

**HANA ADVISORY COMMITTEE TO THE
MAUI PLANNING COMMISSION
REGULAR MEETING
NOVEMBER 17, 2005**

A. CALL TO ORDER

The regular meeting of the Hana Advisory Committee (Committee) was called to order by Clayton Yoshida, Administrator, Current Planning Division, Maui County Department of Planning, at 4:15 p.m., Thursday, November 17, 2005, Old Hana School Cafeteria, Hana, Island of Maui.

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

Ms. Kaui Kanakaole: Okay, we're going to call this meeting to order, the Hana Advisory Committee meeting. We're gonna skip the introduction of the newest member since he's not here and move on to the approval of the minutes of the April 21 meeting. Are there any changes to the minutes? Is there a motion to approve the meeting minutes?

C. APPROVAL OF MINUTES OF THE APRIL 21, 2005 MEETING

B. INTRODUCTION OF NEWEST MEMBER - SHANE SINCENCI

Ms. Fawn Sherie Helekahi-Burns: I make a motion to accept the minutes.

Ms. Kanakaole: Is there a second? Any discussion? Seeing none, we'll call for the vote.

There being no discussion, the motion was put to a vote.

It has been moved by Ms. Helekahi-Burns, seconded by Mr. Romain, then unanimously

VOTED: to accept the minutes of the April 21, 2005 meeting.

Ms. Kanakaole: Motion has passed. Yeah, so we'll go back to B. and introduce the newest member of the Hana Advisory Committee who is Shane Sinenci. Aloha and welcome. Okay, moving on to the next meeting agenda is the public hearings. Can we have Paul Fasi read the agenda item, the first one.

Mr. Fasi: Good afternoon. I will present the project as it pertains to the Maui County Code. I'm gonna leave the details of the project to the applicant. Are we gonna go right into the presentation?

Ms. Kanakaole: If there are no objections, can we, since Harry Hasegawa is not here yet, can we move No. 2 up, Mr. Edwin Skip Young to No. 1?

Mr. Fasi: The Department agrees.

Ms. Kanakaole: Are there any objections from the commission? No? Anybody? Seeing none, we'll have Robyn introduce the project.

D. PUBLIC HEARINGS (Action to be taken after each public hearing item.)

- 2. MR. EDWIN SKIP YOUNG requesting an after-the-fact Land Use Commission Special Use Permit and a Special Management Area Minor Permit for the Blue Pool Marketplace in order to maintain an existing farmers market, café, crafts gallery, snack shop, produce stand, and parking area in the State Agricultural District at TMK: 1-3-002:012 (por.), Nahiku, Island of Maui. (SUP2 2004/003) (SMX 2004/0134) (R. Loudermilk)**

Ms. Loudermilk: Good evening, members. Robyn Loudermilk with the Maui Planning Department. What we have for you today is an after-the-fact State land use commission special use permit to allow for the continued operation of the Blue Pool Marketplace in the State agricultural district on approximately one acre of land that is part of a hundred acre parcel at Maui Tax Map Key 1-3-002:portion of 12 in Nahiku. I'd like to have Rory Frampton, Mr. Young's representative, come up and explain the project to you and then I'll follow up with the Department's report.

Mr. Rory Frampton: Thank you very much, Robyn. Again, my name is Rory Frampton. I'm representing Skip Young on this project. I also will be representing Harry Hasegawa so you'll see me on both of these applications. I'm associated with Chris Hart & Partners, a land use consulting firm in Wailuku. We were retained to help bring the what was previously called the Blue Pool Marketplace into compliance. Just for the record, I wanna start off by saying the name has been changed now. It's going to be referred to as the Nahiku Marketplace instead of Blue Pool. So, for the record, and we'll follow up with Planning with a written letter requesting that the name be changed to Nahiku Marketplace.

I'm just gonna skip through a couple highlighted sections of the Planning Department's report that was mailed out to you guys. I'm sure you must be familiar with the location in Nahiku. It's on the Young's family property, which is a 105 acre parcel. It's up on the mauka edge along Hana Highway. The current uses on the property, there's basically four little activity areas: there's the café, which provides smoothies and fruit drinks and coffee; a craft gallery, which has many crafts and items that are produced on Maui and in the Hana area, and there's a letter from Lana Stuart that we passed out that describes all the different products that are in the craft shop; there's also a little barbeque stand, Up in Smoke, that Carl and Linda Ebrus operate, and that they also passed out a letter to you that has the various -- that kinda describes that use and the various people who supply them with fish or who have supplied them with fish; and, lastly, there's a produce stand on the property that has a variety of agricultural products and the coconut candy and that kind of stuff. That's the operation that we're asking for approval for. In addition, on the overall, the Young family property, there's a variety of agricultural activities taking place including raising of banana plants, about five acres of Ti, avocado plants, and a lot of coconut trees, and a whole variety of other plants that's not uncommon to have in the Hana area.

In terms of the history of the project, this site has been the location of roadside stands, in one form or another, since about 1977. Skip did get approval of a land use commission special permit back in July of 1977, so it was established legally when it first started. He got a number of time extensions in 1980, in 1982, and in 1983 the land use -- the Maui Planning Commission issued a special permit for the snack shop operations. After that time, the permit expired but since then, the use has continued since it hasn't really stopped and it's been a roadside stand of one form or another since that time.

We are asking for a special permit, and I'm flipping forward here to Page 11 in your report, and the special permit is identified as a -- or a farmers -- no, let me step back. If you're in the agricultural district and you were just purely selling agricultural products, you could be considered an agricultural roadside stand or a farmers market and you would not need a special permit. And the definition of what a farmers market is, the kind that do not need these permits, is included on Page 11, and you can see the strict definition of a farmers market. They have size areas and they talk about what kind of products you can sell. Right above that definition, it says, "For farmers markets that do not meet the standards, these strict standards, then you need a special permit." So Skip's operation does not meet these strict standards and that's why we're here before you today asking for a special permit, so it's beyond what is a traditional farmers market that is purely agriculture that would be allowed outright. So because there's additional products, we have to come and get the special permit and that's what we're asking for your, actually, it's your recommendation of approval because this matter will be acted upon by the Maui Planning Commission and they will consider your recommendation very seriously. They typically do.

So, that in a nutshell, is why we're here. It briefly describes the project and we are asking for your favorable consideration of the special permit request.

Now, we've had recent discussions with the Planning Department over the last several days and in looking at the list, primarily the list of crafts that are sold in the -- in the gallery, there are some items that are brought in from off-island that are made in Hawaii, but they're brought in from off-island, and the Planning Department feels that those activities would actually require an additional permit, and that would be a conditional permit, and the conditional permit is very similar to a special permit but it also involves having to go before the Maui County Council to ask approval from the County Council.

What we want -- what I would like or what we'd like to ask you today is to consider all of the uses and make a recommendation on the operations, as requested, which includes all the products that they're selling now, and if the Planning Department feels that we need this conditional permit for some of these uses, that we would comply with whatever the Planning Department says and whatever the -- with the feelings of the Hana Advisory Committee, and if you're -- if you do feel favorably in terms of the additional products, then we would apply for the conditional permit and take that to the Planning Commission and the County Council. What we would ask is that we wouldn't have to come back here. We just wanna have to come to you guys once and that's why we're asking you to consider all the operations. Typically, if we were to have to file a conditional permit, the Planning Commission has the discretion of designating you guys as the public hearings body for the conditional permit as well, like they did for the special permit. A few months ago, they designated this body as the hearings body for the special permit and that's why we're having the public hearing here today on the special permit. And so because we were just informed a few days ago, you know, that we may need the conditional permit, we weren't able to meet the notification requirements and have the two meetings concurrently at the same time, so we would -- I just wanted to be up front with you guys saying that if we do need the conditional permit and we are asking for the additional products, that we would like you to consider all of those uses today and that we would have the public hearing for conditional permit in front of the Planning Commission rather than having to come back here and have you guys consider the whole -- the identical project all over again. So it's just a matter of saving everybody time and resources.

Ms. Mavis Oliveira-Medeiros: Is it in here? The conditional --

Mr. Frampton: The conditional permit? No, we have not filed for that. Yeah, we did not file for that because we were just informed of that potential requirement.

Ms. Loudermilk: And I'll go into that. And I'll go into that.

Mr. Frampton: Right. And even if, and just to I guess lay out the -- all the different options, I guess even if you guys, or on any part of the application, feel one way or another, it's a recommendation to the Planning Commission, right, so the Planning Commission is the ultimate decision maker, however, your recommendation is considered very heavily. So any -- that I tried to keep it brief. I might have glossed over a few things. If you have any questions and want me to get into more details or if I wasn't clear, please ask me any questions or ask Robyn an any questions. Are there any questions or discussion topics?

Ms. Loudermilk: Or would you want me to do my report? Okay, okay. Robyn Loudermilk, Maui Planning Department. I just would like to go over some additional areas that we did receive agency comments and then we'll go back to this discussion about where we got to today with the conditional permit.

The marketplace has been in operation for a long time at it's current location. I'm starting from Page 8 in terms of the analysis section cause Rory went through the project itself. I'd like to direct your attention to Item No. 3, it's a comment from the Office of State Planning and that they're supporting the conditional use -- I mean the special use permit; that it does meet the State criteria, and they note that there are outstanding -- there are concerns with the Department of Health and Department of Transportation, which I'll go through later on in the report.

The application is consistent and in compliance with the County General Plan as well as the Hana Community Plan, and Rory gave an excellent explanation on Page 11 regarding the farmers market. So we're starting to go into the new territory that previously there were a number of stands in the Hana region, like Uncle Harry's, Keanae Landing, and so forth that have come before you with a land use commission special use permit and then they decided to modify the types of items that they would sell and that we did require them to come in for a conditional permit. So we're still working through this at this point in time.

On Page 13, we have the comments from Historic Preservation. They indicate that on that one acre property no historic properties will be affected. It's pretty much there. Regarding infrastructure and public facilities, there's some back and forth going on between the Department of Health Maui District Office and the vendors regarding food establishment permits cause they indicated that they're using a catchment system, you know, however, both of these permits were just recently renewed, and they were renewed after these comments came in, so the Department see's that they've addressed whatever concerns the Department of Health had or else they would not have been able to get their food establishment permits. The other concern that the Department of Health has has to do with the cesspool. We just wanna clarify that the cesspool is only used by the employees on the property. There were some concern whether people traveling to and from Hana would stop off there and use the restrooms. They're not allowed. But, in the meantime, we would

want the applicant to provide whatever calculations that the Department of Health wants just to make sure that the cesspool continues to be in compliance. That was just their concern that all this additional traffic versus anywhere from five to nine employees during the daylight hours.

And the next, well, the second largest or equally big concern has to do with the highway right-of-way issue. You go by there it's like a big driveway going into the marketplace, and there are -- Department of Transportation had several comments and that does not -- and those comments just indicate, you know, it's using the right-of-way. They're not opposed to the project going forward but they would want the applicant to come into compliance with the Department of Transportation code requirements at this point in time so that would have to do with driveway, having maybe just one or two driveways, depending on if you're going to have two ways or a one way, whatever improvements are required on the State highway, and that all of these changes or requirements go get reviewed and approved by the State DOT. And as of right now, the applicant has had several meetings with the Highways Division of the State DOT, so they're aware of the concerns and are looking towards to meeting the requirements.

And then, lastly, there's some additional approvals that would be required. A lot of the structures were built without either building permits or a different type of occupancy requirements. The application for the special use permit and, possibly, the conditional use permit will allow the applicant to get these building permits, the certificate of occupancy, and come into compliance with the various County Codes. And, lastly, as part of those minor structures, none of them got special management area approvals, so should the consistency occur with the approval of these permits, then the Planning Department can start processing the special management area permits to have these buildings come into compliance.

And in terms of testimony, as of November 7, we did not receive anything, however, today, I passed out, there were two letters in support. Other documents that I passed out was the list from the applicant identifying the items that are sold on the property. And, lastly, I also passed out a recommendation memorandum. That concludes the Department's report and now I'd like to go into the issue of the conditional permit.

In reviewing other similar type operations in the Hana area, it was brought to my attention that there were restrictions on non-agricultural products, basically, Hawaiian cultural products or arts or crafts. We did allow those to be sold with the condition that they were from either Hana or made with products in Hana. Now with the passage of the ag bill, we've allowed that to be for the island of Maui, if the items were made on Maui from products on Maui. In reviewing the list that was submitted, mainly for the Nahiku Gallery, there were a number of items that were from off-island. And since they were from off-

island, they would not meet our criteria for just the land use commission special use permit. We felt that if the applicant wanted to continue to sell those products, that the conditional permit would apply.

Now what does the conditional permit do? The conditional permit allows for the establishment of uses not outright permitted in the particular zoning district. So through the report, we've identified what the farmers market is and the products sold from the property, how some fit in and how some didn't fit in, but that based on the assumption that all products were from Maui and that was wrong assumption. So it's just been this past week that that has -- that's emerged and should the Committee accept the Department's recommendation for the land use commission special use permit, we would recommend several things. First of all, we would recommend adding an additional condition saying that the applicant would have to come in for that conditional permit should they choose to continue to sell items that are not made on Maui but in the State of Hawaii. Secondly, we, at this point in time, we concur with the applicant's request that as long as there's no other changes to this project, that should a conditional permit come in, that a public hearing be held before the Maui Planning Commission, and that's only if there is no change in anything in this project. If there's even a slight change, we would recommend that it come back here and only because it's a technicality that the Department did impose on the applicant, and so that is -- that's the second thing. And then, lastly, it's the decision of this body, you know, whether to accept the Department's recommendations. And so I'd just like to conclude with that and Rory and myself are available for questions right now before we go into public hearing.

Ms. Kanakaole: Are there any questions?

Ms. Helekahi-Burns: I was wondering how long is this permit good for?

Ms. Loudermilk: If we can go to your recommendation memorandum, though we haven't gone through that, we'll just indicate -- that does indicate that we're requesting for two years, and the reason why we're requesting for two years is that it takes anywhere from one to two years to actually get a building permit processed through the County. Based upon previous projects, some building permits, very simple ones, are taking over a year; those a bit more complex, are taking closer to two years. So we just thought it would be fair, not only for this applicant, but other projects coming in to Maui County that we're giving them two years to -- so that they can obtain their building permits and then take a look to see if they're meeting all the other conditions.

Ms. Oliveira-Medeiros: I was wondering about the cesspool if there's no water. The water catchment supplies the cesspool?

Mr. Frampton: That's correct.

Ms. Oliveira-Medeiros: And then if people eat at the place that makes food, they don't have to have a place to use the bathroom? No? One more question. If somebody from Hana wanted to sell something, they wouldn't be opposed to something made in Hana, like I know some people make baskets and stuff?

Ms. Loudermilk: No, as long as it's from the island of Maui, yeah. So if Hana, even better. Yeah.

Ms. Oliveira-Medeiros: Yeah, thanks.

Mr. Shane Sinenci: You mentioned that some of the buildings had to go through some permits too, so you would have to apply for those permits first?

Mr. Frampton: Yeah, the way that worked out, Skip had actually applied for building permits for those structures and they could not be issued because the use, that's really what generated this whole process, because the use of those structures were for an activity that wasn't allowed under the zoning. They said, hey, we can't give you the building permits for those uses, we can give -- I think he actually got them issued as storage sheds, so the building themselves actually had building permits and --

Mr. Edwin Skip Young: My name is Skippy Young, Edwin Young, and I did have my building permits, Bob Getz went help me draw them and Doug, that other guy that lives by across from the school, the architect, he helped me. I went and took them all in and they approved them, and then they disapproved them because they said we cannot give you your building permit because you don't have a special use permit so you cannot actually run out of those buildings until you get your special use permits. Once you get your special use permit, then we can approve your building permit. But they're all inside there. They've been in there about two years already just waiting for this approval and then they approve those building permits.

Mr. Sinenci: Oh yeah, looking at the map, you said hundred acres. Is that hundred acres for the --

Ms. Loudermilk: You're looking at the Department report?

Mr. Sinenci: The marketplace property.

Mr. Frampton: No, I'm sorry, the TMK parcel that the --

Mr. Sinenci: The TMK parcel?

Mr. Frampton: Yeah, that the Young family owns is 105 acres, and it goes from Hana Highway all the way down to Ulaino Road.

Mr. Sinenci: And the marketplace takes up how much of that space?

Mr. Frampton: Oh, probably less -- no more than an acre. Let's say an acre. It's within one acre.

Mr. Sinenci: And the zoning would cover like an acre of that marketplace?

Mr. Frampton: The permit applies to the use within that one acre so he would not be able to expand out of that area that's been shown on the map but, basically, the request is for the uses that are currently there and he's not asking for an expansion into other areas of the 105 acre parcel.

Mr. Sincenci: Like 20 acres.

Ms. Helekahi-Burns: You said one acre and the marketplace doesn't take up an acre so what other parts of the one acre that's going to be covered under this special permit? So what else is on this one acre, in other words?

Ms. Loudermilk: Basically, the operation and then there's a lot of landscaping surrounding it that I do -- identify, so there's select walking tours in there but those are -- these are excellent questions cause we wouldn't want the operation to expand. If there's additional buildings or something, we would have him come back in. We would have him come back in, you know, but adding the number of vendors and the existing structures, that's, you know, that's --

Mr. Frampton: Yeah, if I just may clarify. We're requesting approval of the existing uses as you see them out there today. The, as you mentioned, the products may change and under the terms of the permit, they would be allowed to have various types of products but they would occur in those structures and for the uses that are described in the application. Essentially, the existing uses.

Ms. Oliveira-Medeiros: On the Department of Health questions and stuff, that would all be fixed before this thing goes through?

Mr. Frampton: We are currently, or they are currently up to date with the Department of Health. They have food establishment permits for the two, for the Up in Smoke and the little café that -- so they're in compliance, yeah.

Ms. Oliveira-Medeiros: Can we go on record then to say that the name will be changed to Nahiku Marketplace?

Ms. Loudermilk: Thank you. And that will be -- that'll be noted in future documents.

Ms. Kanakaole: Are there any other questions from the Advisory Committee? If there are no more questions, we'll open it up for public testimony. Are there any members of the community who wanna testify? Please state your name.

a. Public Hearing

Mr. Chuck Borner: Hello. I'm Chuck Borner. I'm a farmer down in Kipahulu. Pleasure to speak to your folks. I sell lots of product to these people on a regular basis, once or twice a week, and they've paid their bills right on time, and I'm real happy that they're doing what they're doing down there. They're helping me out as a farmer and helping my family.

Ms. Kanakaole: Thank you. Any other testimony?

Ms. Pat Gould: I'm Pat Gould and I've worked for the Healthy Start Program out here for about 13 years and then when the funding was cut, I didn't have a job, and this job at the fruit stand, where I work, has been a God send for me because I'm on my own, I'm a widow, and I really depend on this, and it has been great.

Mr. Pat Mullen: My name is Pat Mullen, Moon, everybody knows me as. I'm a construction worker, and I've know Skippy since 1977 or so, and I sell Lana some of my pottery, I do pottery at home, and I go by there almost every single day of my life coming to town and back to work or whatever it is, post office. I never had a problem with any of the traffic going in and out of the parking lot. I know guarantee it provides jobs for people there and I think a very important factor is, you know, the availability of coffee for these people going home to the other side, you know, and a lot of locals and tourists also use the place, you know, and I think it's -- my property is right next door. I have no, absolutely no complaints, never had any problem with Skippy's place being there at all, and I think it's a plus for the area, you know, it's a fuel crunch, you don't have to go as far for a cup of coffee. But, anyway, I'm all for it. Thank you.

Ms. Kanakaole: Anymore testimony?

Ms. Lana Stuart: Hi. I'm Lana Stuart. I'm the person on the list there. I'm one of the applicants, and what I'm trying to do this year is encourage more people from Hana to come into my store with their products and, in doing that, have found that I have a new job in trying to create, with the people who are living in Hana, new ideas cause there's a lot of people who are talented but they just don't know what to do. So I've been operating now for eight years and I know what tourist are looking for and that helps people know what to make cause if you make something and you can't sell it, then you've wasted your time and your money, and this year I'm hoping to encourage people in Hana and help people to make new things and come into my store and sell them so -- and I really, you know, I have a family and we really appreciate you guys listening and hope we can do better, and if you've got any advice for us, you know, we'll try harder too. Thank you.

Ms. Kanakaole: Are there anymore public testimonies?

Ms. Stella Parks: Aloha. My name is Stella Parks. I work for the hotel, my husband and I. I've been making some products for Lana for couple years now. I've done it before. I think it's a good thing because it's a -- it's a different -- another outlet for work opportunity because our town is small. Anybody who lives here, all of you guys, there's very little opportunity for work so that's another area for work opportunity for those who can and try to do something else. Okay. Thank you.

Mr. Harry Hasegawa: I'm Harry Hasegawa. I run a store too, and I feel that people in Hana have to do something with their talents and there are not many places where you can come up and sell, and especially out in Nahiku. It's -- they call Hana the boondocks, but, you know, Nahiku is a little bit worse. But it's very encouraging to see people try to get and do something for themselves, and I commend these people who are trying. I try too. And I think that's what makes Hana, that's the ambiance of the place. I mean you can come and go to Lahaina where you have those fancy nice looking things, but Nahiku has a special thing about it, and I think they should -- you should really consider them and give them a go. Thank you.

Ms. Kanakaole: Anymore public testimony? Okay, we'll close the public testimony. Can we have Robyn read us the recommendation.

b. Action

Ms. Loudermilk: So members, I'd like you to refer to the recommendation memorandum that's before you. We are recommending approval of the land use commission special use permit. We feel that it does meet the criteria for the special use permit. We would recommend that the permit be for a period of two years, and we have approximately seven standard conditions that we attach to use type of permits. Then we have three project

specific conditions. And then the Department would like to amend the recommendation to have a Condition No. 11 regarding a conditional use permit. And that would conclude the Department's recommendation for the land use commission special use permit, and I guess it'll be when we have any discussions whether that would be the time to talk about whether you want the public hearing held back out here in Hana once the conditional permit is applied for, or if you would want to delegate that, the public hearing, with the Maui Planning Commission. So any questions on the proposed conditions? The project specific have to do with Department of Health, make sure the wastewater calculations are in, as well as the other two have to do with the Department of Transportation. And should the -- should this permit, ultimately, we approved, when Skippy folks come back in the next two years for its renewal, we'll find out how -- how far along they've come with that particular issue. And that, lastly, that inconsideration of the amended recommendation, that we forward the report for this meeting as well as the minutes to the Maui Planning Commission for final decision making.

Ms. Kanakaole: Okay, we're going to open up the floor for a motion from any of our members.

Mr. Romain: I make a motion that we approve the permit as submitted by the Planning Department and that we would defer if the second permit that's come up for public hearing would be deferred to the Planning Commission, and that would be the conditional permit.

Ms. Kanakaole: Is there a second?

Ms. Oliveira-Medeiros: Well, I guess, our discussion is over, yeah? For me, it's been there all this time and it hasn't negatively impacted -- second before discussion? But all of these conditions have to go through the Planning Commission, right?

Ms. Kanakaole: Yes.

M. Oliveira-Medeiros: I'll second that.

Ms. Kanakaole: Okay, so now we can discuss. What do you wanna discuss?

Ms. Oliveira-Medeiros: That's all I wanted to say. It's been there. It hasn't affected me in any negative way or anybody else that I know. So, yeah, I think it's a good thing.

Ms. Kanakaole: Any other discussion?

Ms. Helekahi-Burns: We discuss conditions also, right? I don't agree with forwarding it out to -- outside to the Planning Commission. I do believe that this whole matter, especially

public hearing, should be done here in Hana, so we shouldn't be forwarding it out outside to Wailuku because then the people who comes to testify on the matter is from Hana, so that's the only condition that put on that is that it come back here if there is another hearing for the special conditions permit. Thank you.

Mr. Romain: Could you clarify what this additional permit would be that would require the public hearing, specifically?

Ms. Loudermilk: The conditional permit is the County equivalent to the State permit. It allows for the establishment of uses that are not outright permitted. That's all it is.

Mr. Romain: So it, basically, is precisely what we're approving or recommending here. There would be no difference?

Ms. Helekahi-Burns: The difference is is the fact that she's selling products that's not from Maui, so you need -- yeah, so anything that's outside of Maui would need that special permit, which is not according to the permit, according to my understanding, right?

Ms. Loudermilk: That is correct. But part of the discussion that we had today included that these items are now being sold; that for them to continue to be sold, then they would need to have the conditional permit and it would be the same information that we're providing you today. The Department would not -- we would not -- if there was any change from what was approved for the land use commission special use permit, we wouldn't recommend approval of the conditional permit and they'll be back to square one. And it's very extraordinary that the Department even proposes something like this because we feel very strongly that the role for the Hana Advisory Commission is for the public hearings to be held out in Hana for the people in Hana to come out here. The -- if there was going to be any change of use, that change of use, as part of the conditional permit that was different from the land use commission permit, we would send it out here. What we are recommending is that since it -- we believe that it will not be and if that turns out to be the case, that the public hearing be held in Wailuku and even more so the testimony today was all in support. If there were testimony expressing concerns or opposition, the Planning Department would not even broach the subject. However, that's a decision for this body to make. One, it's based on the assumption that what is before you today is not going to change. If it does change, we'd have them come back out here, not only for the conditional permit, but for this land use commission special use permit.

Ms. Helekahi-Burns: So, in other words, if we say that we do not want her to sell products from outside of Maui, which wouldn't require the special condition permit, then you would have to come back over here because it's in the change of what is actually going on right now? Right, because that's a change already?

Ms. Loudermilk: Yeah. Yeah. Yeah. And, okay, so then what -- yes, the only reason the conditional permit would be applied would be for those products that are from Kauai, the Big Island --

Ms. Helekahi-Burns: Outside of Maui.

Ms. Loudermilk: Yes. If those products are not sold, then they would not need the conditional permit, yeah, and that's the only reason and, again, it was not until I reviewed the previous projects that came before you and realized that we had to keep it Maui only products versus State of Hawaii products; that was a misinterpretation on my part.

Mr. Frampton: Thank you, Robyn. Yeah, Rory Frampton again. I'd just like to add a few comments -- a few comments regarding the conditions. Let me first just -- I'll give my understanding of this special use permit, conditional permit procedure. As I read to you under the definition of what a farmers market is, if we met that strict definition of a farmers market, we wouldn't be here today, if it was all agricultural products. Because we're not that, we're anything else, and the code doesn't say what is not the farmers market that meets the code so, in my mind, it's very open for interpretation, and we discussed this matter about a year and a half when we first turned in this application and I explained it to one of the persons processing the permit that, you know, we're not asking to be the permitted use, we're asking for the one that needs a special permit and there's -- and we're saying that we're not the permitted one and because we're not, we're asking for this special permit. So they were looking at, at that point in time, whether we needed a conditional permit or not, and they said, "Well, yeah, I guess you're not that one, so just come and get the special use permit and that should cover you for everything." It was looking at really I think there's no specific legal criteria that says if it's goods from off-island that you have to get a conditional permit, it's more of a policy, and it's more of a precedent, and because other people have done that in the past, I think that's why the Planning Department is asking for that. When we had our discussions over the last day or so when we were told that we might need the conditional permit as well, I said, and it was just kinda my analysis, that as long as it's just that we don't have to go back to square one and it's not duplicative, we, you know, if we can work out a compromise, then we'll go ahead and do that, and it's really to be consistent with the Planning Department's previous actions, and so that's why we basically -- the special use permit would cover all of the uses that we've asked for today including the off-island products, that the State's special permit. The conditional permit would approve the exact same set of conditions, and we asked for the Planning Department's consideration of this modified permitting processing which would simply bundle the conditional permit with the special permit when it goes to the Planning Commission with your Advisory Committee's recommendation. Now that's assuming that the Advisory Committee's recommendation is favorable for all of the uses that we're requesting.

So just to be clear, we're asking for the State special permit for all of the uses that are occurring today including the bringing in of off-island products, and then we would, at Condition No. 11, and Robyn didn't read out Condition No. 11, but I believe it would read something, and forgive me for putting words in your mouth, but it would be "that the applicant shall apply for a conditional permit as well." And that would be the addition, No. 11, so -- so just to be clear, this -- what we're asking for is everything that's occurring right now and by having the public hearing for the conditional permit in Wailuku, it's certainly not trying to take any decision-making power or any kind of discussion away from Hana, and if there's a concern about the other items, then this should be expressed now because the special use permit would cover those as well, so we should lay all that on the table now and have that discussion take place in Hana before we go to Wailuku, and it's only if you guys feel comfortable with those items, then we would ask that both permits be considered. I hope that clears it up.

And I just wanna ask one other thing, and I really appreciate the favorable responses and the favorable consideration comments that I hear from the commission, the two-year time extension, yeah, the two-year period comes up awfully quick and, traditionally, what the Planning Department will do, as a policy, for new applications, they'll give you a permit for one year, then they want you to come back and see how you operated for that year; then they'll give it to you for three years, and then five. We call it the one, three, five, and then, after that, it's a five year permit, and the idea is, like Robyn mentioned, they kinda wanna check up on you and make sure you're doing things okay. I would just ask for the Advisory Committee's consideration that because this use has been here for so long and because everybody kinda knows what it is and we're not asking for any changes, that we would request that instead of two years it'd be allowed to extend for five years so that we don't have to keep coming in with a lot of extra paperwork, and I do that with all due respect because I do appreciate the comments of this Advisory Committee. The recommendation is for two; we're asking for consideration of five ...(inaudible)...

Mr. Sinenci: I know some of our residents had expressed some of their products up there and as supplemental income to their families. What is being sold outside of -- the outside products right now and how much outside products? You know, maybe we wanna encourage more resident artisans and, yeah, crafters.

Ms. Loudermilk: Yeah, commissioners, we have a list.

Ms. Helekahi-Burns: Will I be able to speak to Lana? Yeah, come, Lana. Sit down. My main concern, Lana, is will it make a huge economical impact on your family if you wasn't selling those products from outside of the kind Maui?

Ms. Stuart: Well, actually, I quote my girlfriend who has a similar thing in Kahakuloa today, she has a gift shop gallery, and she said, "honey, you know, if you -- if you can't sell stuff from outer islands, you won't -- you'll have to close down," and I'd really like to sell more from Hana, I mean that's why I'm trying to work with people to encourage them to make them to make things but that's going to take some time too. And the products that I sell off island, I wrote everything down here so that you guys could kinda get a good idea of the percentage, like there's 15 people in Hana that I buy from, there's about 15 to 20 people on Maui plus the people in Hana, and there's about 15 people outer-island, and, you know, being in business for 8 years, those aren't just people, those are actually like the Big Island Woodworks, they're a Hawaiian family I've done business with since I've opened, and to call them up and go, "hey, you know, I'm sorry I can't sell your products anymore," that's, you know, money they rely on every month. And they're not just products, they're artists, they're people who are struggling to make a living, you know, living on places like the Big Island and on Kauai. It's everybody doing their best. And I feel a part of that, and I'm responsible for it, and so I'm really here to represent actually a lot of people and not just myself and my family, and, you know, the products I sell are beautiful. They really are an expression of artists in Hawaii, and I'm proud of that. I'm proud to be there for that and, you know, you're welcome to all come and look at my store and ask me questions, and I mean that's what I do all day is I tell people all about, you know, my friends and artists in Hawaii that make things for us. So even though I'm wanting to sell more from Hana, it's going to be a slow process and I'm always looking for more artists on Maui but, economically, financially, it will -- it will cut my lines, basically, if I'm just made to sell on Maui products so --

Mr. Romain: Are you selling anything from off-island at the expense of perhaps somebody locally? In other words, is it crowding anybody out or is there still room for any other --

Ms. Stuart: I, well, actually, that's funny cause I have one, I'm bringing a friend of mine something that I think she should make, she lives in Hana, and I'm like this is something that somebody else makes and if you could make something really similar, not the same, then I'll take your product over her product. So that's part of some things I'm trying to do in the community is show people what's selling so they can make them. Instead of having other people making the money, I can try and do that here cause, you know, primarily, I'm an artist and, you know, I'd rather support locally and then, you know, outer -- but that's not happening right now.

Ms. Kanakaole: Anymore discussion?

Mr. Romain: To restate the motion that I made was to accept the recommendation of the Planning Department to approve both the special management, is that what we're -- wait a minute. I'm confused. The special use permit as amended with the new conditional

permit, correct, and that we would not have this come back to us unless there was any change whatsoever through the Planning Department.

Ms. Kanakaole: I just wanna confirm if there's no further discussion before we call for the vote.

Ms. Helekahi-Burns: Just to make it clear, is this the motion that he had said included also the five year permit? No? Okay.

Ms. Loudermilk: No, that would need, should you folks want to do that, you would need to amend the motion to change the time period of the permit that was recommended from the Department.

Ms. Kanakaole: Does anybody wanna discuss that time period? Changing the two to the five? No? Shane, you had something else?

Mr. Sincenci: It was just the bathroom situation. I know, I mean I like the place, I go up there and eat lunch and stop for coffee and great place, been there for years, I'm just kinda looking at the impact it'll do in the future to the community. I realize that one of them is the bathroom situation. You mentioned that you actually turn away the tourist who come who wants to use the bathroom, and I know that the State is still building the State bathrooms, I don't know when that should be completed, but I know when that happens, that'll alleviate a lot of the traffic that come in cause I know I stopped in the Keanae one and just their four or five portables not, you know, sufficient for all the traffic, especially summer months when we get all this traffic come down, including our County Hana Bay bathrooms. You know, when we get traffic down there, all of our sewage system back up. So, as a community, I just wanna put that out to us for think about future impact on our environment and especially, you know, sewage and that kinda stuff. Extra products, extra trash. That's all. Thank you.

Mr. Romain: To, Shane, I've notice in one of the things it said that they -- they're claiming that they're recycling approximately 50 percent of their -- or 50 percent is going to recycling and 50 percent to the landfill. I think that's a good statement in itself.

Ms. Kanakaole: Okay, if there's no more discussion, then we can vote.

There being no further discussion, the motion was put to a vote.

It has been moved by Mr. Romain, seconded by Ms. Oliveira-Medeiros, then

VOTED: to accept the recommendation of the Planning Department to approve both the special use permit as amended with the new conditional permit, and that we would not have this come back to us unless there was any change whatsoever through the Planning Department.
(Assenting: J. Romain; M. Oliveira-Medeiros; F. Helekahi-Burns; S. Sincenci)
(Excused: M. Mauiliola; F. Tolentino)

Ms. Kanakaole: Motion carried.

Ms. Loudermilk: Thank you. So just to clarify, two years.

Ms. Kanakaole: Two years.

Ms. Loudermilk: Two years. And that we -- you've allowed us to delegate the public hearing for the conditional permit to the Maui Planning --

Ms. Kanakaole: Yes.

Ms. Loudermilk: Thank you very much.

Ms. Kanakaole: We'll take a five-minute break and then reconvene.

(A recess was called at 5:40 p.m., and reconvened at 5:50 p.m. Member Fawn Sherie Helekahi-Burns left the meeting during the recess.)

Ms. Kanakaole: Can we have Paul Fasi read the agenda item?

- 1. MR. HARRY T. HASEGAWA requesting a Special Management Area Use Permit for the new Hasegawa General Store, consisting of a commercial building with about 10,560 square feet of space and related improvements at TMK: 1-4-003:031, Hana, Island of Maui. (SM1 2005/0013) (P. Fasi)**

Mr. Fasi: Good evening. This matter arises from an application for a special management area use permit filed with the County of Maui Planning Department on April 22, 2005. The application was filed pursuant to the Special Management Area Rules of the Maui Planning

Commission, Chris Hart and Partners, as the applicant, on approximately 27,304 square feet of land in the State urban district situated in Hana, island and County of Maui, identified as Maui TMK No. 1-4-003:031, that is the property.

The purpose of the application. The applicant is requesting a special management area use permit in order to construct a 10,960 square foot retail store on 27,304 square feet of land in Hana.

The applicable regulations regarding this SMA application standards for reviewing a special management area application are found under Hawaii Revised Statutes 205A-26, Section 12-202-12 and 12-202-15 of Chapter 202, Special Management Area Rules of the Maui Planning Commission. The procedures for reviewing the special management area amendment request are found under Section 12-202-17 of Chapter 202, Special Management Area Rules of the Maui Planning Commission.

The land use designations, the State land use district is urban, it is in the Hana Community Plan zoned as business/commercial, the County zoning is country town business, and it is in the special management area.

Briefly, on the permit history regarding this project, it has quite a lengthy history dating back to April 8, 1986. At that time, there was an SM1 major permit granted by the Maui Planning Commission. On May 23, 1995, the second SMA major permit was granted by the Maui Planning Commission. In August 2002, there was an amendment to the last issued and approved special management area permit. In November 14, 2002, this project did come before this Committee, and it was reviewed and approved November 14, 2002. On September 6, 2005, it did receive Urban Design Review Board approval.

As the project pertains to the -- that is the project presented as the Maui County Code is applied to this project. Regarding the agency comments from the various agencies, there was nothing of any significance. The State Historic Preservation Division gave its approval since the ground was previously disturbed, however, should there be any artifacts discovered onsite during the construction period, construction will stop, and the applicant has agreed to that. If there are no further questions, I will turn this project presentation over to the applicant and he can describe the project in detail for you. If there are no questions for the Department, Rory Frampton, formerly of Chris Hart and Partners will describe the project.

Mr. Frampton: Good evening again. Rory Frampton here on behalf of Harry Hasegawa who actually is the applicant, just I looked on the form, he's actually the applicant and we're the representative on behalf of for paperwork purposes. This is the exact same project that was considered previously by the Hana Advisory Committee. What happened was they

give you two years to start construction on the SMA permits and, in short, the construction did not take place within those two years. It was delayed while they were waiting for the waterline improvements to come in so that they could have fire protection and, in short, Harry didn't wanna start the project without having the fire line improvements in place. It's a little bit more detailed than that but that, in a nutshell, is why we're back here is the fact that the time to initiate construction on the previous permit expired so we, basically, turned in the same permit, the same plans. They've been refined because we've actually turned them in for building permit and there's a lot of more detail in the construction drawings that have been turned in to the County, but the plans that you have before you today are, again, essentially the same with Hana Highway running this way, Kipahulu and Hana Town or to Nahiku is that way. You'd come in to the project site, 25 parking stalls all designed to meet the County Code requirements, and there would be some loading and storage area in the back. The entire site would be landscaped around the perimeter. These are the elevations. This should be looking from the parking lot, so Hana Highway would be out here. If you're in the parking lot looking this way, this would be where the main entry to the store would be. There would be a wrap around lanai. The architecture, they have included, you know, another -- it's all one story with a loft for office purposes and stuff, but they've tried to reduce the massing of the project with this additional roofing element and some of the details that have been incorporated are intended to comply with the Hana Town Design Guidelines and to make it look a little bit more rural and country as oppose to some of the more urban looking projects that could occur anywhere in the United States.

So I'm gonna keep it real brief because it has been approved by this body and the Planning Commission previously so we are asking for, basically, a re-approval of the previous project, and if you have any questions, Harry's here or myself. In terms of the technical permitting stuff, I could answer those; Harry can answer you more about the designs of the store and his plans for the project. So that sums up my presentation.

Ms. Kanakaole: Any questions? No questions?

Ms. Oliveira-Medeiros: I'm just looking at the side, from the roadside, is that the porch continues around the front, not the entrance, but the roadside, yeah?

Mr. Frampton: Yes. This would be looking from Hana Highway, this elevation here, and you can see the porch wraps all the way around and then there's some steps that lead down off the front of the building. So there's two ways to get up onto the wrap around lanai: one from the parking lot, and, secondly, from the street, so you could walk up these steps and then walk around the lanai to the other opening. And, Harry, did you wanna offer anything?

Mr. Hasegawa: No. But I'll be willing to answer any questions.

Ms. Oliveira-Medeiros: You going have one of your old Hasegawa Store signs on the roadside?

Mr. Hasegawa: I think the signage was going to be on the building, you know where after the steps and to the left of that? Yeah.

Mr. Sinenci: Is it a neon sign?

Mr. Hasegawa: It will be pink, really bright -- no, it'll be subdued and in keeping with the ambiance of the building and the area, Hana area.

Mr. Sinenci: Are you utilizing the parking lot across the street and, if you are, how many stalls?

Mr. Hasegawa: Our lease ran out on that and it doesn't belong to us, it belongs to the hotel, and we'd like to use it but, again, how much is it going to cost, and are they willing to let us use it, and, after all, we're their competitors too you know.

Mr. Sinenci: You're -- what was that?

Mr. Hasegawa: We're competitors of them.

Mr. Sinenci: Oh, I see.

Mr. Hasegawa: So, you know --

Mr. Sinenci: So it is in the planning you might or no? My question was just the pedestrian traffic if you are using the parking lot across the street.

Mr. Hasegawa: As of now, no.

Ms. Oliveira-Medeiros: I think that was in here.

Mr. Romain: Harry, how many stalls do you have in the current store?

Mr. Hasegawa: At the theater?

Mr. Romain: Yeah.

Mr. Hasegawa: I think there are about not more than 10.

Mr. Romain: So you're more than doubling it then going up to 25?

Mr. Hasegawa: Yes, 25. I'd like to have more really, yeah.

Ms. Oliveira-Medeiros: I missed the whole thing with the gas station. It's closed?

Mr. Hasegawa: Yes. We're waiting for hydrogen to come in. No, no, you know, actually, actually, you know the tendency for hybrid cars I think is in the make, it's coming around, and if you were to look in the future how much gas are you gonna sell, and, again, gas, a station is so expensive to put up, you know, you have to have tanks that are double-hauled, you have piping that's double-hauled, and there's so much to it that how are you going to justify the cost of putting that in versus the price that people are willing to pay, and I think it's a tough one. That's why I was saying, gotta wait for hydrogen.

Ms. Oliveira-Medeiros: Can we ask about bathrooms? Were you planning to make like some kind of deli or something? No?

Mr. Hasegawa: What's the question again?

Ms. Oliveira-Medeiros: If you have a deli and, if so, if there's bathrooms included.

Mr. Hasegawa: There are bathrooms and that's gonna be on the back side of the store. It's a big gamble really, you know, you're crying for space and, yet, you have to come up with bathrooms too if you're looking at a place to really have bathrooms, and you're gonna have to maybe have two stalls for the women and two stalls for the men, and then it increases the amount of space you need by a hundred percent and -- but we do have bathrooms and they're not gonna be just for employees. Don't worry, we're thinking of you.

Ms. Kanakaole: Any other questions? Can we open it up to public testimony? If there's any members of the community who want to testify, this is the time to come forward.

a. Public Hearing

Mr. Young: Hello again, my name is Edwin Young, Skippy Young, and I wanna support Harry, and I think he's always been an asset to the community, provide services unlimited. If you can't get anything, Harry can get it. I don't care where, he'll find it. Anyway, I want to speak in favor of his thing and he's always been helpful to me in anyway that he could and I support his thing hundred percent. Thank you very much.

Ms. Kanakaole: No more public testimony? We'll close the public testimony portion and Paul will read us the recommendation.

b. Action

Mr. Fasi: The Planning Department, based on the facts presented in the Department report, find that the proposed action will not have a significant adverse environmental nor ecological effect provided mitigation measures are incorporated into the project. The proposed action essentially meets the objectives, policies, and guidelines of the SMA rules, and the proposed action is consistent with the Maui County zoning and the Hana Community Plan. The recommendations, there are standard conditions that are standard, and there's 14 of them. These are, basically, boilerplate Planning Department conditions. There's nothing unusual in these recommendations. The project specific conditions, there are 5. These are also pretty standard. There's nothing significant in the project specific conditions. Therefore, in consideration of the foregoing, the Planning Department recommends that the Hana Advisory Committee adopt the Planning Department's report and recommendation prepared for the November 17, 2005 meeting as its finding of fact, conclusion of law, and decision and order, and authorize the Director of Planning to transmit said written recommendation to the Maui Planning Commission. Thank you.

Ms. Kanakaole: Do we have a motion?

Mr. Romain: I recommend that we accept the Planning Department's report and recommendation for the permit to go ahead with the store.

Ms. Kanakaole: Second?

Ms. Oliveira-Medeiros: I'll second.

Ms. Kanakaole: Any discussion?

Mr. Romain: Harry, you're gonna really do it this time? This is the second time through for me.

Ms. Kanakaole: Are we going for number four?

Mr. Hasegawa: Well, it's been that for five years ...(inaudible)... we have our building plans in the permitting thing and the SMA is really the thing that will hold us up, and I thank you for, although you haven't taken the vote yet, I thank you for voting for it. God willing, yeah. Thank you.

There being no further discussion, the motion was put to a vote.

It has been moved by Mr. Romain, seconded by Ms. Oliveira-Medeiros, then

VOTED: accept the Planning Department's report and recommendation
for the permit to go ahead with the store.
(Assenting: J. Romain; M. Oliveira-Medeiros; S. Sincenci;
K. Kanakaole)
(Excused: M. Mauiola; F. Tolentino; F. Helekahi-Burns)

Ms. Kanakaole: The motion is carried.

E. DIRECTOR'S REPORT

Mr. Wayne Boteilho: Madam Chair, we have nothing under Director's Report, however, on behalf of the Planning Department, we'd like to wish you all a very Happy Thanksgiving.

Ms. Kanakaole: Thank you. Shall we adjourn this meeting? Meeting adjourned.

F. ADJOURNMENT

There being no further business brought before the Committee, the meeting was adjourned at 6:10 p.m.

Respectfully submitted by,

SUZETTE L. ESMERALDA
Secretary to Boards and Commissions I

RECORD OF ATTENDANCE

Present

Kaui Kanakaole, Chairperson
Fawn Sherie Helekahi-Burns, Vice-Chairperson (left the meeting at 5:40 p.m.)
Mavis Oliveira-Medeiros
John Romain
Shane Sincenci

Excused

Melissa Mauiola
Francine Tolentino

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Others

Wayne Boteilho, Deputy Planning Director
Clayton Yoshida, Planning Program Administrator
Paul Fasi, Planning Staff
Robyn Loudermilk, Planning Staff
James Giroux, Deputy Corporation Counsel