports and the testimony and all that and again we recommend that should you favor it again in addition to approving it with the 22 conditions that you adopt that with along with...and consider the reports you have as the findings of fact, conclusions of law, and decision and order and authorize the Director to transmit on behalf of you however again, should you choose to deny that you please identify reasons and request us to bring back to you a draft decision and order for denial. Thank you.

Chair Duvauchelle: Thank you.

Mr. Spence: One little comment.

Chair Duvauchelle: Director?

Mr. Spence: Commissioners, I want to make just one other comment. One of the things that this Commission has asked for in the past had there been any complaints regarding operation or noises or anything. They've only had one request for service and that was from the consultant or from a consultant requesting copies of building permits. So there have been no complaints and the police department has no record of any noise or anything like that so that's also for your consideration.

Chair Duvauchelle: Commissioner Higashi?

Vice-Chair Higashi: I have several concerns about the recommendation. First of all, we've been in situations where example in the Kapalua area there were like three or four short-term rental requests and we approved it because of the fact that these people apparently are part-time owners and they come and go and it sounds like this particular community is also similar to what it is and if you really, really want to not have any short-term rentals they should have a gated community because this particular community is small enough that you could have one and not have outsiders coming in.

The other concern I have is that as I look at the price of hotel rooms being rented out I can see why visitors would be attracted to places like this because you're looking at a beautiful place and they're gonna pay about the same price in a private area which would make it more attractive. And the part that I am in favor of is that we have house rules and that really controls whatever happens in any community because if there is any disruption it is the owner's responsibility to be sure that there is no problem in that area. So in that way I would recommend approval of this request.

Chair Duvauchelle: Thank you.

Unidentified Speaker: Is that an official motion?

Vice-Chair Higashi: I make a motion.

Chair Duvauchelle: Motion by Commissioner Higashi to approve.

Mr. Carnicelli: Before I second it I would like to just get clear on what exactly your motion is?

Vice-Chair Higashi: I make a motion to approve the request for the short-term rental.

Mr. Spence: And I assume that's with the conditions?

Vice-Chair Higashi: With the conditions set by the staff.

Mr. Carnicelli: With the 22? Okay, I'll second it.

Chair Duvauchelle: Okay, moved by Commissioner Higashi, seconded by Commissioner Carnicelli. Discussion on the motion? Commissioner Robinson?

Mr. Robinson: I am not in favor of your motion. I do think there's a lot in this area. One could say that this house is perfect for short-term rentals which by all appearances it is. But the area's not zoned for short-term rentals. It's a residential area. Maybe a wealthy residential area. One hand we're saying you know, the person only lives part-time so we shouldn't worry about that people because they're part-time, the other time we're saying well because the people live here short-time we should allow them to rent it out. You know we can't decide who's better or who's worse. Short-term people live here, they live here they pay their taxes, you know I think that's equal. I think that if one person doesn't want to turn 40 percent of his neighborhood into a rental because they didn't purchase that way I think it's a valid point. And being here half the time is still half the time and you know he still bought it in a zoned area that's residential and that's why I always come down to. It's not about people wanting to find a location that's not a hotel, that's called TVRs, that's called timeshares, we have a market for that. This is a new market where people want to financially make money for homes and this is proven money maker. It's put a rental hotel that you don't have to pay certain fees and certain things that hotels have to do with security and different things and they put it in a residential area and they make money off of it and that's what's happening with short-term rentals. Thank you.

Chair Duvauchelle: Thank you. Any further discussion? Commissioner Carnicelli?

Mr. Carnicelli: Yeah, so I think that this going to be one of those conversations we have over and over and over again until we reached all the caps, and to me the biggest question of this particular one is the fact that at what point do we hit the breaking point in any neighborhood? You know, I think that that's the thing. We have one, two, three, four, five sitting there, one of those we approved unanimously within the last couple of months. So we're going like okay is this one the breaking point, is the next one the breaking point, you know where do we draw the line. I've known this neighborhood for 20 years plus. In my personal opinion, this is the character of this neighborhood. It is, you know, there's very few people that live on that street. If they do, you know, they're the...you know, it's a very well to do neighborhood. They're the folks that come and go. They don't live here...I'm not saying they don't live here, it's the character of this particular neighborhood is one of Kaanapali, it is one of resort feel. So in that regard, that's why I'll go ahead and support the motion and support the approval of this particular permit.

Chair Duvauchelle: Thank you. Any further discussion? Director would you repeat the motion?

Mr. Spence: The motion is to approve the short-term rental home permit with the 22 conditions.

Chair Duvauchelle: Thank you. All those in favor please raise your hand?

Mr. Spence: That's three ayes.

Chair Duvauchelle: Opposed?

Mr. Spence: Two opposed. The motion fails.

Chair Duvauchelle: Motion fails.

It was moved by Mr. Higashi, seconded by Mr. Carnicelli, and

**The Motion to Approve the Short-Term Rental Home Permit, FAILED.
(Assenting – R. Higashi, L. Carnicelli, L. Hudson)
(Dissenting – K. Robinson, C. Tackett)
(Excused – T. Gomes, S. Castro)**

Chair Duvauchelle: Okay do we have any other motions on the floor? Is this one that we defer that to a larger quorum? You know, I actually...every time we hear one of these it's a difficult decision, I mean it just is. It's a lot of passion and everybody has their same thoughts. I want to commend the applicant for not having requests for services, for not being in business prior, we don't have a lot of opposition from the community. I mean, so...and I agree that it is...I think it's kind of the complexion of the neighborhood, but anyway, so do we have any other discussion or any other motions on the table? Commissioner Higashi?

Vice-Chair Higashi: I make a motion to defer this decision to the County Council

Chair Duvauchelle: We can't do that.

Vice-Chair Higashi: We can't?

Mr. Spence: No.

Chair Duvauchelle: No.

Mr. Spence: The Planning Commission is the authoritative body. You are the decision making body for short-term rentals that come before you. The County Council does not have that authority by law.

Chair Duvauchelle: Good try. Okay, Commissioner Robinson?

Mr. Robinson: I could be persuaded in the future to change my stance if the homeowners of the other 58 percent or 60 percent had letters of support for this. If the people in that island, you know if there's one person that's holding back 14 that's one thing, but I...I'm not hearing from those other ones that...(inaudible)...except for one. It's still less than 50. If that's the neighborhood and that's what the intent of the neighborhood is and the neighbors are for it I won't stand in the way of that.

Chair Duvauchelle: So...

Mr. Spence: Okay, so when we defer...assuming this is deferred what we would do is we'll give the applicant an opportunity to go talk to his neighbors and see if he can get some support letters. My experience is that a lot of people will just never write support letters. They prefer to stay silent one way or another, but we can also get you additional information on the character

of the neighborhood, the mailing addresses of the other owners, et cetera and you can, we'll try to provide that for you.

Chair Duvauchelle: Counsel?

Mr. Galazin: Yes, thank you Chair. I would just make sure that the Members focus on what the requirements of the Code are and as far as community input. If you look at the staff report there are only two letters of protest and the fact that there aren't 15 letters of support is not necessarily indicative of wide scale approval or disapproval. All that you have before you as a factual basis is that there are only two written letters of protest which is a significant minority right now. So that wouldn't be a factual basis on which to support a denial. If it's going to be deferred I would say even if you don't receive further letters in support that again itself the nonexistence of a fact isn't a fact of nonexistence. So I would say you may request that the applicant go out and try and ask for more letters of support but if they don't come in that shouldn't be taken as factual proof that is a silent protest behind it. That's all.

Chair Duvauchelle: Commissioner Carnicelli?

Mr. Carnicelli: Move to defer.

Mr. Hudson: Second.

Chair Duvauchelle: Moved by Commissioner Carnicelli, seconded by Commissioner Hudson. Director?

Mr. Spence: The motion is to defer. I assume this is going to be until a time that the applicant reach out to his neighbors and ready to come back and maybe we have a few more commissioners.

Mr. Carnicelli: That yes, have more than six.

Chair Duvauchelle: Are we ready to take a vote? So the motion to defer is based on waiting for more of a quorum and more community input both or either?

Mr. Carnicelli: Okay, well I don't know if we need to go into executive session to confer with Corp. Counsel but we're not going to come to a consensus here. I mean, we're not gonna get a denial and we're not gonna get a approval. So it's just like okay, so I'm moving to defer to where we can either get enough information to come to a decision or have enough bodies here to get five people to agree.

Mr. Galazin: And Chair if I may? Yes, Commissioner you can certainly make that motion to defer and without any clarification and the applicant can do whatever the applicant chooses to do in the interim based on what he's heard here and then the members can do what they do and hopefully even more members next time will be able to review the record and give their input as well. So you don't need to clarify your motion to defer. That's simply all it is

Chair Duvauchelle: All right, Commissioner Higashi?

Vice-Chair Higashi: I have a question on this particular motion based upon the fact that even for Corporation Counsel is saying if there are only two objections out of 16 what's the reason for delaying it or deferring it when we already know that most of them are not in objection to having this particular application go through so I'm a little concerned about that.

Chair Duvauchelle: Based on the number of commissioners that we have here at this time, we're not going to get a motion. So motion to defer I feel is the best way to go at this point. Commissioner Robinson?

Mr. Robinson: Commissioner Higashi, six of those other people have short-term money making operations in this property of the 16, two are opposed to it. So is what I don't have is I don't have is I don't have people that are the silent ones that I'm hearing from. I'm hearing from people who have a financial interest in it, I'm hearing from people that are opposed to it and my vote now is to be opposed to it but I might change my mind if I hear some that are for it that I haven't heard from before. It's not a criteria. It's just I want to express that to myself so the applicant could hear was something that could maybe sway my vote in case our quorum doesn't increase. Now there is no recommendation from the Department because we have ...(inaudible)...with these short-term rentals that there's clusters of homes to protect, right, to protect neighborhoods so it doesn't have to be or only if there's two against 15, I think one's enough against 15 if part of what we wanted to do with this with this short-term rental is to preserve neighborhoods. So you could have 10 rentals and only against one guy, but the one guy could still say you know what I want to preserve it. So I want to hear what the other people who don't have financial interest and that's why we think that hopefully a deferment and giving the applicant some time you know we can maybe hear from them since they weren't heard from today. That's all. There is no recommendation from the Planning Commission.

Chair Duvauchelle: All right, we have a motion on the floor to defer by Commissioner Carnicelli, seconded by Commissioner Hudson? Director? Okay, we're good to go. All those in favor please raise your hand to defer?

Mr. Spence: That's four ayes.

Chair Duvauchelle: Opposed?

Mr. Spence: One opposed?

Chair Duvauchelle: I will support the motion to defer. Thank you.

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

**VOTED: To Defer the Matter for Additional Information from the Applicant and Have Additional Commission Members Present.
(Assenting – L. Carnicelli, L. Hudson, K. Robinson, C. Tackett, S. Duvauchelle)**

(Dissenting - R. Higashi)
(Excused – T. Gomes, S. Castro)

Chair Duvauchelle: All right, Commissioners it 12 o'clock, we will reconvene at 1:00 p.m.

A recess was called at 12:00 p.m., and the meeting was reconvened at 1:06 p.m.

Chair Duvauchelle: ...is back in session. Excuse my tardiness. Director?

Mr. Spence: All of six minutes, I just don't know what we're gonna do. Public Hearing No. 4 is Mr. Michael Marquard and Milton Marquard Jr., and other Michael Marquard requesting a short-term rental home to operate Alexandra's at Front Street short-term rental home and our Staff Planner this afternoon is Tara Furukawa.

- 4. MR. MICHAEL F. MARQUARD, MR. MILTON A. MARQUARD, JR. and MR. MICHAEL P. MARQUARD requesting a Short-Term-Rental Home Permit in order to operate Alexandra's at Front Street, a four (4)-bedroom short-term rental home located in the R-2 Residential District at 972 Front Street, TMK: 4-5-002: 004, Lahaina, Island of Maui. (STWM T2017/0019) (T. Furukawa)**

This application is being reviewed by the Commission because there are at least two (2) permitted short-term rental operations located within 500 ft. of the subject property.

Ms. Tara Furukawa: Good afternoon, Commissioners. This item is under your review because the applicant is requesting a short-term rental home permit for Michael D., Milton A., and Michael P. Marquard. The Marquards wish to operate a four-bedroom short-term rental home in two dwellings that sit on 18,735 square feet of land located at 972 Front Street in Lahaina. The application is before today because there are at least two other STRHs within 500 feet of the proposed STRH. In this case, there are exactly two permitted STRHs within 500 feet. At this time I will introduce you to...well Tom Croly will present you with the scope and details of the proposed project.

Mr. Tom Croly: Thank you Tara. Tom Croly on behalf of the applicants. And the project here is as Tara said a short-term rental home that will be named Alexandra's at Front Street and it's at 972 Front Street in Lahaina. To be a little more specific about the location just north of the commercial area in Lahaina as commercial area gives away to some of the residential homes this is where this property is located and here you can see the applicant's property right in the center that's surrounded by a fence on four sides. Just north of it is the Lahaina Methodist Church, just south of it are two residential homes, and then just beyond that if you're familiar with where the Warren Annabel's Magic Show is held and where the Hard Rock Café formerly was that's basically the end of the commercial zone of Lahaina Town.

As Tara pointed out the reason what that we're here before you today is because there are two other short-term rental homes within 500 feet. The applicant's property is shown in the center of

the circle there and the circle is the 500-foot radius that shows the two oceanfront short-term rental homes.

As far as this permit goes if we didn't have the two within 500 feet this permit would be granted at this point and the regulatory concerns the house has passed a third party safety inspection, smoke detectors are present in each of the bedrooms, fire extinguishers are present in each of the two dwellings. There's fire exit plans posted in each of the bedrooms. There happens to be a fire hydrant fronting the lot while that's not a requirement, I know that in the past some of the commissioners have been concerned about where the nearest fire hydrant is, there is one directly in front of the lot. And the house rules including quiet hours and all parking on site are present.

These folks have never operated as short-term rental home. They have secured their General Excise Tax and Transient Accommodations Tax Licenses should this permit be granted as a condition of the permit. There are four bedrooms that will be rented out in two dwellings. However, the two dwellings really live as one dwelling as you'll see in the pictures and the intention is to rent it out as a single four-bedroom dwelling. The property is held as an LLC that's made up of the family members three of which are here today and there's three other family members that are part of that LLC but they're all immediate family members.

Notice of this application was sent by certified mail to 104 property owners within 500 feet on July 3rd. Notice of this public hearing today was sent to the same 104 property owners within 500 feet on September 18th, and notice of this public hearing was published in the Maui News on September 22nd. It's significant I believe that we received no objections from any of those notifications of this application.

A few...look at the property. The first picture is the front of the main three-bedroom dwelling and then directly behind the three-bedroom dwelling is the swimming pool that you see below and then directly behind that is the ohana dwelling. They're separated, the ohana dwelling and the main dwelling are separated by just the swimming pool. So when you're using one or the other it's basically one common space if you will.

A shot of the front of the property showing the driveway and you can't quite see it real well in this picture but on the left is the fire hydrant fronting the street there. At the end of this driveway is a parking area for cars off street. The back lanai that where the swimming pool separates the house from the ohana and a front lawn with a beautiful ocean view and a walled enclosure that gives this property a great deal of privacy.

Some pictures inside the property. The kitchen shown there, the living room. Four bedrooms as I said, the bottom right bedroom is the one that's in the ohana dwelling that opens right out to the pool and the three other bedrooms are in the main house.

I want to bring up the applicants right now to tell you about this property because I'm really honored to be part of this application because this is really a special property that was owned by a really special person who I think you want to hear about so you can understand exactly what

the family wants to do here. So I'd like to bring up Michael Marquard to take over the presentation at this point.

Mr. Michael Marquard: Good afternoon ladies and gentlemen my name is Michael Marquard. We have kind of an unusual history on this property. It actually goes back for 59 years. In 1958, my Mom, Alexandria affectionately referred to as Tutu was able to put together a Chamber of Commerce trip and it went into Honolulu and outer islands. As a component of the trip she was granted free passage on it. On the return from the outer islands back to Oahu the airplane happened to go up the west side of the Island of Maui, she was on the right-hand side of the airplane that she looked down when they were passing over, she said that's where I want to live. It turned out shortly thereafter she determined that that was Lahaina and a couple months thereafter she had concluded her mainland business and had moved to Lahaina.

When we first moved to Lahaina and that was 59 years ago that was before statehood was granted to Hawaii. In 1959, she purchased the gallery of the slide of which you're gonna see coming up in the future they operated...that was 58 years ago, they operated that business for a long period of time. To deviate just for a second when we first moved to Lahaina we rented a house on Lahainaluna Street that did not even have any locks built into the doors of the house and that's changed a little bit. And Lahaina at that time was like a ghost town after 5 o'clock at night and Mrs. Murakami had a little restaurant and if you weren't finished dinner at 5:30 it was over, the town went dark. There was totally nothing west of Lahaina including anything at Kaanapali other than the teahouse, the August Moon, was the only commercial structure up in Napili. One could go out to the beach on Kaanapali and sit there for two and three days and maybe see a half dozen people. If went to the north side of the island you could be there weeks and never see anybody.

1963, is when the present property was acquired. It used to be the home of the assistant manager of the Pioneer Mill. It was an old plantation house which as you have seen has been remodeled. It is noted that fairly recently within a couple of years we were taxed in estate planning purposes did transfer the property into an LLC that was 50...the 54 years ago when the house was acquired the title changed just a few years ago.

1965, Alexandria was really the ramrod of the Lahaina Art Society. She got ten people together who each put in \$50 to start the Lahaina Art Society. Shortly thereafter in 1965 when the post office moved out of the court house in Lahaina she was able to get the basement of the court house for a home base for the Lahaina Art Society which it still is today. That was 52 years ago.

792 has been and is our home. We have had four generations of people that have been raised on that property. In the future we intended to keep it as our future home, but we need and appreciate a little help in order to preserve and to keep our property and our 54-year tradition intact. Thank you.

Mr. Croly: Now I'd like to bring up Mike, not to be confused with Michael who you just heard, who is looking after the home and looked after his Tutu in this home for the last many years to tell you about the operations and such.

Mr. Mike Marquard: Aloha, I'm Mike Marquard and thank you for hearing us. That's me on the left there in the pool over 40 years ago. Spent a lot of time there at the house with Tutu and with all the family and hope to continue to do. I moved over about 18 years ago full-time to take care of Tutu as she got into her 80's and had a little bit of dementia so she really need a lot of care. Our primary thing we want to do or my primary function was to take care of Tutu but also worked on the house a lot. I painted it a couple of times. It kind of like painting the Golden Gate Bridge you kinda just go around and around and around. The tile, you see the cabinets and stuff in the kitchen and stuff is all the stuff I had done. It's perpetual just kinda goes on forever hopefully. I also work on the shops in town. I was down there this morning setting up a generator for our gelato shop, we just manage the buildings, but you know, saved quite a few hundred pounds of gelato for our tenant.

Tutu really liked to have things maintained while she was, she was great. And just want to continue to do the same thing. Sorry, just get a little emotional when I talk about her. Anyway, she passed in March of 2014. I continued to do work on the house and on the shops. It's what I do, it's kinda my career and I'm on Front Street every day. Obviously, we're not just someone who just bought a house and wanna just make a bunch of money. We want to preserve the house, we want to preserve our legacy. We're gonna be having six generations soon. We'll be hopefully using the house. You know it's a big house, it's kind of a tough environment so it is a daunting amount of work, and so it's a lot of money, taxes, everything, I'm sure you all have houses that you gotta deal with. It's not easy, you know, fumigations and just it's right there by the ocean, it takes a toll on it so it is a somewhat daunting. I just want to reiterate we never have rented the house. We've never made any money off of that. It was Tutu's house. She was there until recently and you know, I was always working on it when she was there. Like I said she liked it maintained well and I was charmed to get to work on it for her. Anyway, we have a lot of family that uses it and hopefully will continue to use it. We have friends over and our cousins and things like that. And hoping just to rent it. We don't want to rent it a lot. We want to preserve the house. We want to be very selective in the people that we rent to. We're gonna really vet them. And hopefully you know just keep the house in great shape or continue to fix it up 'cause it's, you know, it always needs more help. So anyway thanks for your consideration and hoping we can keep the house. Aloha.

Mr. Croly: Thank you Chair. I thought that was important that you met the family 'cause this is really a family endeavor. I truly was honored to be at this house and feel the mana that their Tutu brought to it. It really is a special place and the only way that this family can hang onto this house is to have the ability to do this short-term rental and that will allow them to keep it up. It will allow them to continue to enjoy it as family and I think that it will really be a true asset for the people of Lahaina because this is a special place. While it's not a historic home per se, okay, it's a home with a lot of history and allowing this family the ability to continue that history I think is really important. So thank you for the opportunity to make the presentation.

Chair Duvauchelle: Thank you. Okay, if that concludes the presentation, at this time we'll open the floor for public testimony. Anybody wishing to testify please come forward. State your name, you'll have three minutes.

a) Public Hearing

Ms. Michele Singh: Hi, my name is Michele Singh. I am one of Alexandria's grandchildren. I grew up over here and unfortunately I guess circumstances beyond our control, I currently reside on the mainland with my husband and I felt it was important to travel here today to be part of this presentation. This really is our family legacy. This is our home you know. As we mentioned my cousin helps manage our commercial properties but I mean this is where we all grew up as children. My children learned to swim at Baby Beach the same place where I learned and that's something that we're just trying to preserve so that you know our future generations and cousins and grandchildren, great grandchildren can continue to come here and that we can make this sustainable for the next generation and hopefully keep this in our family. We've always been family run. We continue to be family run and this is our pride and joy and we really are looking forward to the opportunity to share it with others. Thank you.

Chair Duvauchelle: Thank you. Any questions? Thank you. Anybody else wishing to testify? Okay, seeing none, we'll close public testimony and have questions or discussion with the Commissioners. All right, hearing none, we'll have the Department's recommendation.

b) Action

Ms. Furukawa: The applicant has demonstrated that the short-term rental home permit meets the criteria for...well, the short-term rental home meets the criteria for a Short-Term Rental Home Permit. The proposed STRH conforms to the character of the neighborhood. There are two other STRHs within 500 feet and they are located across the street just north of the property along the shoreline. Given that the property is located along Front Street near commercial uses which are draw for tourists we feel it's an appropriate location for a STRH.

As background info, as of September 30, 2017 there are 65 permitted STRHs in the West Maui Community Plan region. The STRH cap is 88 permit. As of September 30, 2017 there are also 11 permitted B&Bs within the West Maui Community Plan region and the cap is 88 permits. There are no complaints to the Department or protests to the short-term rental application. Neighbor notice is provided twice, once for the short-term rental home application and more recently for the public hearing. Potential adverse impacts including noise, traffic and trash however the permit will be limited to one group at a time so the impacts should be comparable to those of a homeowner occupant or a long-term rental tenant.

So the Department is recommending that the Maui Planning Commission approve the permit subject to 22 standard conditions. We're also recommending that the Maui Planning Commission adopt the Planning Department's report and recommendation prepared for today's meeting as its finding of fact, conclusion of law, and decision and order and to authorize the Director of Planning to transmit the decision and order on behalf of the Planning Commission.

Chair Duvauchelle: Commissioners? Commissioner Carnicelli?

Mr. Carnicelli: Move to approve as recommended by Staff.

Mr. Hudson: Second.

Chair Duvauchelle: Moved by Commissioner Carnicelli, seconded by Commissioner Hudson. Discussion on the motion? Okay, Director?

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

Chair Duvauchelle: All those in favor please raise your hand?

Mr. Spence: That's five ayes. Motion carries.

Chair Duvauchelle: Motion passes. You get your permit. Congratulations. Good job.

Mr. Spence: With a bare quorum.

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

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

Mr. Spence: Okay, Commissioners we are into Communications and the first one is Ms. Mary Ann Schober of Legacy Assets, LLC requesting an amendment to an existing short-term rental home, actually to the Land Use Commission Special Permit for a short-term rental home and Staff Planner is also Tara Furukawa.

D. COMMUNICATIONS

- 1. MS. MARY ANN SCHOBBER of LEGACY ASSETS, LLC requesting an amendment to Condition No. 8 of the State Land Use Commission Special Permit for the Pacific View Short-Term Rental Home to allow for the use of accessory dwelling for short-term rental use in the State Agricultural District at 78 N. Lauhoe Place, TMK: 4-7-012: 013, Lahaina, Island of Maui. (SUP2 2016/0004) (STWM 2016/0003) (T. Furukawa)**

Ms. Tara Furukawa: This item is under review because the applicant is requesting an amendment to the Short-Term Rental Home Permit, oh sorry, Land Use Commission Special Permit for Mary Ann Schober doing business as Legacy Assets, LLC. This is history on August 23, 2016 the Maui Planning Commission approved the Land Use Commission Special Permit allowing the STRH on the property. The STRH Permit was approved for a concurrent time frame. The SUP2 was granted with Condition No. 8 which says, the accessory dwelling be removed from the scope of the application and placed into the long-term rental market for a period of three years until August 31, 2019. The permit request was for six-bedrooms in two farm dwellings, four bedrooms in the primary farm dwelling and two bedrooms in the second

farm dwelling. The applicant's attorney submitted a petition for reconsideration for modification of Condition No. 8 of the SUP2 on September 30th, 2016. On November 22nd, 2016 the MPC declined to hear the motion. And on May 23rd, the applicant's attorney submitted an amendment for permit terms, conditions, and time stipulation to amend the permit to include the accessory dwelling. The applicant's attorney, Mike Carroll as well as the applicant, Mary Ann Schober is here today to discuss the request.

Mr. Mike Carroll: Good afternoon, Madam Chair and Members of the Commission.

Chair Duvauchelle: We'll hold public testimony after you speak.

Mr. Carroll: Okay, thank you. We're here today, I'm here today with my client, Mary Ann Schober who is the client representative. She will provide a brief statement after I've concluded. I've also brought with me Jodi Vida who's the booking agent for the property and she will say a few comments.

As a matter of background, Mary Ann Schober and her, now late husband, Dennis purchased the property in 2007. The plan at the time was to build a home for them to live in full-time. They have three children. They were all younger at the time. They completed the house in 2007, moved in, they began attending a church, the children started to go to school in Maui. Unfortunately due to economic reasons they were forced to relocate to the mainland in 2009. Stayed in the mainland for a few years, came back in 2011, stayed on Maui again for a year and were forced to relocate back to the mainland for another period of time. They in 2016 they applied for and were granted a vacation rental permit for the property. They met all the requirements and standards for the permit. There were no objections submitted in response to the application. Staff recommended approval and the Commission ultimately approved it subject to the standard conditions and the Condition No. 8 that we're here to respectfully request be modified.

The condition at issue is the exclusion of the accessory dwelling or the ohana unit that's part of the home. Since the applicant obtained approval from the commission they've fully complied with all the conditions. There have been no complaints and no objections to this petition or this request. They have paid all taxes, insurance and all applicable expenses required with the property. They employ a full staff. They have cleaners. They have a pool personnel. They yard personnel and property managers that all...Maui County all benefits from by their employment. They have rented and be able to share the main house with people that have visited Maui. Unfortunately they have not been able to rent the cottage and have complied with the condition and have not attempted to rent it.

I have three reasons that I just want to kinda highlight as to why I believe or why we are asking for the amendment. First, the amendment is consistent with the character of the neighborhood and what the home was designed for and the intent. And I just want to point out and I think the last petition was correctly decided. The last approval that was just granted had a very similar layout to our application in that looking at the site plan it has a ohana unit and separate residence and I'll show you a couple slides of our property but if you do refer to the site plan of the permit that was just granted it's a very similar layout as our application and there wasn't a

condition that was imposed on that one, and I think that was the right decision and I would like the Commission to recognize that our property should be subject to similar treatment.

The removing that condition is consistent with basically the design or the intent or character of the neighborhood. The home was designed as...it was never designed as to serve to separate homes. It was designed as a private home for a large family. There's a separate ohana unit and a separate main house for the main family to live in, the Schobers and their children and when they have guests stay such as the Schober's, excuse me, Ms. Schober's mother or sister that regularly come and visit. There's no privacy between the two living spaces. They have shared amenities, shared driveway, one-lane driveway, common barbeque, common pool area with no privacy.

The other point on this issue is the CC&Rs for the subdivision prohibit CPRing the property so you can't have separate uses at the same time. So treating it as a short-term rental and a long-term rental would be inconsistent with the intent or character of the neighborhood.

The issue with respect to renters. You'll hear from the booking agent, but in short the Schobers have been forced to turn down large groups that are seeking to rent in six bedrooms or large accommodations which they cannot accommodate at this time and also there's been several renters that have wanted to stay there but have not been able to because or excuse me, have not wanted to stay there because of the kinda concern that someone else could be staying in the cottage and you'll hear from Jodi Vida who will explain that issue.

The other issue is the Schobers had always intended to live here full-time and they do come back regularly. They come back three to four times a year and when they do they use the whole property. And in able for them to do that that's one of the reasons why they applied for the permit and unfortunately this condition would not allow them if that unit was rented.

The second point I wanted to raise is the taxes. The Schobers are currently taxed at a commercial rate for the entire parcel based off the short-term rental. As a result, they're paying more taxes for something that they're really not entitled to use. The amendment would be consistent with the way the property is taxed and will provide greater revenues for the state in terms of property tax and GET and TAT.

Lastly I want to point out that this amendment is consistent with other permits in the state. As far as we can tell looking at the permits that have been approved we're not aware of any other similar condition that's been imposed. The Code that's in effect permits six rooms with two structures and this permit will allow the highest and best use of the property and that's why we would ask it be granted.

Last I just want to comment is through the course of this project I've really gotten know Mary Ann her family. I got to meet her Mom and sister yesterday and I can tell that they're not here just to make money. They really want to become a part of the community. They sincerely want to simply just share the house with guests and visitors and they've shown throughout the course of their ownership of the property that they've always done the right thing and they're trying to do the right thing here by coming to the Commission and hoping that the Commission will see

kinda where they're coming from. It really is kind of a great opportunity for Maui and people that want to come and visit and stay at a large home. Like for example, I'm going on a family vacation and we're looking for a home just like that and we're staying in Kona and that...there's not that many opportunities like that and I think that this is a good opportunity not only for the Schobers but also for Maui County and visitors to appreciate and share their home. So with that I'm gonna show a couple of slides just to familiarize the Commissioners with the property because you may remember it when I was here last.

So this is actually a shot of the cottage and this is an aerial of where the property is located. This is a closer image and here is an aerial photograph of where the property is located and I'll show a closer one that can kind of set the layout. So this aerial photograph kind of shows the property. As you can see there's a long driveway and the structure at the top of the page is the cottage that's excluded and the main house is kind of towards the bottom. The blue circle area that is the swimming pool and the agricultural portions of the property is on the bottom both sides of the property and towards the top. These photographs are just another image just so you can see the orientation and layout of the property. As you can see there's this long one-car narrow driveway that serves the entire property. Here's just another image of the driveway in and out and yet another image of the driveway. So I just wanted to show those pictures just to familiarize the Commission with the property. Now I'm gonna turn it over to Mary Ann.

Ms. Mary Ann Schober: My name is Mary Ann Schober. Thank you very much, Chairperson and Members of the Planning Commission. I appreciate the opportunity in considering the request to remove the Condition No. 8 for the Short-Term Rental Vacation Permit. My husband and I came here 30 years ago on our honeymoon and fell in love with Maui and said wow, how can we move here? People actually get to live here. How could we do that? Well, 20 years later with a lot of hard work and a lot of blessings we had that opportunity and moved here in 2007. Since then we've had a lot of things happen that have been beyond our control that have pulled us back to the mainland. We had to move back in 2009 downturn. We do have a family business over there on the mainland that we had to go attend to. I'm sure everybody was affected here and yet we said no, we're gonna get back over there. Came back over in 2011, we had some things in 2012 that were crazy that happened and forced us back to the mainland once again. Our intent has never been to...we never wanted to rent it out. We wanted to live there. We wanted to live there full-time. Our intent was to then after having to move back get the kids through school and live there full-time and that still is my intent.

The cottage really when we bought it we said we really do need a separate cottage unit because we do both have six siblings. So 12 siblings combined. We have a lot of people. My dad comes from a family of ten, my mom from a family five kids so there's a lot of cousins, a lot of extended family that obviously want to come visit. So it's a good thing.

The condition that we not include the cottage creates an issue for the use of the property. If we do go ahead and long-term rent it it really excludes us from coming and using our own property when we are able to come. We typically travel with grandparents, aunts and uncles and friends depending on the year and time of the season. We have three generations at a time being there and sometimes two, but there's multiple generations. My parents stay there for probably three to six weeks at a time throughout the year also with or without us. We use the whole

property. It really is designed for one extended family. It's really not set up to be two separate units. If you had another family in there it just...the privacy's totally gone. I think the biggest thing is please know my heart. It's a really, really cool property. We put hours of labor into it. My kids have been out in the coco fields changing drip lines and you know, learning how agriculture grows. We continue to have agriculture. Whenever anybody comes up they always go wow, this is a really special place and my feeling is I would much rather share this place with other people than just close it up and have it for ourselves. I think that's awful to not share it with other people. It's much better to share. Obviously if we were able to rent out the cottage it would bring in more revenue for the County also through taxes which is a benefit for both of it. So I look at this as a win-win situation. You guys get more taxes and we get to share it with more people and I thank you for your consideration.

Ms. Jodi Vida: Hi, good afternoon Members of the Commission. My name is Jodi Vida and I'm here to testify in favor of Communication 1, Mary Ann Schober's request to amend the condition, Condition 8 regarding the Short-Term Rental Permit. I'm the booking agent on behalf of Mary Ann Schober and granting this request will provide greater benefits to the County of Maui by allowing additional revenues for the state and more employment opportunities. This short-term rental employs five cleaners, four landscapers, three pool people among Terminix and a whole bunch other, everything you need to maintain the property and keep it in good condition.

The other thing is we get so many requests from multi-generational families that needs a bigger place. They don't want to stay in a hotel. Good example is when the way I met Mary Ann is my father passed away about seven years ago and I just happen to meet her through a friend and she offered her place 'cause I have family members from off island it was so nice to be able to all be there for a week and celebrate his life and all get together and since then I get so many requests and they're like you know Mom wanted to come to Hawaii but she passed away but we're still gonna go and carry on her legacy and they need six bedrooms and I'm like, sorry we only have four. You know we can have two stay in a hotel and you can all congregate here and you know plan the funeral, whatever you need, but it just never works out 'cause who do you put in the hotel? You know, everybody wants to be together and we're very strict by the rules, two per room. You know, we want to follow all of the conditions and everything and that's the intent of it. We also have groups like local yoga they want to have fitness retreats here and in order to do so they need the rooms, you know four is not enough to make it financially worth it for the local yoga instructors and the local chefs that come up to the house and teach everybody how to cook and everything.

So lastly the main reason is the home attracts the privacy and I don't need to explain to you we beat that up today. People want their privacy. It's not made for two families to share the same property and we end up losing a lot of visitors coming there because of that. So I just wanted to let you know what it is like from the booking standpoint. Anybody has questions?

Chair Duvauchelle: Yeah, we'll get...not yet.

Ms. Vida: Okay, thank you.

Chair Duvauchelle: Thank you.

Mr. Carroll: That concludes our presentation.

Chair Duvauchelle: At this time we will open the floor for public testimony. Anybody wishing to testify? Okay, seeing none, thank you public testimony is closed. Questions from the Commissioners? Commissioner Carnicelli?

Mr. Carnicelli: Aloha, in your presentation you said that the CC&Rs of this area do not allow CPRs. This is Launiupoko correct?

Mr. Carroll: Yes, yes.

Mr. Carnicelli: You realize that there's lots and lots of CPRs in Launiupoko?

Ms. Schober: I can answer that. I can answer that. This is Mary Ann. Makila One, we're in Makila Two. We're the line where they said no more CPRs. You must maintain a five-acre estate or bigger. Makila One, you're right. There's tons of CPRs, you're correct. But in our division, no.

Mr. Carnicelli: Okay, thank you for that clarity.

Chair Duvauchelle: Any other questions?

Mr. Carnicelli: Yeah, actually for the applicant as well. So when you were talking you had said if we were to put a long-term tenant in there. So that means currently there is not a long-term tenant in there, correct?

Ms. Schober: That's correct.

Mr. Carnicelli: So you realize part of the condition was that you agreed to put in a long-term tenant?

Ms. Schober: No, the condition was to consider.

Mr. Carnicelli: So I guess my next question is for Corporation Counsel. As I read Condition 8, it says, and placed into long-term rental market.

Mr. Galazin: Chair if I may?

Chair Duvauchelle: Yes.

Mr. Galazin: Yes, that is correct.

Mr. Carnicelli: So I guess I'll ask you for an opinion. Are they in violation of their permit by not doing that?

Chair Duvauchelle: Counsel?

Mr. Galazin: If we wanted to get into a discussion on those topics, I think that's something we would have to go into executive session in order to discuss the liabilities, and other legal ramifications. If you'd like to do that at this time, the motion could be made to do that or it's sort of up to the body how they want to handle it.

Mr. Carnicelli: Not at this time. I'll let somebody else ask questions if they have.

Chair Duvauchelle: Thank you. Any other questions?

Ms. Schober: May I comment on that?

Chair Duvauchelle: Let's wait till somebody asks you a question. Just a second. Any other questions? All right, Commissioner Carnicelli?

Mr. Carnicelli: So my...where I'm gonna come on this is if we deny this again, right if they asked reconsideration and then they're petitioning again and we say no, do I need to go into executive session or do we, sorry, need to go into executive session to get clear with what our rules are and not as far as how we handle this. Like what the legal ramifications are in that.

Chair Duvauchelle: Counsel?

Mr. Galazin: I don't think we necessarily need to go into executive session to discuss the ramifications of your vote. Your decision is what your decision is. I think the other question that you asked was a little more specific. If you're just talking about you know whether you can vote one way or the other that's why you're here today is the request is put forward for your vote to either vote it up or vote it down. So that's at your discretion as long as there's reasonable basis that you can articulate for voting one way or the other any member, you're within your rights to do so. That's why we're here.

Chair Duvauchelle: Commissioner Hudson?

Mr. Hudson: I have a question. Since November 22, 2016 we met and we declined to hear the motion for Petition for Reconsideration. What are we doing now?

Chair Duvauchelle: Counsel?

Mr. Galazin: Well, you know I wasn't here in November. So I'll let somebody else answer that.

Mr. Carroll: I can respond to this.

Chair Duvauchelle: Please go ahead.

Mr. Carroll: This is...there's separate avenues in which you can seek reconsideration. One is seeking reconsideration of a previous ruling. Another one is you can apply for an amendment under the Code and that's the basis for our current petition that we're seeking an amendment to the existing approved permit. And I just want to go back to one thing that I mentioned earlier is the previous applicant has literally the almost exact same land configuration where they have an ohana unit and a separate main dwelling and that condition...this condition was not imposed. And the Schobers again they just want to do the right thing here. They really want to rent the entire property out and share it. I think it's the right thing, I think it's a fair thing to do under the circumstances.

Chair Duvauchelle: Thank you. Commissioner Carnicelli?

Mr. Carnicelli: Yes Mr. Carroll, is this particular property is it an attached ohana or detached ohana?

Mr. Carroll: It's I believe it's a detached ohana.

Mr. Carnicelli: Okay, the previous applicant was that an attached ohana or a detached ohana.

Mr. Carroll: Looking at the site plan my understanding is they were only connected with a walkway, but I'm not...again, I'm not certain I was just looking at the site plan that I saw. But in terms of the layout of the property I think they're in terms of what the Commission is considering I believe they're pretty much consistent.

Mr. Carnicelli: Okay, so then one last follow up question on that. Is the...are these two properties, these two dwellings separated by a driveway?

Mr. Carroll: Yes.

Mr. Carnicelli: Was the previous application separated by a driveway?

Mr. Carroll: No it wasn't.

Mr. Carnicelli: Was it separated by a pool?

Mr. Carroll: Yeah, I believe so, yes.

Mr. Carnicelli: Okay, thank you.

Mr. Carroll: Yes, yes.

Chair Duvauchelle: Any other questions from the Commissioners? Commissioner Tackett?

Mr. Tackett: I see a request to correct a nonconformity was that ever addressed?

Mr. Carroll: I believe that was the retaining wall. I can...let me check with Mary Ann if she knows anything about that? There was a 2009(inaudible)... retaining wall.

Ms. Schober: Yeah, no that's all resolved.

Mr. Carroll: That's all been resolved. But again, I haven't...wasn't involved and so I don't...so Mary Ann can probably answer any questions you have on that.

Mr. Tackett: How was it resolved?

Ms. Schober: Yes, I can speak to that. So when the house was originally built the builder built the front retaining wall higher than, forgive me I don't remember the specs six years ago or nine years or whatever it was, higher than six feet. We...that's just how we built. Our whole house was signed off on by the County of Maui then three years later they come and they say no, now it's out of compliance and we said, well we thought it was...the whole house was signed off on so what changed? I won't go into the background of all it but we did have a carpenter come in and literally saw off three feet of the wall to make it in compliance.

Chair Duvauchelle: Director you want...

Mr. Spence: There was a time in that area when many walls were too high and it was a long drawn out process to bring everybody into compliance that predates me.

Ms. Schober: But we are in compliance.

Mr. Spence: ...cases, but they're in compliance now, this is not like a –

Ms. Schober: And we did not...there was no intent to build it higher than it's what the builder put in. There was no malice intent.

Mr. Tackett: Thank you.

Chair Duvauchelle: Commissioner Carnicelli?

Mr. Carnicelli: If no other Commissioners have any other questions, I would actually like to make a motion to go into a very brief executive session to discuss with Corporation Counsel a couple of decisions, you know, the reasoning for decisions and justification for what it is that's before us. If my fellow Commissioners are okay with that?

Vice-Chair Higashi: Second.

Chair Duvauchelle: Second. All those in favor of executive session say aye?

Mr. Hudson: I never vote yes for that, but that's the best I can do is abstain.

Chair Duvauchelle: That means, yes right?

Mr. Galazin: Yes.

Mr. Spence: Yes.

Chair Duvauchelle: Okay, we're gonna convene in executive session. Thank you.

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

**VOTED: To Go Into Executive Session.
(Assenting – L. Carnicelli, R. Higashi, L. Hudson - Abstained,
C. Tackett, S. Duvauchelle)
(Excused – T. Gomes, S. Castro, K. Robinson)**

The Commission recessed the regular meeting at 1:56 p.m., and went into Executive Session. The regular meeting was then reconvened at 2:09 p.m.

Chair Duvauchelle: Planning Commission is back in session. Discussion gentlemen on the motion or on the agenda item, sorry. Questions? No? We're good on questions? Recommendation from the Department?

Ms. Furukawa: The applicant has demonstrated that the proposed short-term rental meets the criteria for a Land Use Commission Special Permit. The short-term rental home is not anticipated to be contrary to the goals and objectives. The STRH will occur in a permitted dwelling that existed prior to the application and without conflict with the agricultural uses on the property or in the surrounding area. There is an implemented and approved farm plan for the property. The desired use will not adversely affect surrounding properties. The residential agricultural neighborhood is characterized by single family residences on large agricultural lots. The number of guests is limited to one group at a time and up to two adult guests and two minors per bedroom. There are no records of disturbance reported to MPD. There were no letters received by the Department. There's no indication that the proposed use would unreasonably burden public agencies. There are unusual conditions, trends and needs since the district boundaries and rules were established. B&Bs, short-term rentals and TVRs appeared after the rules were established. Finally, the land upon which the proposed use sits on land classified as having a B rating. The applicant has an implemented farm plan consisting of coconut and Arica Palms and Naupaka and the proposed use will not affect the ag on the property. There are no other STRHs within 500 feet. There are two just south of the proposed STRH along Lauhoe Place. As of September 30th, again there are 65 permitted STRHs in the West Maui Community Plan region and the cap is 88. There are 11 permitted B&Bs and the cap is 88.

The Department is recommending that the Maui Planning Commission approve the amendment and the existing conditions shall remain. The Department will then approve the STRH Permit administratively. The Department is also recommending that the Maui Planning Commission adopt the Planning Department's report and recommendation prepared for today's meeting as

its finding of fact, conclusion of law and decision and order and to authorize the Director of Planning to transmit said written decision and order on behalf of the Planning Commission.

Chair Duvauchelle: Thank you Tara. Commissioner Carnicelli?

Mr. Carnicelli: Move to approve as recommended by Staff.

Vice-Chair Higashi: Second.

Chair Duvauchelle: Moved by Commissioner Carnicelli, seconded by Commissioner Higashi? Director...oh discussion on the motion please, sorry.

Mr. Carnicelli: So I just want to say that you know, I do recall when this came before us a year and a half ago whenever it was and the...as I recall it the applicant did agree to this condition. The applicant was okay with this condition at the time. Obviously some things have changed. But the irony of this is that had the applicant not agreed to this condition, as I recall they would have been denied this application but because they agreed to this then we passed it and so now they're coming back and asking for us to remove it with which I made the motion to do for reasons that I just feel are necessary. So I'm not necessarily happy about the way that they ball bounced. This is just where we are and I just wanted to go on the record by saying that...anyways that was just my recollection of how things went. Thank you.

Chair Duvauchelle: Thank you. Any further discussion on the motion? All right if there's none, Director?

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

Chair Duvauchelle: All those in favor please raise your hand.

Mr. Spence: Two ayes.

Chair Duvauchelle: Opposed?

Mr. Spence: None opposed. Motion carries.

Chair Duvauchelle: Motion carries. Thank you.

Mr. Spence: No vote is considered an affirmative vote.

Mr. Carroll: Oh okay. Thank you.

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

**VOTED: To Approve the Amendment to Condition No. 8 of the Short-Term Home Rental Permit as Recommended by the Department.
(Assenting – R. Higashi, S. Duvauchelle, L. Carnicelli - Abstained,**

L. Hudson - Abstained, C. Tackett - Abstained)
(Excused – T. Gomes, S. Castro, K. Robinson)

Mr. Spence: Okay, Commissioners, No. 2 of Communications. Mr. Gale Notestone, Chair of the Hana Advisory Committee to the Maui Planning Commission is transmitted the Committee's recommendations on a request by Ms. Brianna Everett for an amendment to her Land Use Commission Special Use Permit in Hana and our Staff Planner this afternoon is Mr. Ryan Quigless.

2. **MR. GALE NOTESTONE, Chair of the Hana Advisory Committee to the Maui Planning Commission transmitting the Committee's recommendations on the request by MS. BRIANNA EVERETT for an amendment to her Land Use Commission Special Permit in order to operate the Hana's Tradewind Cottages, a short-term rental home consisting of two (2) two-bedroom farm dwellings located on approximately 2.164 acres of land in the State Agricultural District at 143 Alahele Place, TMK: 1-3-009: 107, Hana, Island of Maui. (SUP2 2012/0034) (R. Quigless)**

The applicant currently has land use approvals to operate a bed and breakfast home at the site.

Mr. Ryan Quigless: Aloha and good afternoon Chair, Director, Commissioners. We meet this afternoon to discuss the details for a Land Use Commission Special Permit amendment submitted by the property owner, Brianna Everett for the operation of Hana's Tradewind Cottage which is a proposed short-term rental home located on 2.16 acres of agricultural zoned property in Hana.

The subject property address is 143 Alahele Place, Hana, Hawaii TMK: 2-1-3-009: 107. The owners of the property currently hold the Land Use Commission Special Permit, SUP2 2012/0034, a Bed and Breakfast Permit No. BBHA 2013/0005 and also operate a successful family owned flower farm registered as Hana Tradewind Tropicals.

The 2.16 acre property was previously part of a five-acre flower farm owned and operated by the applicant's family for the last 27 years. The property is where the applicant grew up and in 2008 the original five-acre parcel was subdivided into two parcels and the subject parcel was purchased by the permitholder Brianna Everett and the permitholder's mother retained the remaining 2.84 acre and will also be the property manager for the short-term rental operation.

The applicant owners request a Short-Term Rental Home Permit in order to continue with the vacation rental operations. The Bed and Breakfast Home Permit will stay in place until the proposed SUP2 amendment is approved and the Short-Term Rental Home Permit is approved administratively. The owners propose to operate under one Land Use Commission Special Permit and one vacation rental permit.

At this time I'd like to share a few procedural matters with you along with a few slides for the project to bring us current. This is one of the two rental properties, ohana properties or cottages on the property. This is the entryway to the property from the main road. Overview of the

agricultural zoned property. Like I said, it's a flower...existing flower farm so a lot of these are ornamentals that you see. Examples of some of the fruit in the orchard, banana, soursop, lilikoi. The entrance has a prominent sign indicating the location. This is a screenshot of the website that they use for their advertising for the flower farm. They distribute via mail and also sell locally as well. The property also has an approved farm plan and I'll reiterate again that the property and owners do hold a bed and breakfast permit currently. Copies of the farm plan approval letter, another overview of the property. As you can see it's typical of the Hana area, very lush, full of vegetation. This is the overall site plan of the property. And those are both the two cottages, the two-bedroom cottages that were the subject. Exterior images of the cottages as well. Spa with the deck above...second story overlooking the property. Interior, bedroom, kitchen and living areas are well maintained and kept. Okay, and that's it.

A few more procedural items just to bring us current. On July 24, 2017 the Maui Planning Department mailed a notice to the applicant and appropriate State and County agencies notifying them of the scheduled Hana Advisory Committee public hearing held on August 29, 2017. On July 27th, the applicant mailed a letter of notification and location map to all owners and recorded lessees adjacent to the subject property describing the application and notifying them of the scheduled Hana Advisory Committee hearing date, time and place. On August 29th, the Hana Advisory Committee reviewed the application request to amend the existing land use special permit in order to operate the short-term rental home and after due deliberation and receipt of testimony, project presentation and exhibits, questions from HAC, responses to those questions by the applicant and Planning Department and the Staff Planner's presentation of the Department recommendation the Hana Advisory Committee recommended approved action on the project to the Maui Planning Commission. So are there any questions at this time?

Chair Duvauchelle: I guess we should open the floor for public testimony to be consistent? No? Anybody wishing to testify please come forward?

Mr. Tom Croly: I'm the only one so I'll take the opportunity to say I stayed at this place 20 years ago.

Chair Duvauchelle: State your name.

Mr. Croly: Oh, Tom Croly.

Chair Duvauchelle: Thank you.

Mr. Croly: And I stayed here 20 years ago when the applicant I think was 12 years old and I can tell you one thing about it, it is a genuine flower farm. These folks harvest their flowers and they sell their flowers and that is you know one of the criteria that you're evaluating are the agricultural uses taking place there, genuine and will the short-term rental use or bed and breakfast use affect that and I can say based on when I was there they complimented each other very well.

Chair Duvauchelle: Thank you. Anybody else wishing to testify at this time please come forward? Seeing none, we'll close public testimony. Commissioners questions? Discussion? Commissioner Higashi?

Vice-Chair Higashi: I move to approve the application.

Chair Duvauchelle: Thank you, could we get the Department's recommendation first? Just one second here.

Mr. Quigless: The Department recommends approval subject to seven standard conditions for the Land Use Special Permit.

Chair Duvauchelle: Thank you. Commissioner Higashi?

Vice-Chair Higashi: I recommend approval of the application.

Chair Duvauchelle: With the conditions.

Vice-Chair Higashi: With the conditions.

Chair Duvauchelle: Thank you.

Mr. Carnicelli: Second.

Chair Duvauchelle: Second by Commissioner Carnicelli. Director, do you need to repeat that?

Mr. Spence: I don't think so.

Chair Duvauchelle: All right, all those in favor please raise your hand?

Mr. Spence: Five ayes.

Chair Duvauchelle: Five ayes. Motion carried. And I stayed there also about 15 years ago and it was a treat.

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

VOTED: To Approve Amendment to the Land Use Commission Special Permit in Order to Operation as a Short-Term Home Rental Permit as Recommended by the Hana Advisory Committee and the Department.

**(Assenting – R. Higashi, L. Carnicelli, L. Hudson, C. Tackett,
S. Duvauchelle)**

(Excused – T. Gomes, S. Castro, K. Robinson)

Chair Duvauchelle: All right Director?

E. UNFINISHED BUSINESS

1. **Proposed Settlement Agreement between the COUNTY OF MAUI and the ASSOCIATION OF APARTMENT OWNERS OF MAHINAHINA BEACH for the construction of barbecue grills, a stairway, a trellis, electrical lights, switches and wiring, an eating area, and a seawall within the Special Management Area (SMA) and Shoreline Setback Area (SSA) without first receiving permit for such improvements on property situated at 4007 Lower Honoapiilani Road, TMK: 4-3-008: 001, Mahinahina, Lahaina, Island of Maui. (Deferred at the April 25, 2017 meeting.)**
 - a. **SMA Notices of Violations issued as follows: NOV 20150063 (Electrical), NOV 20150065 (Stairway), NOV 20150068 (Trellis), NOV 20150070 (Barbecue grills), NOV 20150071 (Seawalls), and NOV 20150073 (Eating Area)**
 - b. **SSA Notices of Violation issued as follows: NOV 20150064 (Electrical), NOV 20150066 (Stairway), NOV 20150068 (Trellis), NOV 20150070 (Barbecue grills), NOV 20150072 (seawalls)**

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

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

Mr. Spence: Okay Commissioners we are on Unfinished Business for E-1 proposed settlement agreement for the Apartment Owners of Mahinahina Beach. Their representative Jim Geiger could not be available today so this item will be deferred to another time.

Chair Duvauchelle: Thank you.

F. ACCEPTANCE OF THE ACTION MINUTES OF THE OCTOBER 10, 2017 MINUTES AND PORTION OF THE REGULAR MINUTES OF THE SEPTEMBER 26, 2017 MEETING – ITEM C-1.

Mr. Spence: Which leads us to Number F, Acceptance of the Action Minutes of the October 10, 2017 meeting and a Portion of the Regular Minutes of the September 26, 2017.

Mr. Carnicelli: So move.

Vice-Chair Higashi: Second.

Chair Duvauchelle: Moved by Commissioner Carnicelli, seconded by Commissioner Higashi, all those in favor? So that's--

Mr. Spence: Oh he wasn't here. No, that wouldn't matter.

Chair Duvauchelle: Okay, so minutes are accepted.

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

VOTED: To Accept the Action Minutes of the October 10, 2017 Meeting and Portion of the Regular Minutes of the September 26, 2017 Meeting-Item C-1.
(Assenting – L. Carnicelli, R. Higashi, L. Hudson,
C. Tackett–Abstained, S. Duvauchelle)
(Excused – T. Gomes, S. Castro, K. Robinson)

G. DIRECTOR’S REPORT

- 1. Notification of September 27, 2017 Special Management Area (SMA) Use Permit and Shoreline Setback Variance (SSV) transfer approval letter from JAMES AGYROPOULUS to MAUI CAMELOT LLC in order to construct a hybrid revetment retaining wall fronting the shoreline at 475 Hana Highway, TMK: 2-6-009: 005, Kuau, Island of Maui. (SM1 2013/0015) (SSV 2013/0003) (J. Buika)**

Mr. Spence: Under Item G, Director’s Report, No. 1, we are notifying the Commission of notification of September 27, 2017 SMA Use Permit and Shoreline Setback Variance transfer approval letter from James Agyropoulos to Maui Camelot LLC in order to construct a hybrid revetment. Jim’s not here, but if we remember Mr. Agyropoulos went through quite an extensive process for Environmental Assessment and SMA Major to build a revetment fronting his property in Kuau that is eroding every badly and there is no beach in front of it or anything. This is just notifying you of transferring this permit to a new owner.

2. SMA Minor Permit Report

3. SMA Exemptions Report

Mr. Spence: No. 2 and 3, you have your SMA Minor and your SMA Exemptions Reports. You have any questions on that?

Vice-Chair Higashi: Question?

Chair Duvauchelle: Commissioner Higashi?

Vice-Chair Higashi: This is just for information. Director Spence is that the one the project that was worth...cost \$400,000 to have that retaining wall?

Mr. Spence: At least that much and probably permitting cost that much involved.

Vice-Chair Higashi: Yeah.

Mr. Spence: Yeah, that would be the one.

Mr. Hudson: ...(inaudible)...

Mr. Spence: And for the record, we are proposing in our next budget to replace this sound system. Akaku is even happy.

Mr. Hudson: So the question is are you gonna organize a site visit and get back us or?

Mr. Spence: Who's the staff planner for that?

Mr. Hudson: Buika.

Mr. Spence: Okay, I'll follow up with that Jim on that.

Mr. Hudson: Thank you.

Mr. Carnicelli: 'Cause it's gonna take us two meetings.

Mr. Spence: Okay.

4. Discussion of Future Maui Planning Commission Agendas

a. November 14, 2017 agenda items

Mr. Spence: Future Planning Commission agenda items, you're gonna have on November 14, 2017 you will have two public hearing items, one Mr. James Walters, Jr. and Natalie Walters requesting Land Use Commission Special Permit for a bed and breakfast in Haiku and it's not on the shoreline, owner-occupied. So that shouldn't be a question. And your second public hearing item is a Land Use Commission Special Permit also in Haiku, Apuwai Street, I'm not exactly sure where that is. But it's also a bed and breakfast. Communications, ATC Makena Holdings requesting amendments for an approved SMA Permit in Makena. Second is Suzie Lauricio requesting a 10-year SMA, Special Management Area Use Permit time extension to initiate construction on the Inglesia Ni Cristo church in Lahaina. Number 3, Maui Beach Resort Limited Partners submitting annual report regarding the disbursement of funds for a settlement agreement for the Honua Kai Resort in North Beach, Kaanapali. We have Unfinished Business, Mr. Alan Berman requesting State Land Use Commission Special Permit in order to operate short-term rental home in Lahaina. And Director's Report we will bring before you a decision whether to waive review or to want to review an SMA Permit Mr. Grant Chun of Wailea MF-7 LLC they're requesting a two-year SMA time extension to initiate construction of a project in Wailea. And last one MP Venture LLC requesting a two-year time extension on an SMA Permit for the Maui Palms Hotel, a development project in Kahului.

Chair Duvauchelle: All right, any other discussion? Thank you Director, Counsel, Carolyn. Thank you. Maui Planning Commission is now adjourned.

H. NEXT REGULAR MEETING DATE: November 14, 2017

I. ADJOURNMENT

The meeting was adjourned at approximately 2:30 p.m.

Submitted by,

Carolyn Takayama-Corden
Secretary to Boards & Commissions II

RECORD OF ATTENDANCE

Present

Lawrence Carnicelli
Sandy Duvauchelle, Chairperson
Richard Higashi, Vice Chairperson
Larry Hudson
Keaka Robinson (excused at 12:00 p.m.)
Christian Tackett

Excused

Tina Gomes
Steven Castro

Others

William Spence, Director, Planning Department
David Galazin, Deputy Corporation Counsel, Department of the Corporation Counsel
Rowena Dagdag-Andaya, Deputy Director, Department of Public Works (on-call)