

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50
51

**MAUI PLANNING COMMISSION
REGULAR MINUTES
FEBRUARY 28, 2017**

A. CALL TO ORDER

The regular meeting of the Maui Planning Commission was called to order by Vice-Chairperson Sandra Duvauchelle at approximately 9:05 a.m., Tuesday, February 28, 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.)

Vice-Chair Duvauchelle: The Maui County Planning Commission meeting of February 28th, 9:05 a.m. is now called to order. We'll start the morning with public...please silence or turn off all your cell phones for courtesy, and as soon as we get the list we will start public testimony.

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

Vice-Chair Duvauchelle: If anyone wishes to testify at this time you may do so on any agenda item. If you testify at this point you will not be able to testify again later when the agenda item is called. So you can either testify now or pass until the agenda item. So the first name on our list is Grace Fung. You'll have three minutes.

The following individuals testified at the beginning of the meeting:

Grace Fung – Item C-1, Crystal Schmitt, Amendment to SUP2 and CP
Amy Grace Worsham – Item C-1, Crystal Schmitt, Amendment to SUP2 and CP
Rosa Paz-Jacobs – Item C-1, Crystal Schmitt, Amendment to SUP2 and CP
Robert Mitnick - Item C-1, Crystal Schmitt, Amendment to SUP2 and CP

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

Vice-Chair Duvauchelle: Next testifier, Jacqueline Zambiano?

Ms. Zambrano: I'll wait...(inaudible)...

Vice-Chair Duvauchelle: Next testifier Monserrate Del Dago.

Mr. Robinson: She's for Dunbar.

Ms. Del Dago: Dunbar.

Vice-Chair Duvauchelle: So you're gonna wait? Okay. And next testifier is Michael Loncaric. They're gonna wait. Okay, anybody else wishing to testify at this time please step up? Seeing none, public testimony is closed. Director?

1
2 Mr. Spence: Good morning Commissioners.

3
4 Mr. Carnicelli: Happy Fat Tuesday.

5
6 Mr. Spence: Yeah, that's right. Okay, Commissioners, you have three public hearing items
7 before you today. And I'll just tell you at the beginning I have a conflict with the second one
8 because Ms. Lorraine Grace is a former client of mine so I must recuse myself. So Clayton will
9 take over that.

10
11 The first public hearing item is Ms. Crystal Schmitt of Maui Dragon Fruit Farm requesting an
12 amendment to their State Land Use Commission Special Permit to allow a vacation rental and
13 our Staff Planner this morning is Gina Flammer.

14
15 **C. PUBLIC HEARINGS** (Action to be taken after each public hearing.)

- 16
17 **1. MS. CRYSTAL SCHMITT of MAUI DRAGON FRUIT FARM requesting an**
18 **amendment to the current State Land Use Commission Special Permit,**
19 **Conditional Permit, and Ordinance 4295 to allow for the transient vacation**
20 **rental use of a two (2)-bedroom farm dwelling in the State Agricultural**
21 **District at 833 Punakea Loop, TMK: 4-7-001: 044, Lahaina, Island of Maui.**
22 **(SUP2 2014/0011) (CP 2014/0005) (G. Flammer)**

23
24 Ms. Gina Flammer: Okay, good morning Commissioners. I'm just gonna jump right into the
25 power point. We don't normally provide you with paper copies, but with our secretary Carolyn
26 gone I was just a little nervous but everything seems to be working okay.

27
28 So the amendment request the applicant is here for today is transient vacation rental which is
29 rental that's less than a 180 days. You're probably wondering why it's not a short-term rental
30 home application and that's because there's a provision in that Code where the dwelling must
31 have been built at least five years prior to submitting the applicant and the dwelling that she
32 wants to rent, the two-bedroom farm dwelling was built, completed in 2014. You may be
33 wondering why when she came through the first time to get the Conditional Permit she didn't
34 come in for this at the same time and I had even asked her about that. And at the time when
35 she had projected her financials for the business and for the farming she didn't think that she
36 needed it given the numbers that she was looking at. It wasn't till after the permit was issued
37 she started trying to run the special events and realized she really wasn't getting any bookings,
38 and the bookings she was getting was very small, not bringing in a lot of money so she started
39 to look for other ways and this is one of the ways. I do believe it's rented now to contractors
40 who will be finishing up with the project that they in not too long and moving onto their next
41 project, their next location.

42
43 So there...I'm not sure how many of you were here for the existing permit. The Planning
44 Commission did see this in 2015. It did make it to the County Council in February 2016 so
45 about a year ago and that's when the original permits became effective. Those permits allow
46 special events up to 50 guests two times a month. They end early at 8 o'clock. There's no

1 amplified sound allowed. She is allowed one large event a year that's not money making
2 operation it's more about promoting farming. And she does have to have a professional event
3 planner. There's many more conditions as you know from reviewing these. They're included in
4 the exhibits in the staff report to you. And then I included with the very first one was her request
5 which is what I explained a little earlier. She's just not quite making the income that she thought
6 originally.

7
8 So just as a reminder we're looking at Launiupoko more specifically the Makila Subdivision to
9 the left. These are the large lots you can see the, it doesn't look pink there but you can see the
10 lot up on the screen. We have the site plan and you can see where the green circle is where
11 the special event area is and then up there where the red is where the farm dwelling is, two-
12 bedroom, it's just under 1,000 square feet. You can see it again circled in red on the right.
13 That's the farm dwelling that we're talking about today. You can see where the special events
14 are held. That's what the house looks like. Bamboo structure. It's got its own separate
15 driveway that's up at the top. You can see what the front, and then here's some pictures of the
16 interior, two bedrooms, there is a loft upstairs but it would just be the two bedrooms. There's the
17 view from the front.

18
19 The Maui Dragon Fruit Farm if you'll recall it's the largest dragon fruit farm in the country. It's
20 about 15 acres, got lots of different varieties of the dragon fruit, over 2,500. But she's also been
21 diversifying into other crops. I know she's recently planted quite a bit of cacao. Got a lot of
22 papayas going on that are a good commercial crop for her. Bananas, there's pineapple on there
23 as well, soursop they're starting to plant and these are just some overview pictures of the entire
24 farm itself.

25
26 When the County Council looked at the original permit they did actually come out to the site and
27 take a look and they did make comments that it's quite a large farm and there's a lot of
28 agriculture going on. These are the dragon fruit plants themselves. Right there is one that's
29 blooming. She's got different staking methods that's she's been and different propagation
30 methods that she's been trying. That's what the fruit looks like once it's harvested. Here are
31 some of the other types, the bananas, you have the papayas, the pineapple, and then this is just
32 gives you a little bit of example of what she's producing.

33
34 So they just did a segment on Living 808 that was statewide where they came...I don't
35 remember the name of the T.V. personalities but they came and they did quite a nice segment
36 on it. I didn't want to show you the video, I thought it would take a little long so here's some
37 pictures of it.

38
39 And in terms of, back to Planning, there were no comments from the State Office of Planning
40 and that's who reviews these applications. There were two letters of protests from neighbors,
41 but I'd almost call them letters of concerns. They're in your staff report. You saw them. They
42 just really didn't want it to become a party house. So I talked with one of the neighbors. I
43 explained what the condition would be. He felt pretty comfortable with it. He just wants to make
44 sure that we're able to enforce if it does get noisy up there, and I did explain that we have that
45 ability. We have an entire enforcement staff and a dedicated person right for that area. There
46 were also 18 letters of support total. I'm sorry, they came to you today. She had been

1 collecting them all and then gave them all to me at once. So they are on your desk as well as
2 her responses to her neighbors are also in front you.

3
4 So that's the end of the presentation, and then if you have any questions, I'm here as well as the
5 applicants are here.

6
7 Vice-Chair Duvauchelle: Thank you.

8
9 **a) Public Hearing**

10
11 The following testimony was received at the beginning of the meeting:

12
13 Ms. Grace Fung: Good morning Mr. Chairman and Planning Committee Members. My name is
14 Grace Fung. I'm here for the Maui Dragon Fruit Farm because as I am from a family of farming
15 and farming business, two generations and after the second generation the family stopped
16 doing farming because all my five siblings plus myself we said no to my family in terms of
17 farming. Farming and the business of farmers are so hard by just watching my parents doing
18 farming is waking up early mornings and working hard for their own family and producing also
19 for the employees. And the money comes and the money goes and with the uncertainty they
20 had only source of income is the vegetables, bananas and some sort of pigs farm too. And
21 when the weather is bad there's nothing they can do or sometimes when the crop gets problem
22 there are some losses too. There are also many from the government does not permit and I
23 know that if my family had other source of income would give them more how can I say, space
24 to less worry. My first language is Portuguese so I'm trying to communicate. So I'm here
25 because I know the owners of Maui Dragon Fruit Farm since 2013 and they are hard workers
26 and what else, and if I didn't know them, if I had received a request via for example, via public
27 signature to talk about them I would come even I didn't know them because I know that farmers
28 and farming is hard business and they need help, need support. Thank you. And hope that
29 you...I'm here too, because I presented my written testimony. I want to make sure that all of
30 you read my written testimony it's much better than my public speaking testimony. I get
31 nervous. Okay, please consider the request of Maui Dragon Fruit Farm because they have a
32 family to feed. They have also many families on Maui to feed with fruit. We need more farmers
33 in Maui and having the vacation rental granted is a kind of income for them to help them. Thank
34 you so much.

35
36 Vice-Chair Duvauchelle: Thank you. Any questions for the testifier? Thank you. Our next
37 testifier is Amy Grace Worsham.

38
39 Ms. Amy Grace Worsham: I'm here to represent Tom and Rena. My name is Thomas
40 Benjamin. My wife, Rena and I live on Punakea Loop above the Maui Dragon Fruit Farm. I am
41 writing to you in support of Crystal and Larry Schmitt's application for the amendment to their
42 Special and Conditional Use Permit to allow short-term rental less than 180 days for their farm
43 cottage. We have known Crystal and Larry Schmitt ever since they moved to the neighborhood
44 in 2012.

45
46 Mr. Higashi: Please talk into the mic. Thank you.

1
2 Ms. Worsham: They are hardworking farmers who sincerely want to make dragon fruit a viable
3 commercial crop on Maui. My wife and I had the chance to do some nighttime pollenating of the
4 dragon fruit flowers last summer. They are gorgeous flowers and dragon fruit is so delicious.
5 We are happy that we live close to an organic dragon fruit farm. We also know that they grow
6 organic lettuce in their Haiku farm and when the weather is good and the crops are doing well
7 they always share their fresh organic produce with us and other neighbors. It is so great that we
8 have good neighbors like Crystal and Larry. We know farming is a hard business. For farmers
9 to survive long-term it so helpful if they can have diversified income. We are in support of their
10 efforts to apply for an amendment to allow short-term rental in their farm cottage. Thank you.

11
12 Vice-Chair Duvauchelle: Any questions for the testifier? Seeing none, thank you. Our next
13 testifier is Rosa Paz-Jacobs.

14
15 Ms. Rosa Paz-Jacobs: Good morning. I'm here to support Crystal and Larry Schmitt. I'm here
16 to support them with their...for their application for the amendment to their Special and
17 Conditional Use to allow short-term rental. I've known Crystal for over 12 years. I have only
18 been on the island for a few years at that time. I was actually her secretary when she was the
19 director of engineering at Marriott Hotel. During that time, I could see her strength, hard work,
20 her passion about people and caring and over the years I've saw that transcend in different
21 parts of her life and work specifically in the farming business that she ran. I've been friends with
22 her and visited her dragon fruit farm and her farm in Haiku and I must say the food is delicious
23 so much so it wasn't until I visited her that it inspired me to have my own personal garden, six
24 raised garden beds. Understanding the importance of feeding your family, sharing with friends,
25 about community those are important for Maui and Hawaii. I didn't understand a lot about
26 farming. There were compelling stories that were passed down to me from my family coming
27 and the south being sharecroppers and the things they needed to do when it was harvest time
28 not having enough help, the weather, different adversities. But they did what they needed to do
29 with other resources to bring in income for their family and working together. We have, my
30 husband and I have ag property in Haiku in which we have fruits and vegetables and well,
31 specifically the fruit where we share and try to bring monies back into the community. And I
32 hope that through this process that they're going through that they're able to receive your
33 permit. I'm here to say that my husband and I fully support their effort to apply and obtain the
34 special permit to diversify their income for farming on Maui which helps Maui, Hawaii and
35 transcends to world. Thank you.

36
37 Vice-Chair Duvauchelle: Thank you. Any questions? Thank you very much. Next testifier
38 Robert Mitnick. Do you choose to testify now or at the agenda item? Please step up to the
39 microphone please.

40
41 Mr. Robert Mitnick: Aloha and good morning to Chairperson and Members of the Planning
42 Commission. I'm here to support Crystal and Lawrence Schmitt in their Conditional Use Permit
43 to have a rental on their dragon fruit property. I've known them for many, many years. I've
44 bought their greens for all the events, for my taro burgers...(inaudible)...Hawaii Taro Company
45 and I've been the Dragon Fruit Company many times also their farm up in west side. And as
46 has been said here and everybody knows that farming is the most important job on earth pretty

1 much so aside from mom because our food to eat and farmers are mothers. They take care of
2 baby plants and grow them to fruition. These people work very, very hard. As you know
3 farming is hard. It has all the problems, hurdles of any business and then added to that is the
4 weather that can ...(inaudible)... a harvest all at one time. And they do need extra money to
5 help keep in farming and that's the most important thing for our islands and Maui is farming.
6 That's our history. And now we can grow healthy stuff instead of sugar for the world. And if we
7 think ahead and take the next ten years to clean up the land and be wise in long-term thinking
8 about that it would be so much better to have people like Crystal and Larry doing farming here
9 and to be able to have enough to send frozen and chill and dry foods to the mainland by sharing
10 containers so the freight will be better and we can bring in fresh money into the state. I think
11 that's a very good future rather than using the land for condos all the way to Hana, whatever
12 and subdivisions and so on and so forth which is a quick fast moneymaker, but in the long run I
13 think we would be better off and that would facilitate our tourist industry more because people
14 would much better drive test growing things instead of built things. And I think it's better for
15 everything and it's very, very important for them to do it. I hold them very highly for what they're
16 doing. Thank you.

17

18 Vice-Chair Duvauchelle: Questions? Thank you very much.

19

20 This concludes the testimony received at the beginning of the meeting.

21

22 Vice-Chair Duvauchelle: Okay, we'll open up for public testimony again on this agenda item.
23 Anyone wishing to testify at this time? Please come forward

24

25 Ms. Dawn Boucher: Hi, good morning. My name is Dawn Boucher and I'm the operations
26 manager at the Maui Dragon Fruit Farm and I know other people have talked about it, but we're
27 actually doing really good up there. The fruit is starting to come in, but as you know, it really is
28 hard to make enough money from just farming to pay for everything and that's why we've tried
29 diversifying, we try doing these events but what happened with that is if you have to end your
30 event at 8 o'clock and you can't have any amplified music, it's just really hard. You know, we're
31 competing with the big hotels for these events. So places...and other places that aren't
32 permitted for these events and so we really haven't been able to generate any substantial
33 revenue to help us keep the farm going and to help us progress with the farm. We actually
34 would like to plant more stuff and do more ag up there, but we need money to do that. So that's
35 why we're trying to do the short-term vacation rental because that way we can hopefully make
36 enough money to keep going and to get this business to be profitable. As you can see we've
37 gotten at least state news we were featured on the Travel Channel last year. So not only are we
38 providing food for Maui and actually last year we shipped to Oahu some of our dragon fruit but
39 we're also providing exposure both in the state and nationally that benefits our visitor industry
40 because we...you know we do ag but then we also have visitors come up. People are very
41 interested in organic farming. They're interested in farming on Maui and dragon fruit and the
42 different tropical fruits when you come from Kansas or Ohio or Texas and you think pineapples
43 grow on trees. It's really need to be able to come and I think it will be really nice for people to
44 come and actually be able to stay on the organic farm, right? People want that. There's a real
45 niche for that. So that's kinda why we're asking for it. I don't think it's gonna adversely impact

1 the neighborhood. There's plenty of vacation rentals up in Launiupoko already as I'm sure
2 you're aware. And that's it. That's all I have to say. Thank you

3
4 Vice-Chair Duvauchelle: Any questions? Thank you. Anyone else wishing to testify at this time
5 on this agenda item. Seeing none, okay, questions Commissioners? Commissioner Canto?

6
7 Ms. Canto: Is it possible to ask a question of the applicant?

8
9 Vice-Chair Duvauchelle: Yes.

10
11 Ms. Crystal Schmitt: Aloha Commissioners and Chairman. My name is Schmitt and me and my
12 husband, Larry Schmitt are the owners of the dragon fruit farm.

13
14 Ms. Canto: Thank you. Thank you, Crystal. I just have a couple of questions and a concern, a
15 comment.

16
17 Ms. Schmitt: Sure.

18
19 Ms. Canto: So regarding your events, how is it working for you now...(inaudible)...

20
21 Ms. Schmitt: Believe or not we actually have zero...(inaudible)...bookings. We have two
22 weddings which are friends. And it's just...you know, we're not that pretty place. It's a real
23 farm. It's really difficult actually. It's not...you think you're gonna it, and you're gonna get
24 business, actually no. I have zero like real bookings. I have two friends get married there with
25 friends and then I think I have one ceremony in the morning, that's it. That's it.

26
27 Ms. Canto: Okay.

28
29 Ms. Schmitt: Yeah, I don't know how to make it better.

30
31 Ms. Canto: Okay, thank you. Thank you for that. And then based on the magnitude of your
32 operation, it looks like a large operation I hardly believe that you would consider it or I would not
33 consider it a party house.

34
35 Ms. Schmitt: Oh not at all, not at all. You know actually one of the neighbors who did concern
36 one of the letters. He's very happy. He basically had heard no noise, really no noise. We have
37 no business, so...And we're not intent...what happened is from the previous time I explained it, I
38 can explain it again, it's for a while we are using those big giant lights for try to induce the
39 dragon fruit flower in the winter. That's what they do in Vietnam. In Vietnam they can produce
40 dragon fruit all year round and we cannot. So we research this, it was Dr. Boucher which is my
41 friend and manager. She did all the research. We think we can trigger...that's what they do,
42 they trigger the flowers by shining of the bright lights at night and we run a generator we did that
43 three times. We failed. People says maybe the ...(inaudible)...for the lighting. We still try to
44 learn. The things with us, I wouldn't get into this business if I would know it was so hard
45 because we thought it easy. It's not. It's really not. We're learning everything. Nobody have
46 done it before. We spent \$50,000 on the bottom field to do this trellis method which they said

1 they did in Israel and it's not as good as we thought. It actually produce not as much as the
2 conventional method. So we are trying this method hopefully, hopefully the way we learned we
3 can teach other farmers so they don't have to you know make the same mistakes again. If you
4 notice in Kahului there's a lot of people now growing dragon fruit in the small little yard. And lot
5 of this people...we've been promoting this now for seven years, 16 best varieties in the world. A
6 lot of people are getting them now and that's what we want to see. We want this crop, distribute
7 farm, not central farming, distributed farming. Hopefully eventually, you know if everybody have
8 like one tree in their yard we're good.

9
10 Ms. Canto: Thank you. Thank you, Chair.

11
12 Vice-Chair Duvauchelle: Any other questions? Commissioner Higashi?

13
14 Mr. Higashi: Good morning Crystal. I remember the last time you came to do your application.

15
16 Ms. Schmitt: Yes.

17
18 Mr. Higashi: That dragon fruit is a very unusual fruit to be raising in I guess anywhere in the
19 world especially Hawaii, you're the first that I know of and I think one of your requests was to
20 supplement your dragon fruit because you weren't having enough income coming in and
21 requested for a gift shop.

22
23 Ms. Schmitt: Yes.

24
25 Mr. Higashi: And that was approved.

26
27 Ms. Schmitt: Yes.

28
29 Mr. Higashi: And how is it doing?

30
31 Ms. Schmitt: You know we are getting really good momentum. Dragon fruit jam and jelly is
32 doing really well. Actually after the show last week, I have people call just want to buy jams and
33 I do have one Honolulu cookie company the owner was super excited. He said, Crystal I want
34 to buy your dragon fruit to make cookies. So it takes time to marketing. It just takes time.
35 Everybody told me, you know gonna start a new business, three years. In over eight years I
36 haven't make money. I better off just work for somebody, work for Marriott I would have made a
37 lot more money, but I'm not gonna go back. I mean, farming is for life. I told people always try
38 to figure out what you're gonna do in life. Always try to...wondering, once you go in farming,
39 you can...(inaudible)...that's it. There's nothing better more satisfying than see things come out
40 of the dirt and you eat. My daughter went to China for boarding school and she come back she
41 said mommy, I heard sugar is from a plant. I was like, you were in Haiku School, they ever
42 teach you sugar is from the sugar cane? She think sugar is from the candy store. I mean,
43 serious my own daughter who graduated from Haiku School come back from China realize
44 sugar is from a plant. I didn't do my job right.

45
46 Vice-Chair Duvauchelle: Commissioner Higashi?

1
2 Mr. Higashi: So the end result this gift shop is basically not helping to supplement your dragon
3 fruit farm?
4

5 Ms. Schmitt: Supplement a little. The problem is we have limited visitors that there to the farm
6 for gift shop to make money and you need amount of visitors. So we still have relative small
7 exposure. If you only have 30 people stop by, some times in the winter, actually this January is
8 dead for some reason. It's hard to sell. And the jams the profit margin is actually very small.
9 I've been wholesaling to Mana Foods, Whole Foods. I make a dollar a jam. And Mana Foods,
10 actually seventy-five cents a jam. So it's...that's wholesale. It helps, our hope to continue it
11 would get bigger. And honestly my main biggest cash crop for helping me sustain little bit is the
12 lettuce farm in Haiku. That was a really good crop. However, that was so suspect to weather. I
13 mean this December rain, I don't know if you guys remember right before Christmas, New Year,
14 I just recover now last week. I mean, that's 100 percent, Haiku 72-hour rain never stop. I mean,
15 it completely destroyed my crop. I don't know, I didn't see that coming. When you hear the
16 weather says, oh coming, coming, coming, nothing happens and then all of a sudden it shows
17 up and knock you out. That's just reality.
18

19 Vice-Chair Duvauchelle: Thank you. Any other questions? Commissioner Robinson?
20

21 Mr. Robinson: Aloha Crystal.
22

23 Ms. Schmitt: Hi.
24

25 Mr. Robinson: I came on this commission after your got approved. I think this commission is
26 always pro-agriculture. I notice the commission helped you with a gift shop permit which I think
27 is pretty rare and then they also helped you with an event permit which as we know sometimes
28 has 200 people testifying about this, and now we're gonna go for a third step and you want us to
29 allow you a TVR and it's all to help your business, you know continue to farming. And hear you
30 guys had more research and you knew better you guys might not had done it. And what I'm
31 afraid of, and what I don't want to have happen is every single person who starts to farm comes
32 in here and says, well my farm is not doing too well, so can I have a vacation rental to
33 supplement it? So my question to you is I've been looking in the application and I don't see any
34 receipts for anything sold.
35

36 Ms. Schmitt: Oh, okay.
37

38 Mr. Robinson: And also, do you have a...you also said that you have somebody living inside
39 that unit correctly right now, some construction people. Do you also have the lease for that
40 person that's been staying there too or have you been renting that out illegally?
41

42 Ms. Schmitt: I'm renting that long term rental. I have a lease. That's not a problem. And far as
43 showing sales receipts. We are one of the biggest lettuce producer on the island. If you in the
44 produce business you know us. We are very, kind of famous in Kula Produce, Mana Foods,
45 Whole Foods. I used to supply Costco, it's too big of account to handle because when we
46 ...(inaudible)...out...actually Costco was very challenging. We used to produce a little bit more

1 than that. What happened is we losing our lease to land. Another thing is I'm actually I'm losing
2 my land right now. I'm in the process of moving the farm from Haiku to Pukalani because my
3 landlord use me...I'm not going to go there, sorry. So actually I'm relocating my farm and you
4 have a really good point. What happen if another farmer come and ask for help? If another
5 farmer come ask for help, please help them. How many real farmers are there on Maui?
6 Seriously full time? I'm one of the top ten real farmers. If they real farming please help them
7 whatever you can whatever you can because that's the future. I want to farm here and at least
8 little bit stay exist on Maui. I switch to Korea to get into farming. I could right now walk out here
9 and do something else, but I love farming. Help farmers. If somebody else come help, help
10 them as well. If they're sincere about farming, if they're real farming, if they're full-time farming,
11 please do so.

12
13 Mr. Robinson: So Crystal you have gift show and now you're gonna have short-term rental so
14 when does a farming become a tourist industry? I mean, again we're all for farming, so you
15 know it's, it's gift shop, events, and now short-term rental. It's not a bed and breakfast, it's not a
16 long-term rental, you know, you do have a successful produce business somewhere else but
17 you're asking us to subsidize it for a third request you know what I'm trying to say?

18
19 Ms. Schmitt: I 100 percent understand.

20
21 Mr. Robinson: And we want to make sure you're making good decisions 'cause you know you
22 are taking up county time and we are...the county is trying to help you, you know, as well all
23 farmers.

24
25 Ms. Schmitt: I understand. Yes.

26
27 Mr. Robinson: So the question is, do you have a plan this time? To say okay, if I have this TVR
28 I now know what it needs for my farm to work because the last time you came here your plan
29 was incorrect because you're back here asking us for something else. So now what's to tell us
30 that this plan is gonna work? If we have another vacation rental on top the hill which is not
31 made for vacation rentals, it's made for farmers like you, right? A bed and breakfast maybe I
32 could see because you're on the farm. You have workers, bed and breakfast, you have some
33 people come in during harvest time, but you're having a vacation rental with a gift shop.

34
35 Ms. Schmitt: Okay, I totally understand your concern. If you ever been to my real farm you'll
36 see how much money the gift shop gonna make. You just gonna see it, the reality. We have,
37 really I have ten people stand by, I never said I have a...I always have a plan. I always have a
38 plan, actually I plan too much and the plan doesn't work. And actually the plan worked. It all
39 helped, every single time things helps. Even a bag of salad. I have accounts for one bag a
40 week, I kept it for 10 years. Everything helps, everything...always have a plan, I have too much
41 plan, that's the problem. I do plan and I'm so glad of plan because if I wouldn't be planning I'd
42 be drown long time ago, and I stay alive because I plan always. I have five years ahead.

43
44 Vice-Chair Duvauchelle: Commissioner Carnicelli?

45
46 Mr. Carnicelli: Good morning, Crystal.

1
2 Ms. Schmitt: Hi, good morning.

3
4 Mr. Carnicelli: I appreciate your passion. And I actually appreciate the fact that you actually
5 really are a farmer because we get lots of people through here, it's just like I mean I can recall
6 one application where they had some orange trees planted along their driveway and that was
7 their "ag plan" and they were calling themselves a farm. So you're real farmer so I really
8 appreciate that. But my question is, you know you had your projections as far as what you
9 thought the events were gonna bring in, and so now you're also going a little shooting into the
10 dark with you know your vacation rental. So my question is what's gonna be the difference
11 between what you could rent that out for long-term and what you project you think you're gonna
12 get doing a vacation rental? So you have a plan, you know, what sort of is that plan for your
13 STRH and it's just like...'cause you know as Commissioner Robinson said we want to help
14 farmers, but it's like you know, maybe the best thing for you is to leave it long-term you know
15 and not that I need to run your business but I just want to know what you think the numbers are
16 now...I mean, what the numbers are now versus what you think the numbers are going to be if
17 we were to provide you with this permit?

18
19 Ms. Schmitt: I so appreciate you bring that up because honestly you are probably more
20 knowledgeable in the vacation rental business than I am. I have not run one. I'm optimistic and
21 in the end, I just don't want to do something not permitted. So if I do have the option of doing
22 long-term and short-term I figure if it's easier, if it's easier for me because I have very limited
23 time and energy and I devote most it into farming, if vacation rental become a management
24 nightmare and the benefits is marginal, I probably just stay with long-term but at least I have the
25 option and I can explore it. It's kind of like anything you like to have the picture. I don't want to
26 just start doing them illegally and then find out I don't want to do that. That's why I spent all this
27 time going through the proper procedure so I have the option. Like this two month I have no
28 income but I keep going because I plant it five years ago, if this happen what I'm gonna do,
29 that's why I stay alive and well, I mean seriously. I plan, plan, plan I have this option I would
30 appreciate hopefully would it be less time or more money? But it turns out it's not it's not quite a
31 bit of money and a lot more work I probably don't do it. You know, I've never done it so I don't
32 know. I hope it's better, but if it's not, I go back to my regular because I do want to focus on
33 farming.

34
35 Vice-Chair Duvauchelle: Any other questions? Commissioner Higashi?

36
37 Mr. Higashi: Yes, Crystal. Is this your first application for a short-term rental or did you rent it
38 before according to the record?

39
40 Ms. Schmitt: No, this is the first time. This is the first time. Me and Gina was discussed in the
41 very beginning.

42
43 Mr. Higashi: Right.

44
45 Ms. Schmitt: And one of the reason we were...(inaudible)...going to help out a little bit is
46 because I stay in Haiku farming it's because I actually on the farm dwelling in Haiku and that

1 lettuce farming I get up in the morning, I cut lettuce all day work. My husband goes to the
2 dragon fruit farm you know. That's why we stay in Haiku because dragon fruit, my mom started
3 this because it's supposed to be easy to take care. It's a cactus.

4
5 Mr. Higashi: Well, my question is have you ever rented this facility at all prior to what your
6 application is coming in today?

7
8 Ms. Schmitt: No what happened is this only completed 2015 and we been doing the long-term
9 recently, if we want if possible if the gift shop make so much money, I probably hope to use that
10 convert a bigger gift shop or we can use as office because now we go there we have no place to
11 stay so we be commuting back forth and then finally we realize we need help so we rented the
12 long-term to help with little bit income it helps, absolutely helps, enough, no. But we still hoping
13 things gonna get better every year except this January and February has not fare well as I
14 thought it would be. I mean January it's just bad because the weather.

15
16 Mr. Higashi: So you never rented it?

17
18 Ms. Schmitt: Not short-term.

19
20 Mr. Higashi: Okay, thank you.

21
22 Ms. Schmitt: Not short-term. First time, yeah.

23
24 Vice-Chair Duvauchelle: Commissioner Robinson?

25
26 Mr. Robinson: Hi Crystal. So in Haiku tell me what's happening with you in Haiku?

27
28 Ms. Schmitt: Okay so in Haiku basically my mom start the farm in my backyard. I was not a
29 farmer. And then it gets bigger and bigger because people loved organic fresh greens. So
30 lease the land across from my house. This started with five acres. The guy build a cottage
31 move us down. Now become three acres. Now they building a house so I have to move to
32 Pukalani. Fortunately, fortunately I plan the first day when I lease that land I already start, we
33 cannot just lease every year, he refused to give us a five-year lease, so one-year lease every
34 year. So I always want a backup plan. So my family helped me, we purchased a piece of
35 property, my family did in Pukalani so right now this January actually, I'm moving now, by May I
36 have to finish moving but we've been farming this existing land for 15 years now, it's like the soil
37 is like gold, you can look at it it's gold. It produces. Now I going to a new location. I don't know
38 if the soil is gonna be as good. We dumped at least hundred or two hundred, a thousand tons
39 of organic fertilizer in that land, it's like, you can just look at, just try to educate the people, soil is
40 not dirt. He was farm is dirty. No soil is gold. Soil is what, like the mother earth. So now I have
41 to move this farm from existing 15-year established farm to a brand new piece of land in
42 Pukalani not to mention capital investment, but we determined we're gonna make it happen. It's
43 gonna be good.

44
45 Mr. Robinson: So what size is your farm gonna be in Pukalani.

46

1 Ms. Schmitt: So we actually have three locations in Haiku. We used to lease another land
2 across the gulch it's six acres but there's no county water. We've been on the water meter list
3 now for 10 years. I'm not even go there either. But we have a huge 350,000 pond of gallon of
4 water but because my lettuce is ready to produce you cannot irrigate pond water into the lettuce
5 where people gonna put in their mouth. So we cannot really farm there. So our total lettuce
6 production is about solid nine acres. Just imagine you covered with lettuce, nine acres.

7
8 Mr. Robinson: How many acres do you have in Pukalani that you're moving to?

9
10 Ms. Schmitt: Five.

11
12 Mr. Robinson: Five acres?

13
14 Ms. Schmitt: Five acres.

15
16 Mr. Robinson: And you had eight acres before in Haiku?

17
18 Ms. Schmitt: Nine.

19
20 Mr. Robinson: You had nine?

21
22 Ms. Schmitt: But imagine, the good news is when it's all growing it's awesome. The thing is if
23 you get luck out or dead what you're gonna do for the next 45 days, that's the problem. When I
24 have the lettuce I'm happy. But when I don't what I don't know what to do. I mean, hopefully
25 that's why we diversify, diversify geographically, diversify on the crop, diversify on the income
26 stream, do anything to survive as a farmer, it's so satisfying if I can survive. If...(inaudible)...if I
27 wake up every day and don't have to worry, I'm happy. I don't mind work hard.

28
29 Mr. Robinson: It's called entrepreneurship, you know.

30
31 Ms. Schmitt: Yes.

32
33 Mr. Robinson: It's not easy. Thank you.

34
35 Vice-Chair Duvauchelle: Commissioner Hedani?

36
37 Mr. Hedani: Crystal, of the people that farm, the people that farm in Launiupoko I was hopeful
38 that the dragon fruit farm would succeed because I think that it had the most promise in terms of
39 being able to have viable agriculture within Launiupoko.

40
41 Ms. Schmitt: Yes.

42
43 Mr. Hedani: Everything else that I've seen up at Launiupoko is exactly what Lawrence said, it's
44 a couple of lime trees here, a couple of tangerines and that's it, yeah, landscaping. How long do
45 you estimate it would take for the dragon fruit farm to become sustainable?

46

1 Ms. Schmitt: Okay, it's very, very good question. See the problem is because we are pioneers,
2 we are new, we're learning ourselves, so our hope is once we get everything nailed down, for
3 example the 16 varieties some varieties obviously doing better than others, so which one? And
4 for ...(inaudible)...the product for example, what variety ultimately from you know, would do
5 better than the others? So we're learning all this. That's why it takes us so much effort because
6 you learn from nothing to try to figure things out. For example the post method versus the trellis
7 method, how does it work? The post what is the best? We just experimenting a new post now.
8 This post we thought the concrete it's gonna last forever, it doesn't because first of all, you have
9 done proper, second they really brittle and break, so now we're trying the metal method. So I
10 always give example, doesn't mean the one's gonna be successful in doing them. People later
11 on learn the ropes and they will most likely do better. So kinda like you know, Facebook do
12 good, but there's people before that did a lot. So it's like, how to say, we are the guinea pigs but
13 it's okay. That's why I'm trying, as long as I survive, and as long as eventually dragon become a
14 crop I'm happy. I would say, last year Dawn can tell you more, we also learned the moon cycle
15 really affects a lot so what happen is on the full moon it's the night you gonna pollenate the
16 flowers, but if that night it rained, Launiupoko doesn't rain, but if that night rained which we think
17 happened to our crop then particular night, the flower only live for one night, it dies the next
18 morning so if you lose that opportunity then it's kind of hard, what happened. That's why
19 Launiupoko is actually ideal location because it doesn't rain as much. So we are learning
20 from...you cannot just read everything on the internet and believe it. That's what I did, I thought
21 it's all this...(inaudible)...coming in, all this crops coming in, but then you look at my real crop
22 sometimes it doing really well, it's oh my God, it looks like it's really good and June comes,
23 August all of a sudden we have no flowers so what happened? Then we analyze oh maybe the
24 moon, maybe this. So we are still learning. My hope is I really think is this is
25 gonna...(inaudible)...it's go off. I'm actually gonna try some in Pukalani as well. We start
26 planting Pukalani next week and hopefully try that method and see over there if it do better. So
27 the bottom line is it is a new crop and we're trying everything we can to learn about. Hopefully
28 it's gonna do really well. The fruit itself it's really, really good, healthy, delicious, beautiful
29 everybody loves, it's volume, how we can get volume up, how we can produce effectively which
30 we're still learning.

31
32 Mr. Hedani: Okay. The question that I had actually is from the time that it was first planted it's
33 been what, five years now?

34
35 Ms. Schmitt: Our first crop yeah.

36
37 Mr. Hedani: So it's matured basically, you're plants have matured over a period of five years
38 and it's approaching the point where it's producing a lot of fruit?

39
40 Ms. Schmitt: The top field is, and so the idea was to invest \$50,000 on the bottom field with the
41 trellis method we think that's gonna be better, it turns out it's not. So that's something...we're
42 gonna try another method again with the existing trellis there and my message is to everybody
43 is if you would at this point if you were to do it yourself, try the post method but with the metal
44 top which we're doing right now. So that's the kind of message like we say, okay this is the best
45 way. So in three years we spent on the bottom field, it didn't produce as we thought this

1 method. The top field is completely mature, but it's only the top portion which is only 110
2 tree...vines.

3

4 Vice-Chair Duvauchelle: Thank you. Commissioner Robinson?

5

6 Mr. Robinson: This is my last comment. Crystal I'm gonna support you because we want you
7 to succeed, but I wanna say something. In business you have a successful lettuce business.
8 You feed a lot of people in Maui and you're stuck on this dragon fruit. I hope you succeed in it
9 but at some point, you're coming to us to subsidize your wish to grow a certain product when
10 you flourish at another product. It's business. You're running a business, and hopefully you...if
11 this doesn't work you realize that please don't come to us back again to help subsidize your will
12 to have your wish because you do something well, and you're doing it well for a long time and
13 you've had a Costco account and I hope you realize that. You're a successful farmer, but
14 maybe not dragon fruit. So please don't...don't bid everything on just one thing because you
15 are successful and don't let something bring you down just because you have a will that you
16 want something to happen and that's just my comment.

17

18 Ms. Schmitt: I really, really appreciate your help.

19

20 Mr. Robinson: That's all, that's all, yeah. Thank you.

21

22 Ms. Schmitt: That's from another entrepreneur that's awesome insight, but problem with lettuce
23 is though, it's not...when you get it destroyed you have the whole...if you bet everything only in
24 this one field and you get wiped out in January I wish I had the dragon fruit farm even though it's
25 not as productive in a normal time.

26

27 Vice-Chair Duvauchelle: Any other questions Commissioners? Okay, can we have the
28 Department's recommendations? Thank you Crystal.

29

30 **b) Action**

31

32 Ms. Flammer: So there's two permits that we have. We're dealing with the State Special Use
33 Permit which you have authority over. We're recommending that you approve the amendment
34 to the State Special Use Permit. We're recommending an additional 18 conditions most of them
35 that mirror the short-term rental home conditions that would make the permit having a total of 41
36 conditions on it.

37

38 For the Conditional Permit we're recommending that you recommend approval of the
39 amendment to the County Council and again, we've mirrored the exact same conditions for that
40 one.

41

42 So in consideration of the foregoing the Planning Department Recommends that the
43 Commission adopt the Planning Department's report and recommendations prepared for today's
44 hearing, February 28, 2017 as your findings of fact, conclusion of law, and recommendation and
45 authorize the Director of Planning to transmit said recommendation to the Council for the

1 Conditional Permit and then transmit to the applicant approval of the State Land Use Special
2 Permit.

3
4 Vice-Chair Duvauchelle: Commissioner Canto?

5
6 Ms. Canto: Maybe this question is for the Director. Are we approving them together or are we
7 approving them separately?

8
9 Mr. Robinson:(inaudible-not speaking into mic)...

10
11 Vice-Chair Duvauchelle: Commissioner Carnicelli?

12
13 Mr. Carnicelli: I would like to move that we approve as per the Department's recommendation
14 both of the recommendations.

15
16 Mr. Hedani: Second.

17
18 Vice-Chair Duvauchelle: Motion by Commissioner Carnicelli, seconded by Commissioner
19 Hedani. All those in favor?

20
21 Mr. Carnicelli: Discussion first?

22
23 Vice-Chair Duvauchelle: Oh, discussion. Sorry, discussion. Let's roll right through.
24 Discussion. Commissioner Canto? Oh, Commissioner Higashi?

25
26 Mr. Higashi: I totally agree about farming and supporting farming. My reservation is that dragon
27 fruit has not been something that has been proven to be productive and I think from this five
28 years kinda shows that maybe dragon fruit is not the route to go and by supplementing it with a
29 gift shop and now a short-term rental I don't think is the answer to this particular request. So
30 consequently I'm not in favor of approving the amendment.

31
32 Vice-Chair Duvauchelle: Thank you Commissioner. More further discussion? Commissioner
33 Carnicelli?

34
35 Mr. Carnicelli: As the mover of the motion I obviously support this, and for me, you know there's
36 a couple of reservations that I do have you know as Commissioner Robinson had said, you
37 know, are we gonna get every single farmer showing up to say like listen I want you guys to
38 supplement my farming operation. I'm not a successful entrepreneur so I'm not gonna give
39 advice as far as what I think that they should do or not. There's other people that are successful
40 entrepreneurs that I think that you know I heed their words very closely and I listen to that. But
41 the other side of this is you know we want people to do things right and we want people to
42 become legal, right? And that's one the thing that I think when I look at this particular
43 application it's someone that actually really does farm, it's someone that says you know what I
44 could have probably done a vacation rental and not...you know, been one of those people,
45 catch me if you can, we've got plenty of those on the island. She's saying hey, listen you know I
46 want the opportunity to do this if I can, if it doesn't work then guess what I'm putting a long-term

1 tenant back in there. So if what we really want is people to come forward and do things the right
2 way then I think that we need, you know at least for me I want to personally reward that and I
3 wanna say okay, you know what yeah, I'm on board. I don't know if dragon fruit is gonna work
4 or not, but I think that at least the applicant's trying to do the right thing and I feel that she's
5 genuinely trying to do the right thing and so I'm obviously going to support the motion.

6
7 Vice-Chair Duvauchelle: Commissioner Canto?

8
9 Ms. Canto: I, too will support the motion. I just believe that the Schmitts are sincere and...let
10 me say that again, I will be supporting the motion to approve. I believe that both of you work
11 very, very hard. I look to you as being real farmers and I thank you for what you do, but I'll
12 supporting the motion, Chair.

13
14 Vice-Chair Duvauchelle: Commissioner Hedani?

15
16 Mr. Hedani: You know as I said earlier, I think this particular applicant is a true farmer and is
17 working at it as best as she can exploring a new niche product which may be if it catches on, I
18 guess, they probably thought Zuckerberg was crazy at one point, but if it catches on you know, if
19 there's the opportunity to fulfill a niche market that might be successful. We've given transient
20 vacation rental permits to a lot of people with a lot of money that had beautiful facilities that they
21 built as "farm dwellings" but it was never intended to be a farm dwelling for farmers to live in. It
22 was intended to transient vacation rental. We probably are setting up people that are trying to
23 farm for failure by designing subdivisions at 2 acres to 15 acres to compete against 36,000 acre
24 farms that may grow lettuce among other things and just totally wipe you out if you're small
25 farmer trying to work on 15 acres. I think pursuing a niche market is probably a boutique market
26 is probably the way to go if you can succeed. I don't know that she can, but I think of all of the
27 people that we've supported within agricultural subdivisions this is the one that we should try to
28 support. I don't know that it will succeed. The facility is not as pretty as the ones that the
29 multimillionaires can throw up, but I wish her success.

30
31 Vice-Chair Duvauchelle: Any further discussion? Director could you repeat the motion?

32
33 Mr. Spence: The motion is...and I have to say if I could comment?

34
35 Vice-Chair Duvauchelle: Please.

36
37 Mr. Spence: It's a little tongue in cheek, but maybe...if we're talking about niche markets at
38 HCPO last time Maui County hosted it we had some dragon fruit margaritas and they were so
39 beautiful to look at, I bet the hotels would love it. Now that's, that's if we're talking about a
40 market for something like that...so away... The motion is to approve as recommended by Staff
41 and that's for both permits.

42
43 Mr. Carnicelli: Both.

44
45 Vice-Chair Duvauchelle: All those in favor please say aye.

46

1 Commission Members: Aye.

2

3 Vice-Chair Duvauchelle: Six ayes.

4

5 Mr. Spence: Six ayes.

6

7 Vice-Chair Duvauchelle: All those opposed?

8

9 Mr. Spence: One opposed.

10

11 Vice-Chair Duvauchelle: One nay. Motion carries. Thank you.

12

13 Mr. Robinson: Go get 'em Crystal.

14

15

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

17

18 **VOTED: To Approve the Amendment to the Current State Land Use**
19 **Commission Special Permit and Recommend Approval of the**
20 **Amendment to the Conditional Permit and Ordinance 4295 to the**
21 **County Council as Recommended by the Department.**

22 **(Assenting – L. Carnicelli, W. Hedani, L. Hudson, K. Robinson,**
23 **P. Canto, S. Castro)**

24 **(Dissenting - R. Higashi)**

25 **(Excused – M. Tsai)**

26

27

28 Vice-Chair Duvauchelle: At this time, we're gonna take a 10-minute break. We'll come back at
29 10:10. Thank you.

30

31 A recess was called at approximately 10:00 a.m., and the meeting was reconvened at
32 approximately 10:10 a.m.

33

34 Vice-Chair Duvauchelle: Thank you. Maui County Planning Commission is now back in
35 session. Director, our next agenda item or Deputy Director.

36

37 Mr. Yoshida: I'm not the Deputy Director, but I'm the Planning Program Administrator for the
38 Current Division, but Director Spence is recusing himself on this matter as the applicant was a
39 former client of his in his former life as a consultant. So the second public hearing item is a
40 request from Lorraine Grace for State Land Use Commission Special Permit in order to operate
41 a five-bedroom short-term rental home operation, Pali Uli in two dwellings located in the State
42 Agricultural District at 150 Door of Faith Road TMK: 2-9-007: 057-0001, 0002, and 0003, Huelo,
43 Island of Maui and the Staff Planner is Gina Flammer.

44

45

1 **2. MS. LORRAINE GRACE requesting a State Land Use Commission Special**
2 **Permit in order to operate a five (5)-bedroom short-term rental home**
3 **operation, Pali Uli Short-Term Rental Home, in two (2) dwellings located in**
4 **the State Agricultural District at 150 Door of Faith Road, TMK: 2-9-007: 057-**
5 **0001, 0002, & 0003, Huelo, Island of Maui (SUP2 2016/00013) (G. Flammer)**
6

7 Ms. Gina Flammer: Okay, good morning again. Just going to go right into the power point. I
8 think it's the easiest way to tell the story of this permit. So I'm gonna go ahead and do the first
9 half and then the farm manager is gonna take over the farming portion and I'll introduce him
10 when we get to that part.
11

12 Okay, so we're looking at Huelo. You can see where that is. It's a little bit closer, it shows you
13 exactly...this is an unusual property in which it's three parcels that make up a farm. Now that's
14 not unusual for farms to have multiple parcels. So the entire farm is almost eight acres. It runs
15 across what's shown up on the screen. Right now it has 12 wholesale accounts and a weekly
16 farmers market and you can see on the bottom who they sell to local restaurants, local grocery
17 stores. It is a running commercial, active farm.
18

19 The short-term rental home permit is coming in just for the middle section and just for that area
20 that's circled there. There's two dwellings and there's five bedrooms. I'm gonna go through
21 and show you the property and then I'm gonna go into a little more about what existing permits
22 there are and then kind of why we're here today it's a little unusual.
23

24 So this is as you enter the property, and pull on it. The orchard is mostly to the right. As you
25 come up the driveway you see the one dwelling, lots of parking, however there is a garage that
26 does have PV on top of it. You have a pathway you come up to the front.
27

28 Inside this is one of the dwellings. This particular dwelling has two bedrooms, bathroom area
29 here. Here's some of the outside. And then we move to the other three-bedroom farm dwelling.
30 Here are the bedrooms.
31

32 Here's a site plan. The color doesn't come out so great but the area to the left is the farming
33 operation, the rectangular right here. There is some farming going on here but it was just easier
34 to show you. These are the dwellings for the rental.
35

36 I'm gonna have Jonathan go through. He's the farm manager. He's gonna go through and talk
37 a little bit about the farming and then I'll come back and talk about the existing permit.
38

39 Mr. Jonathan Beutler: Thank you. Aloha, Commissioners. My name is Jonathan Beutler. I've
40 been a full-time manager at Hale Akua Garden Farm for the last four years. I moved to Maui
41 five years ago thinking I was coming for a couple months. I studied sustainable agriculture
42 systems and implementation at the University of Minnesota, graduated in 2009 and I thought I
43 was coming here for a couple months until some of my biggest dreams of finding opportunities
44 to participate in agriculture and contribute to the food security of my community really came true
45 in Maui and I'm still here. At Hale Akua we've been growing about 35 to 40 different crops
46 commercially for both wholesale accounts as well as our weekly farmers market and we're also

1 just sort of a very diversified business model. My primary goal as a farmer is really contributing
2 something positive to the future and therefore, you know education and you know empowering
3 people has always been sort of my first mission and I think that that the food that we grow and
4 there's a lot of it, I brought sort of an example of the bounty from my gardens this morning is
5 almost like a byproduct that's really just helping us pursue the mission of education and helping
6 to really facilitate this renaissance of young people that want to be farmers overcome the
7 obstacles to getting there. I'm also the owner and operator of another farm called Maui Olena
8 Companies that's a more commercial business. I just harvested my 9,000 pounds of Hawaiian
9 Olena last weekend for this season and that I just incorporated at the end of 2015.

10
11 ...(inaudible)...extremely diversified model. We grow vegetables and ag. We have about 200
12 laying hens right now and about 80 more young pullets that are going to start laying in about 60
13 days. I've really tried to create a holistic system that allows our birds to both contribute sort of
14 their most amazing gift to the rest of the farm which is their manure and that fertility that that
15 puts back into our soil, but also to really permit them to exhibit their natural behaviors. I've
16 incorporated a system called holistic management or rotational grazing through our orchard by
17 creating four paddocks that we're constantly rotating the birds through the paddocks so that
18 they always have access to fresh forage which really helps to reduce our costs and help them to
19 you know just live a healthier life and have a healthier diet and consequently lay healthier eggs.
20 You'll see a lot of pictures of it. This is our pullet cage, so when I start day-old chicks I
21 basically...you know, our goal with our chickens is not to raise birds for meat but primarily for
22 eggs. However, chickens don't lay well forever so we every year get new pullets and then we
23 slaughter our retired layers just for personal consumption about once a year also so we're kind
24 of constantly getting new birds and this is where we keep the young pullets. We call it our
25 brooder house so you know, we keep the day-old chicks under heat lamps until they're large
26 enough to move outside into the paddocks, and if I speak too long please cut me off, I don't
27 know if I have a time limit but I can kinda go on about farming a lot.

28
29 This is our barn. We finished building the barn in ...was it middle of 2015. So I was very lucky
30 to get the opportunity to build a new structure that really facilitates the system that I tried to
31 design which is the holistic management and rotational grazing. Basically a way of
32 concentrating your animals into paddocks and moving them in a way that ensures they always
33 have access to green ground and forage to scratch. I really tried to stack as many functions
34 into this system as possible and construction of the barn really empowered me to do that. The
35 barn has frontage on all four paddocks. So before I had about 60 hens and every time we
36 wanted to move them somewhere it was this sort of fiasco of always having to build little
37 temporary fences and them always escaping and not having a solid system and now with the
38 barn it's as easy as going in at night closing one door and opening a new door and boom all of a
39 sudden the chickens have access to a new pasture. We use living fence posts so I had just
40 pruned all these Gliricidia trees. The Gliricidias are a nitrogen fixing, leguminous tree that
41 provides nitrogen into the soil that helps to you know reduce any sort of fertilizer needs for our
42 fruit trees that we planted in the same orchard. So the chickens are grazing around an orchard
43 and there's a really amazing symbiosis that occurs with you know having animals grazing
44 around your crops. You know they provide this very slow depositing of fertilizer in the form of
45 their manure but they also, you know reduce the orchard management on their own because
46 they eat pests and they reduce the weeds all on their own.

1
2 This is the inside of the barn. I really designed it from the ground up with you know ease of use
3 in mind. At very end sort of right across from the ...(inaudible)... you can see a big door, the
4 other end of the building is about eight feet off the ground so we can back the truck up. Every
5 six weeks we clean out all the litter to bring it over and thermophilically compost over by our
6 gardens which you'll see a lot more pictures of next. The roofs are on hinges so basically the
7 whole floor can clear out. It's really easy to clean and we put in fresh litter every six weeks and
8 it's really cool 'cause it can just sweep right out the back end of the building and fall right into
9 the back of our pickup truck which reduces our work a whole lot. And you can see the four
10 different doors or at least two of them, two of them would be around the right that go out to each
11 paddock. So rotating my birds is as easy as closing one door and opening another.

12
13 They are foraging around a lot of Vetiver grass. We really try to promote plants in the pastures
14 and in the paddocks that are you know, healthy forage. Cows and pigs and goats can digest
15 grass but humans and chickens for that matter can't really digest or get a lot of nutritional
16 benefit from it. So we really encourage a lot more broad leaf ground cover to sort of...to grow in
17 the paddock like Buckwheat and Trefoil and Clovers, things that are really gonna provide a
18 healthy diet for the birds to supplement the certified organic feed costs which are tremendous. I
19 mean when I had chickens on the mainland the same bag of feed that cost you know \$16.00
20 organic feed for 50 pounds cost \$35 here. So the more that we can feed them something that is
21 locally produced and allow them to forage for bugs and broad leaf ground covers it really helps
22 our bottom line in terms of egg production and sales.

23
24 We have fruit trees really growing all over the property. So like Gina showed you the map kinda
25 shows like here's the STR and here's the farm. It's somewhat like that but it's also the whole
26 property is really integrated in terms of our agricultural production but one of the main, the main
27 orchard that I stalled or I took over installing when I started in 2013 includes limes, lemons,
28 grapefruit, rollinia, papayas, we have bananas all over the property, some really mature coconut
29 groves. We probably have 20, 25 mature coconuts that we harvest and market on the property
30 as well. It's a very diversified system. You know I planted about 40 new fruit trees in this small,
31 you know, I don't know exactly what the acreage of the pasture is maybe 3/4 acre pasture and
32 so far we just got our first grapefruits in three years. We've gotten...we probably got 300
33 pounds of Meyer lemons in the third production year and maybe 100 pounds of Tahitian limes
34 and that, you know once we started foraging the chickens in the orchard I have used no
35 supplemental fertilizers of any kind. All that production just comes from the natural fertility that
36 occurs from the animals grazing in the orchard. Some more pictures, the paddocks and our
37 fence system, our rotational grazing system. Different angles, more of the fruit trees. Again,
38 this is a naval orange on the left and on the right that one is a Satsuma tangerine. These were
39 only planted two years ago now and they were only about up to my waist. The orchard's
40 maturing very quickly. Those are some Chayote, oh no those actually on the left those are giant
41 lilikoi, a really unique kind of lilikoi. I got the seeds from a friend of mine on the Big Island and
42 they're really thriving there. On the right, that's one of our very first grapefruit. Mature coconut
43 groves. I mean, you got ungodly amounts of coconuts. It's just a matter of trying to keep up with
44 the harvesting and maintenance of the trees, but everybody loves fresh coco water, papayas.
45 Another view of the barn. And again, we're about half way through the installation of a PV
46 system. One of our main visions for the barn was making it an extremely multi-faceted facility

1 and increasing our, you know, our commitment to being a carbon negative property through
2 photovoltaics as well as our organic farming methods both contribute to that and the PV
3 installation is half completed on this barn. We have already completed PV systems, three of
4 them already on the property. More of our banana orchard at the bottom of ohana garden.
5 Sweet potatoes, we grow both Molokai purple and Okinawan sweet potatoes in a number of
6 places. I like using them almost just as a passive ground cover as well as an active food crop.
7 This is the cottage garden. I like I say we run a...we've very multi-faceted. Education has
8 always been sort of my biggest mission on this property. This is the cottage garden. This is
9 one where my interns are free to experiment. Our internship program is a 12-week emersion
10 experience in organic farming, you know, it's our commercial production practices, permaculture
11 design as well as agro ecology and community living which really creates sort of a holistic
12 experience that I think and I hope and I strive to use to empower people to create and live in a
13 more sustainable way and hopefully contribute to a more sustainable island and more
14 sustainable planet in the long run but this is sort of their personal garden to experiment in. We
15 have five of these concrete raised beds.

16
17 The whole farm operation, you know we just aced our ...(inaudible)...organic by CCOF. We
18 have about 2.8 acres that is our official organic acreage and I really try through the internship
19 program to demonstrate a wide variety of practices. Some of our gardens are more what
20 interns who are coming to our program because they want a homestead or they want to create
21 a subsistence farm but aren't going to invest a lot in machinery and tools and create you a big
22 commercial capital operation. So we try to demonstrate methods that will enable them to do
23 that with nothing more than \$20 garden fork. But then we also have access to a small tractor,
24 still do almost entirely handwork. We're right at sort of the cusp of that like you know three
25 acres or so which is about the point that which a small farm needs to invest in machinery and
26 we're sorta right at the cusp of that.

27
28 This is Aloha Garden another example of a garden that you know is completely worked by hand
29 and is really just trying to demonstrate methods that anybody can do. Anybody without a lot of
30 money can come to our internship program and feel empowered that no matter where they go in
31 live they'll be able to pick up a garden fork and grow some food.

32
33 This is Grace Garden so we have everything from 45-foot to 90-foot long straight beds. This is
34 something we maintain both by hand and occasionally with the use of a small tractor. I have a
35 tractor of my Olena farm that I bring over and try to demonstrate for those folks coming through
36 our program who really do see themselves as commercial farmers, small scale organic farmers
37 one day this is you know us trying to demonstrate practices that are more machine driven and
38 that will enable them to get into commercial production. This is just freshly planted with
39 Hawaiian chili peppers which is another one of our main target crops in addition to turmeric.

40
41 You can see the sign posts. We have to have little sign posts on every single bed. Part of
42 certified organic production is a huge amount of record keeping. Basically in order for the
43 consumer to buy a product on the shelf that has the USDA organic seal there needs to be
44 a...what do you say, like sort of an audit trail that goes all the way back to the seed that was
45 used to plant the plant that harvested the kale that you buy at the stores. You buy organic kale
46 at the store...every year my...you know an organic inspector comes and they want to do an

1 audit so they're gonna pull a random invoice out of my receipt book and they're gonna say okay
2 you sold 60 pounds of kale to Mana Foods. Show me the records that demonstrate the bed that
3 you harvested it from. So this is LG 11, lower grace, bed number 11, the date that you
4 harvested it, the date that you planted it, the date you transplanted it, the date you seeded it and
5 then show me the receipt from Johnny Seeds or High Mowing Organic Seeds that you
6 purchased organic seeds to grow that crop. So it's a very intensive record keeping process and
7 having labels on every single bed on the farm is part of how we keep that organized. This is
8 our seed house. So this is where we do all of our seed production. We're actually in the design
9 phase right now of an improved facility that will allow us to do both a little bit of greenhouse
10 production enable us to get some cucumbers and tomatoes above ground even in Huelo where
11 we blossom end rot and powdery mildew and all sorts of diseases that come to those crops in a
12 human environment but also improved seed starting facilities so both we can grow more
13 successful starts but also so that we can diversify into a little bit of selling started organic plants
14 at our booth at the farmer's market.

15
16 These are some papayas we just planted. And this is turmeric so over you know the last four
17 years of growing, a diversity of crops, we've really identified turmeric as one of the best
18 opportunities especially right now because turmeric is becoming very popular and research is
19 showing incredible medicinal potential of curcuminoids which turns into anti-inflammatory
20 compound in the root and it really inspired me to start Maui Olena Company a year and a half
21 ago. That's sort of my side project of growing this commercial organic turmeric for export. I just
22 harvested by 9,000 pounds of turmeric this year that I'm distributing right now in about nine
23 major cities on the mainland as well as, we did 3,000 pounds of turmeric last year at Hale Akua
24 that was all distributed here on Maui. So continuing local distribution and really trying as much
25 as possible to contribute to the food security of our island but also really trying to find any way,
26 creative ways to increase the financial security for farmers because you know everything that I
27 learned in school is really coming to life now that sustainability is the triple bottom line. It's like a
28 three-legged stool. You need to have human sustainability. You need to have you know a work
29 life balance that doesn't drive you totally crazy. You need to make living wages so you need
30 financial security. But you also need environmental sustainability. So if any one of those legs
31 of that stool is removed, the environmental leg, the human leg or the financial leg, the whole
32 stool collapses and you know turmeric has really inspired me. I'm recognizing this really
33 amazing time. We have a perfect growing climate. It's a tropical crop that is becoming
34 extremely popular because of its medicinal potential and so it's something that I want to share
35 with the world and use as a tool to help farmers on Maui prosper.

36
37 This is our packing facility. I'm pointing out some bins of turmeric we just harvested but this is
38 where we do all of our washing, packing, boxing up. Those white boards is where I write up our
39 weekly harvests. Every Friday we harvest for our farmer's market and wholesale accounts and
40 this is where that happens. And I think actually this photo is taken...it was taken of me while I
41 was teaching for the Hawaii Farmers Union. I did a Farmer Apprenticeship Mentoring Program
42 that I participate in. I'm a mentor for the Farmers Union program, Farmer Training Program and
43 we use Hale Akua as a host site to demonstrate our practices and help new farmers become
44 familiar with really what it takes and what they're in for if that's something they want to devote
45 their life to as I have.

46

1 This is a unique variety. This is called Curcuma ...(inaudible)..., Curcuma Amada, it's a white
2 turmeric. This is my business partner in the turmeric business, Silvia, we're washing this is one
3 of our first crops that came out of the ground. This is back in November, just past November.
4

5 Right now we have four bee hives on the property as well both to provide pollination services for
6 all of our fruit trees, produce a little bit of honey but also use as an education tool and really
7 recognize that we're in a very special place in the world to keep bees. Right now Maui, Kauai
8 and Australia are the only three islands in the world left without the verroa destructor mite and
9 so you know, fingers crossed it never comes here. Have it on the Big Island and on Oahu now
10 but it's a very special place in time when you know this parasite is one of the major contributors
11 to colony collapse disorder that's causing bee colonies all across North America to really
12 struggle. It's really a blessing that we can keep this sort of clean stock alive here and I work
13 with a commercial beekeeper, and Paul who's a queen rearer that's his main business is rearing
14 queens and distributing them across North America for all of the beekeepers that need to
15 requeen often times every spring in order to keep their colonies healthy.
16

17 This is our booth at the farmers market. Two of my interns Nanny and Andrea. You can really
18 see sort of the diversity and the bounty. We're actually right across from the lettuce farm every
19 Saturday at the Upcountry Farmer's Market and I really, really admire everything you do so
20 thank you for helping them out as well.
21

22 Like I say, education has always been our primary focus. Twelve-week emersion experience
23 and the education that occurs on the property is really diverse. So we have our 12-week
24 emersion program but then we also host weekend workshops. We've hosted permaculture
25 design courses. ...(inaudible)...one year ago in January we hosted a holistic beekeeping
26 conference. We had experts from all across North America on methods of holistic beekeeping,
27 natural beekeeping, bee products industry and also breeding for resistance to the verroa mite all
28 came to our property and our apiary, our four bee hives got to be demonstration model for all of
29 those teachers to spread their sort of understanding and their knowledge to just all the people
30 that wanted to learn about it. Do on the bottom right I guess that's me giving a garden tour to
31 one of our learning groups.
32

33 You know our offerings of tutorials, classes really change you know with the seasons, with the
34 availability of various experts. I do a lot of teaching on the farm but then there's outside experts
35 that we bring in as much as we can and really try to use the facility in a way that promotes the
36 sharing of knowledge and the empowerment of new farmers and everybody that wants to
37 contribute something to creating a healthier planet.
38

39 That's building compost. I joke my friends that half my job is just shoveling chicken poop. It's
40 only actually about 10 percent of my job. More classes occurring on the property. Oh, and this
41 is the bee conference. On the top left behind the word Maui is one of our primary beekeepers.
42 I'm actually growing more and more allergic to bees myself so I have to be very careful
43 beekeeping, so we contracted Grant, a good friend of mine and great beekeeper lives here in
44 Wailuku does a lot of the care of our hives now days. And on the right, oh what was his name,
45 I'm blanking on his name he runs an amazing commercial apiary in New England where he's
46 really pioneered methods of pesticide free breeding of bees to be resistant to the verroa mite

1 which is just one of the most incredible contributions, the most incredible examples of how
2 holistic methods can combat real problems and real diseases and real pests in an organic way
3 that doesn't require any use of poisons on the land or in our hives. So just more example of our
4 education programs happening. We made the Maui News about the beekeeping, forgot about
5 that. I guess that is back to Gina. If you have questions I'm here.

6
7 Ms. Flammer: I'll go ahead and finish up and then we can...if you have questions specific for
8 Jonathan. So this is really something different that we're seeing here today because this is a
9 property has permits that cover all three parcels. The current permits they allow ag education.
10 Back in 2005 you actually needed a permit to do that so things have changed. It allows
11 workshops, wellness retreats, overnight accommodations for students and teachers. The
12 problem the Department was having down in Zoning was the overnight accommodations with
13 students and teachers. How do you quantify that, what do you do? If someone comes to an
14 afternoon class does that count, does it not? So as we had discussions about that we actually
15 recommended the Short-Term Rental Home Permit. It's the only time in my eight years as a
16 planner that that we have found that to be a solution to the problem. So we recommended to
17 the applicant for this particular property why don't you just do the short-term rental then we don't
18 have to micromanage all of your overnight accommodation and you get records of whether or
19 not it's a student or a person. I will tell you the applicant because she sees a stigma associated
20 with that. She doesn't want that to take away from what her real main focus is. It allows her the
21 opportunity if she wants to in between having students or teachers on the property she can just
22 rent it to the general public. I don't actually know if she will. I know she only wants people on
23 the property that are interested in learning about farming, but it does help the Department when
24 it comes to enforcement. It just makes our job a lot easier if you agree with granting the permit.
25 You will see actually the SUP is up for renewal and it does come to you so on March 28th I'll
26 bring that permit back to you specifically.

27
28 So in terms of this short-term rental home permit there were no comments from State Office of
29 Planning. There were no protests from anyone even though it went in the newspaper...oh
30 actually it's an SUP so it went out for notice twice to all the neighbors and then there were four
31 letters of support from the various neighbors. So that concludes our presentation and we can
32 open it up to questions now.

33
34 Vice-Chair Duvauchelle: Thank you.

35
36 **a) Public Hearing**

37
38 Vice-Chair Duvauchelle: First we'll see if there's anyone here that would like to testify at this
39 time on this agenda item? Okay, seeing none, public testimony is closed. Questions
40 Commissioners? Commissioner Robinson?

41
42 Mr. Robinson: Gina, any request for service on this property?

43
44 Ms. Flammer: That's what started it is the question became when is it a student and how long
45 of a class do they have to take? So even though they were allowed to have overnight

1 accommodations and they were offering classes, gardening classes with it, Zoning was having
2 a hard time so that's how we ended up with the short-term rental home.

3
4 Mr. Robinson: Aren't you supposed to provide us with the paperwork for RFSs for two years?
5 Didn't we...I thought we did that a few meetings ago?

6
7 Ms. Flammer: Yeah, it turned out fine. I'm sorry about that I didn't...Yeah, I don't have that for
8 you and it was a little unusual because they were operating under a permit.

9
10 Mr. Robinson: Next question is as far as our numbers go with short-term vacation rentals in the
11 area where would that be at?

12
13 Ms. Flammer: Yeah there's an exhibit in here. I thought you'd be curious about that. A map
14 that shows...they're not anywhere near.

15
16 Mr. Robinson: Is it this one?

17
18 Ms. Flammer: No there's another one that shows the short-term rental home, at least there
19 was. Anyway there's no other short-term rentals right in the immediate area. There are two
20 that are within about four miles. Let me see if I put it in the...okay, the closest short-term rental
21 home is three miles away. There are 42 operations in Paia-Haiku and the cap is 88.

22
23 Mr. Robinson: And so this is considered one or two?

24
25 Ms. Flammer: It's considered one because it's one TMK.

26
27 Mr. Robinson: Can we say two? Add a number up. Thank you.

28
29 Vice-Chair Duvauchelle: Commissioner Canto?

30
31 Ms. Canto: So there's nothing in opposition then?

32
33 Ms. Flammer: No.

34
35 Ms. Canto: Okay, thank you.

36
37 Vice-Chair Duvauchelle: Commissioner Carnicelli?

38
39 Mr. Carnicelli: So Gina just for clarification I know that you know went to this as your
40 recommendation because it just seems to be you know the cleanest way of doing it. What
41 would the other option be if we didn't go this way? I mean just to have it on the table just to
42 know...

43
44 Ms. Flammer: Yeah, I know. I think what we would end up having to do is maybe have them
45 submit a list of all their guests and what program they were associated with and the dates they
46 were there. We've done that in the past with other permits. I did that with Wailea Golf with their

1 special events to make sure they were complying and it became a real chore for the
2 Department to do that.

3
4 Mr. Carnicelli: And would they have to submit if each one of those guests were certified organic
5 or not as well?

6
7 Ms. Flammer: The guests themselves?

8
9 Mr. Carnicelli: No, I'm just joking.

10
11 Vice-Chair Duvauchelle: Any other questions? Commissioner Hedani?

12
13 Mr. Hedani: It's not for Gina, it's actually for the farm manager. Of the products that you
14 showed, I noticed that you listed Rollinia.

15
16 Mr. Beutler: Rollinia.

17
18 Mr. Hedani: Rollinia, okay. I was confusing that with something call Rollinia Deliciosa is that
19 what you're calling.

20
21 Mr. Beutler: No, it's fruit tree. It's a Annona family. It's related to Cherimoya, Atemoya,
22 Soursops, but it's really delicious. It's about yay big. It's a fruit.

23
24 Mr. Hedani: You have a photograph of it in here?

25
26 Mr. Beutler: Those trees they take about seven years to produce their first fruit. If you Google
27 Rollinia you can find photos it, it's beautiful and it's my favorite Annona fruit. I like it better than
28 Cherimoyas and Atemoyas but they do take a while to produce their first fruit.

29
30 Mr. Hedani: The only reason I ask is because my neighbor had a couple plants 30 years ago
31 and it was the first two certified planted brought into the State of Hawaii. He gave me one of
32 them and I managed to kill it with this black thumb.

33
34 Vice-Chair Duvauchelle: Commissioner Castro did you have a question?

35
36 Mr. Castro: Yeah, how often do you have the classes where you know, where students come
37 down for any type of training.

38
39 Mr. Beutler: Like I say the education program is really diverse. So I have an emersion
40 experience, a 12-week program. We run it four times a year, a start date in January, April, July
41 and October and we have an orientation, we meet with classes five days a week and then
42 continuing for the remaining 11 weeks we have a three to four hour class usually about half
43 lecture, half hands on on more intensive or like more specialized skills one or two times a week.
44 You know it sort of varies with what opportunities we have, what experts we can bring in let's
45 say three to four weekends per year is pretty normal for us to host whole weekend workshops
46 that are open to the public everything from like bio...(inaudible)... production. I've done whole

1 weekend workshops on worm composting, weekend workshops...I mean the bee conference
2 was a really, really resounding success for us. A couple times a year we have those bigger
3 workshops that we organize for the public and it's about as frequently as it's been possible for
4 us to organize them. We do have a goal to make them more frequent than that. Does that
5 answer your question?

6
7 Mr. Castro: Yes. And how large are your groups when they come for the classes?

8
9 Mr. Beutler: The biggest one I can really remember is the bee conference. Maybe Lori
10 remembers the total cap.

11
12 Unknown Speaker from Audience: Forty-five.

13
14 Mr. Beutler: Forty-five people. And I'd say 50 percent of them were flying in from the mainland
15 and 50 percent of them were local. But that's the unique example. My weekend workshops
16 and I'm no celebrity farmer but I usually get 15 to 20 people coming for my weekend classes
17 that I teach.

18
19 Mr. Castro: Thank you.

20
21 Vice-Chair Duvauchelle: Any other questions Commissioners? Commissioner Robinson?

22
23 Mr. Robinson: I just have for the clarification of the two dwellings being one short-term rental
24 instead of two. Can you tell me the technical reason why it is?

25
26 Ms. Flammer: Yeah, sure and it's actually something that should the short-term rental home
27 ever come back to you amendments again it could be a suggestion. So how the bill was written
28 originally it was modeled after the Bed and Breakfast Ordinance and that ordinance states the
29 permit is attached to the property and it applies a cap to the property. So the cap is two
30 dwellings and six bedrooms. I admit it makes it confusing. But that's how Council decided they
31 wanted to do it. So you can actually have a permit that covers to different ag and it does make
32 it hard sometimes.

33
34 Mr. Robinson: So if you had three dwellings on a property would you get two permits or you
35 would have to have three because I remember we did the one for 17 you know in Lahaina, so
36 that's how you know...

37
38 Ms. Flammer: Yeah so that was unusual because those were CPR'd into individual lots so they
39 were allowed to come.

40
41 Mr. Robinson: TMK?

42
43 Ms. Flammer: Yeah, they—

44
45 Mr. Robinson: Got you.

46

1 Ms. Flammer: So they would not be allowed. They'd have to come for a Conditional Permit
2 frankly and whether or not that would be supported I don't know. But the max that anybody can
3 come in for is six bedrooms under two separate dwellings.

4
5 Mr. Robinson: Thank you.

6
7 Vice-Chair Duvauchelle: Any other questions? Gina, can we hear the Department's
8 recommendations?

9

10 **b) Action**

11

12 Ms. Flammer: So the Department is recommending approval with the standard short-term
13 rental home conditions. Now we're only seeing the State Special Use Permit today so that we
14 have the six conditions that go along with that. When the Department issues the short-term
15 rental home all those conditions that you're familiar with will also go on there. I'm not going to
16 read you the six. I think you're pretty familiar with them. So the Planning Department
17 recommends that the Commission adopt the report and recommendation prepared for today's
18 meeting as its findings of fact, conclusion of law and decision and order and that you authorize
19 the Director to transmit said findings to the applicant

20

21 Vice-Chair Duvauchelle: Thank you. Do I have a motion?

22

23 Ms. Canto: So move.

24

25 Mr. Carnicelli: Second.

26

27 Vice-Chair Duvauchelle: Moved by Commissioner Canto, second by Commissioner Carnicelli.
28 Discussion on the motion?

29

30 Ms. Canto: I just have a question on one other...the first recommendation on this. So it's good
31 until 2020?

32

33 Ms. Flammer: They're now allowed to come in for three years. Initial permits used to be just
34 one year but with this last round of amendments that went before the County Council, the
35 Council made an initial period of three years.

36

37 Ms. Canto: Okay, thank you Gina.

38

39 Vice-Chair Duvauchelle: Commissioner Robinson?

40

41 Mr. Robinson: I'd just like to compliment the manager. I think it's great that we have this type of
42 knowledge in Maui and that you're teaching other people to be self-sustainable. I think it's great
43 and four and a half tons of Olena is that what you said you harvested?

44

45 Mr. Beutler: ...(inaudible)... 9,000 pounds, yeah four and a half tons so far. We're about 50
46 percent harvested for this year on my...

1
2 Mr. Robinson: Guys with bad backs like me appreciate that.

3
4 Vice-Chair Duvauchelle: Commissioner Higashi?

5
6 Mr. Higashi: I also would like to compliment the farm. I think this is one of the most
7 comprehensive farm that I've seen having not only vegetables but animals and on top of that
8 you also had education which is complimentary on your part.

9
10 Vice-Chair Duvauchelle: Commissioner Carnicelli?

11
12 Mr. Carnicelli: Yeah, Jonathan I just wanna also, you know, just thank you for your work and
13 your passion and I think between you and Crystal you guys have kind of set the bar as far as
14 farmers trying to, you know, ...(inaudible)...farmers trying to show up here and saying that
15 they're farmers. I think having you guys back to back has really sort of you know I'm getting
16 kind of chicken skin here right now, but it's like I appreciate the work you do and I'll be
17 supporting the motion just because I feel that for the same reasons as you know the first...
18 dragon fruit farm I think that this fits you know that same sort of criteria that I expressed for
19 them.

20
21 Vice-Chair Duvauchelle: Okay, hearing no other discussion, Mr. Yoshida would you like to
22 repeat the motion?

23
24 Mr. Yoshida: The motion is to approve the State Special Permit as recommended by the
25 Planning Department.

26
27 Vice-Chair Duvauchelle: Thank you. All those in favor? That's seven ayes. Motion carries.
28 Thank you. Congratulations. Good job.

29
30 **It was moved by Ms. Canto, seconded by Mr. Carnicelli, then**

31
32 **VOTED: To Approve the State Land Use Commission Special Permit as**
33 **Recommended by the Department.**
34 **(Assenting – P. Canto, L. Carnicelli, L. Hudson, K. Robinson,**
35 **S. Castro, W. Hedani, R. Higashi)**
36 **(Excused – M. Tsai)**

37
38 Vice-Chair Duvauchelle: We're gonna take a five-minute recess. We'll reconvene at 10:55ish.

39
40 A recess was called at approximately 10:50 a.m. and the meeting was reconvened at
41 approximately 10:55 a.m.

42
43 Vice-Chair Duvauchelle: Maui Planning Commission is back in session. Director would like to
44 read the next agenda item?

45

1 Mr. Spence: Sure Commissioners we have Ms. Robyn Kahaleleua of Centerline Solutions on
2 behalf of Verizon Wireless requesting a County Special Use Permit for a 65-foot transmitter
3 tower and our Planner this morning is Ryan Quigless and they're trying to boot up the laptop.
4
5

6 **3. MS. ROBYN KAHALELEHUA of CENTERLINE SOLUTIONS on behalf of**
7 **VERIZON WIRELESS requesting a County Special Use Permit for the**
8 **H12 Project order to install a 65 ft. transmitter tower and related**
9 **improvements in the County Agriculture District at 1500 Kaupakalua Road,**
10 **TMK: 2-7-013: 175, Haiku, Island of Maui. (CUP 2016/0006) (R. Quigless)**
11

12 Mr. Ryan Quigless: Good morning Commissioners. We're working out the technical issues with
13 the power point right now if we could get a few minutes.
14

15 Vice-Chair Duvauchelle: Okay.
16

17 Mr. Quigless: Thank you. Okay, I think we're okay now. Good morning, aloha Director, Chair,
18 Commissioners. My name is Ryan Quigless, Planner with the Maui County Planning
19 Department. We're meeting this morning to discuss the details for a County Special Use Permit
20 application submitted by the consultant, Centerline Solutions on behalf of Verizon Wireless for
21 the installation of a 65-foot self-tower monopole with antennas. The subject property is located
22 at 1500 Kaupakalua Road, Haiku, Maui, TMK (2) 2-7-013: 175.
23

24 At this time I'd like to share a few procedural matters with you to bring the project history
25 current. Only July 25, 2016, prior to submitting the County Special Use application to the
26 Planning Department the consultant held a community meeting at the Haiku Community Center.
27 The public hearing was a recommendation request by the Planning Department to the applicant.
28

29 On September 1, 2016, the applicant mailed the Notice of Application to all owners and
30 recorded lessees within 500 feet of the subject property notifying them of the applicant's intent
31 to file the County Special Use application with the County of Maui.
32

33 On January 6, 2017, the Maui County Planning Department received a letter notifying the
34 Department of a Federal Shock Clock Ruling Final Determination deadline shown in your report
35 as Exhibit No. 6. I'd also like to note at this time that the Shock Clock Ruling is showing to rush
36 the review process and I'd like to note that because we're moving as fast as we can. We don't
37 sit on the permits in the Planning Department and we give them due process. But under normal
38 conditions we would not have scheduled this agenda item at this time.
39

40 On January 11, 2017, 48 days prior to the hearing the Maui County Planning Department
41 mailed a notice to the applicant and appropriate State and County agencies notifying them of
42 the scheduled Maui Planning Commission public hearing February 28, 2017.
43

44 On January 20, 2017, the applicant mailed a letter of notification and location map to all owners
45 and recorded lessees within 500 feet of the subject property describing the application and
46 notifying them of the scheduled hearing date, time, place by certified mail.

1
2 On January 30, 2017, February 6, 2017 and February 13, 2017 the applicant scheduled
3 published notice and a location map in the Maui News once a week for three consecutive weeks
4 prior to the date of the hearing.

5
6 On January 27, 2017, a Notice of Public Hearing on the application was published in the Maui
7 News by the Maui County Planning Department and at this time I'd like to step away from the
8 microphone and allow the consultant time to discuss the project future with you and answer any
9 questions and concerns that you have.

10
11 Mr. Jesse Burgess: Good morning. My name is Jesse Burgess. I'm with Centerline Solution
12 and I'm here with Cory Schaefer. Thank you Planning Commission. Appreciate the time and
13 attention today and I would also like to thank the Planning Department for their help with this
14 application.

15
16 As sort of an initial matter I realize that the Shock Clock invocation sort of abbreviated the
17 period of time that we had to work with the County on this application and it certainly wasn't our
18 intent in invoking it and we really appreciate all the help and collaboration with it and County has
19 shown us. We look forward to that in the future as well.

20
21 What we have proposed is a 65-foot monopine telecommunications facility. A monopine is a
22 pole with a single main mast and with pine like branches attached to it. This will be...it's made
23 to look like a fake tree. This will be...It will have 12 antennas, four antennas in three sectors. It
24 will also have a GPS antenna. This will be providing broadband and voice service in addition to
25 the GPS and is really intended to greatly increase the capacity and also the coverage in this
26 area.

27
28 So as I mentioned it will be camouflaged to look like a pine tree. The parcel is four acres. It is
29 residential use now. In the past cattle grazed there and the owner as stated they may graze
30 cattle there again in the future. The proposed development here wouldn't have any effect on
31 the cattle.

32
33 This is the location. You can see where it is off road 365, just upcountry there a bit. And here's
34 a more close in location. This spot was chosen to really minimize the visual impact of locating
35 the site in the agricultural district. Part of the reason it was chosen in this location is the
36 wrecking yard to the southwest of the subject parcel. We believe that the cars and wreckage
37 would sort of mitigate the impact of the tower there. It's also, the place where it is there's a view
38 shed effect on the neighbor's on Kaupakalua right across the street there but outside of that sort
39 of opening in the road there there's such sort of consistent hedges and changes in topography
40 that the actual visibility of the proposed tower would really be minimized by locating it on this
41 parcel.

42
43 Here's the site plan. One thing that you can note from the site plan is that the tower is located
44 nearly 600 feet back from the road. It's like 573 feet to be precise and that there will also be a
45 new access road at...I think it's 12-foot wide that will go around the residence and then north
46 along the east side of that parcel.

1
2 We also considered looking at some different spots within the parcel potentially moving it further
3 to the west but because of the change in elevation there that you can see from the contour lines
4 that wasn't really feasible. It would have...we would have had to make the tower taller to keep
5 the same RF coverage objectives so that was why we stuck there. I mean, that and the
6 setbacks were basically meant that it had to sorta be in the middle of that area towards the
7 back.

8
9 Here you can see sort of a close up of the plan. You can see that there will be, you know, the
10 tower in the middle with the antennas towards the top left of the compound you'll see that
11 there's gonna be a generator. The generator cycles on about once every two weeks usually on
12 a Monday during weekdays and it runs for about 20 minutes. So its noise impact is really pretty
13 low. It would be on, it would be running full-time if there was a prolonged power outage to
14 ensure continuity of service. And then the rest of the compound will just be gravel base along
15 with it being a gravel access road.

16
17 Here's sort of a preliminary landscaping that we had designed. This is a number of I think it was
18 arborvitae that was specified to surround the compound. There'll be a six-foot chain link fence
19 with privacy slats so that people can't really see in or animals don't come in. There will be the
20 landscaping around it that will be shielding it. As noted in the staff report they called for
21 additional native screening in the landscaping plan and we are happy to oblige that and I'll
22 discuss later we'll be working further in developing the landscape plan.

23
24 So here the elevation. You can see that it's...you know has the fake pine branches on there.
25 The actual density of the branches can be adjusted to match whatever the surrounding foliage
26 is. So sometimes like with sequoia trees they make it really dense then that really doesn't
27 match with like other kinds of pine trees. So we would suggest that whatever density of foliage
28 they go for match the trees that are going to be planted nearby to screen it.

29
30 The other issue is this is a 65 feet. This was deemed to be the minimum that we could get
31 away with in this location to still meet our coverage and capacity objectives. Initially we actually
32 filed an application for a 95-foot tower in the same location and we got a lot of negative
33 feedback from the community saying that they thought that tower was too tall. So to address
34 their concerns about visual impact we went back to the drawing board and realized that we
35 could get away with 65. The coverage wouldn't be as good as we would have gotten from a 95
36 but we'd rather have the community happy rather than have no tower. So that's way it's at 65
37 now.

38
39 Here's a photo simulation of what the tower would look like directly in front of it from
40 Kaupakalua. This depiction doesn't show any of the trees that we have discussed with the
41 County of planting around the site. After meeting with planners on site earlier this month we
42 discussed and agreed to planting I think it was seven field stock cook pines in sort of a natural
43 formation around it so that it would be hidden more at least from this view point. From other
44 viewpoints it doesn't stand out nearly as prominently because there's the trees you can see kind
45 of to the left and you'll notice this more in the next slide that this is the sort of the view plane in
46 which it's most prominent and sort of just nakedly standing there. So planting the trees on

1 either side of them in sort of a natural random formation around them will really minimize that
2 visual impacts and the cook pines that are specified easily grow tall enough to shield that 65-
3 foot tall monopine.

4
5 Here's a sight from just down the road a little bit. You can see how much the visual impact is
6 attenuated by the presence of other nearby trees. I think this is probably more representative of
7 how it will actually appear once we get the other cook pines installed. Okay, and now I'm gonna
8 turn it over to Cory so he can address more of the technical side of things.

9
10 Mr. Cory Schaefer: Hi I'm Cory Schaefer, I'm a network performance engineer for Verizon
11 Wireless. So today I'm just going to be talking about the technical needs and the reason why
12 we need to build this cell site.

13
14 So if you see here this is the existing coverage coming from our Haleakala cell site which is
15 pretty far away. You can see the green areas are mostly good coverage but there are quite a
16 few blue and darker blue areas in all the terrain down by the proposed site which you can see
17 by that black writing. This sector here Haleakala Alfa as we refer to it has the highest drop call
18 rate for the whole state. We have hundreds of cell sites statewide and this site due to the lack
19 of towers and such a large area that it's covering this is our poorest performing cell site out of
20 hundreds statewide. So we really need this from a coverage and a capacity perspective. This
21 is also not only has the dropped calls of any sector in the state, it has some of the slowest thru
22 put, so people try to use their phone and they don't get the network speeds to do the things they
23 need to do.

24
25 So this is the proposed site coverage. So you can see, it's zoomed in a tiny bit but the area
26 where we have solid red, yellow reliable in building coverage is expanded. And also the most
27 important part of this is that entire area covered by this will be taken...all those users will be
28 taken off the existing Haleakala cell site so it will improve coverage for users in this area but
29 also the very large number of users that are already on the Haleakala cell site getting them off
30 of that cell site will help it perform better.

31
32 This is something that we commonly get asked about during zoning meetings is why don't you
33 put the cell site farther away and you know shoot it back towards us and this is just an example
34 to show in a particular neighborhood what good RF design would look like with one cell site in
35 the middle close to the users versus if you tried to put cell sites, sprinkle three cell sites around
36 the area and shoot in. So what you're looking is a map of what we call signals and noise ratio
37 and that's basically the quality of the signal. So where the signal is red you have fast and
38 reliable service without dropping calls and you can understand what people are saying. When
39 you point lots of cell sites into an area they actually interfere with each other and the places
40 where those cell sites hand off has low signal quality so we have degraded service and low
41 quality. So this is just to kind of explain why do we need to be close to the user 'cause it's
42 commonly brought up well why don't you move it two miles away? If you move it two miles
43 away the signal doesn't...it degrades as it gets to the customer so it doesn't work for them there
44 and it also results in this poor signal quality which I'm trying to show visually here.

1 So the impacts to the community, we commonly hear from emergency services personnel how
2 valuable our services is. We try to have the most reliable coverage statewide. The ability to
3 locate users with the enhanced 911 requires us to have service in order for enhanced 911 to
4 work and that queues off the GPS and the handset so you know...also this obviously very
5 important for our customers just for the normal services that they use calling, non-emergency
6 calls, and broadband services.

7
8 So we get asked a lot about compliance, but we comply with all...the most common questions
9 we get are related to exposure. So the FCC has very strict technical requirements for what they
10 call MPE Maximum Permissible Exposure and we have strict requirements that we have to
11 follow, guidelines we have to fall within in order to build the site and maintain our license. So if
12 were to violate the power settings, if we were to build a cell site to close to users where the
13 general population can get...we would be jeopardizing our license which is the sole, the sole
14 source of our business. So we treat compliance at Verizon extremely seriously and we always
15 comply with all the FCC requirements. We also for certain cell sites...this mostly happens at
16 roof tops where there are users closer to the antennas, we employ third party technical
17 agencies to go out and actually measure to make sure that we're in compliance to make sure
18 that we would never find out about a lack of compliance from the FCC. We always send our
19 own third party entities to go out and do that.

20
21 And then just to talk about you know broadband services how important these are to the
22 community both you know a huge number of people, there was a report recently that showed
23 more people were interested in having broadband service, you know good wireless service at
24 their house than the quality of the school, I personally would not agree with that, but millennials
25 their phones are very important to them as you can tell. So bringing broadband to the
26 community allows people to start businesses, allows them to do much more creative things if
27 they have the service at, you know, where they live and where they work. So if you guys have
28 any questions about what broadband services are please let me know but this would support
29 regular voice calling, text messaging, all data services that you'd be accustomed to in addition
30 to the 911 and emergency notification services for tsunami and all the emergency area service
31 delivery.

32
33 I think that covers the technical aspect and if you have any questions I can address them
34 afterwards as well.

35
36 Mr. Burgess: I have a couple more slides here. You can see this one there, but the Civil
37 Defense on Maui uses the Verizon network as it is. This is, you know, as he mentioned one of
38 the areas with the most dropped calls and with the proposed additional sirens that could be
39 added to edge of the area could greatly enhance the public safety infrastructure in this area.

40
41 Another issue that we've heard concern from Police Department and other various first
42 responders is the lack of coverage for hikers or for people who get lost. There...even for people
43 who may have enough coverage to say for example place a phone call if they don't have
44 anyone who they can call or they don't speak English you know they're not necessarily going to
45 be able to give directions, but without data or GPS to use their phone to like pull up Google
46 Maps to point them in the right direction or you know let them know they're taking the wrong trail

1 they're not really gonna know where to go. That's just one of these added benefits to the public
2 safety side that we have here.

3
4 Final one that we have is some statistics about how much people are using their phones in
5 particular, the demand for data has just been rising through the roof. You know, I think like a lot
6 of people don't do a lot of high data activity on my phone other than like sending pictures of my
7 cat to my friends and family but you know a lot of people especially younger people they do they
8 really like they watch videos on YouTube and do the kinds of things that actually drain away
9 from the ability of everyone to use data. It's really sort of a finite resource coming out of a tower.
10 So improving the capacity in this area will be of benefit not just to the people who want to play
11 Pokemon Go but for everyone who needs to actually use their phone for a variety of purposes
12 as well. That's all that I have and happy to take questions.

13
14 Vice-Chair Duvauchelle: Thank you for your presentation. We will open the floor back up for
15 public testimony on this agenda item.

16
17 **a) Public Hearing**

18
19 Vice-Chair Duvauchelle: If anyone would like to testify please come forward? Mr. Croly?

20
21 Mr. Tom Croly: Hi, Tom Croly. Didn't come here for this item but just find it interesting to learn
22 about this and can attest that when I'm out there in the Haiku area my calls drop quite often so
23 there's definitely a need for this and I hope that others see the need for this. But I do want to
24 point out that they're before you for a State Special Use Permit because this is in the
25 Agricultural District and they have to get this permit to allow this use to take place in the
26 Agricultural District. The evaluation that you're going to perform isn't whether or not there is a
27 need or whether that you should favor Verizon over ATT or Sprint cell towers, but what is the
28 impact of this on the surrounding properties just as you use that same criteria to evaluate the
29 short-term rentals that we have here. And we don't see an audience full of people concerned
30 about this tower and the impacts that would make directly to them. And I'm here just as a
31 member of the public to say I think it would make a positive impact for me so I would urge you
32 to pass this. Thank you.

33
34 Vice-Chair Duvauchelle: Thank you. Anybody else wishing to testify at this time? Seeing
35 none, we'll entertain questions from the Commissioners. Commissioner Hudson?

36
37 Mr. Hudson: This question is for the Verizon representative. A lot of work went into the
38 developing the MPD communications. A lot of time and money in developing that network
39 especially when got bumped to the 800. Have you guys met with the communications
40 coordinator yet?

41
42 Mr. Burgess: I have not but the woman who submitted the application Robyn Kahalelehua she
43 has been in communication with them. I'm representing Centerline here because she couldn't
44 make this meeting but she has been in touch with them.

45

1 Mr. Hudson: Okay. In the Department's recommendations 17, 19, 20 and 21 you guys touch
2 on the communications coordinator. I want to make sure that rather than being responsive in
3 case something goes wrong I want to make sure that he's brought on board and he knows
4 what's gonna happen and exactly how this is gonna place into the system. I think it's great that
5 you guys are developing a system that's going to be able 911, E911 which as we all know 30
6 feet and up there that's pretty hard, but I don't want it to put the police communications, the fire
7 communications, the EMS communications at risk so please make sure due diligence is done
8 and meet with the coordinator.

9
10 Mr. Burgess: We'll certainly do that. Verizon maintains an ongoing communication and
11 conversation with MPD and we'll certainly continue to do so.

12
13 Mr. Hudson: Please.

14
15 Vice-Chair Duvauchelle: Commissioner Carnicelli?

16
17 Mr. Carnicelli: I'm sorry I forgot your name.

18
19 Mr. Burgess: Jesse Burgess.

20
21 Mr. Carnicelli: Jesse, thank you Jesse. Could you go back one slide please?

22
23 Mr. Burgess: Sure.

24
25 Mr. Carnicelli: I'm confused by this. Are you guys proposing that you're going to put in the siren
26 at Hookipa and Haliimaile and Rice Park?

27
28 Mr. Burgess: No, we are not proposing but they would be supported by the presence of this
29 proposed development.

30
31 Mr. Carnicelli: So Rice Park is going to be...Oh, I guess...I was thinking Rice Park, that's not
32 Rice Park okay. Okay, I understand the slide better then. So I do have a question for the
33 Director though. This invoking of the shock clock from the California Permit Streamlining Act
34 and the Planner said this actually wouldn't be before us had they not invoked this. What exactly
35 did this do specific? I'm not understanding it completely as to what this invocation of the shock
36 clock rule is.

37
38 Mr. Spence: And I'm sure the applicant can answer better but I understand it's FCC regulations
39 that they develop regulations let's say municipalities while they can require discretionary permits
40 they have a limited amount of time in order to get those applications in front of the decision
41 makers otherwise they could...municipalities who don't...if there's no requirement to get in front
42 of planning commissions or whatever body the township or the city has they could just put it off
43 indefinitely. So there's a requirement that it be not delayed that it be processed in an expedited
44 manner. So if it was our normal process it probably would have taken a couple months more to
45 get in front of the commission, but since there's this requirement it's somewhat expedited to get
46 in front of you guys. Essentially correct?

1
2 Mr. Burgess: Yes, that's my understanding as well. I believe it's pursuant to the
3 Telecommunications Act of 1996 and then implementing regulation through the FCC nicknamed
4 the shock clock rule. A lot of other jurisdictions they have state rules that require processing of
5 applications dealing with wireless communication facilities to also comply with regulations of the
6 shock clock but not all places do so that's sort of why it comes up.

7
8 Vice-Chair Duvauchelle: Commissioner Carnicelli?
9

10 Mr. Carnicelli: So then Jesse, I thought I heard you say in your presentation that your
11 invocation of the shock clock rule wasn't to hurry the Department. So what was your intent?
12

13 Mr. Burgess: I think I said that it was not meant to abbreviate their review or there would be
14 less collaboration or discussion of the matter with the Department. It was intended to shorten
15 the timeline to the Federal guidelines.
16

17 Vice-Chair Duvauchelle: Commissioner Canto?
18

19 Ms. Canto: So I have a question regarding emergency services. When the sirens are
20 inoperable and they've known to be inoperable does it affect the service of the cell service or
21 not?
22

23 Mr. Burgess: I don't believe that it should although I honestly couldn't. I don't know maybe
24 Cory could speak to that more.
25

26 Mr. Schaefer: They were done.
27

28 Vice-Chair Duvauchelle: Please identify yourself?
29

30 Mr. Schaefer: This is Cory Schaefer, I'm a network performance engineer for Verizon. So it's
31 my understanding that Civil Defense has their own way to signal the sirens to turn them on and
32 they use the Verizon wireless network as a backup for that. So if the siren was malfunctioning
33 that would have nothing to do with our network. Our network is a backup way to connect to
34 those sirens is my understanding so to trigger the siren if there is a tsunami you have to tell the
35 siren to turn on and that's communicated to the siren wirelessly so one of the ways that that
36 wireless connection is made is through our cell site. But if the siren's broken it has nothing to
37 do with our cell site.
38

39 Ms. Canto: Okay, and secondly Chair, so your area of coverage in terms of you know, area
40 how large of a coverage is there? I know you went through a power point but it went really
41 quickly so...
42

43 Mr. Schaefer: So we did not calculate I guess the square miles of coverage for this site. We
44 could do that if that's something that you folks need to see. The maps though, generally
45 speaking on the map the bright...the colors aren't great on here but the red and orange are
46 gonna be very reliable coverage where it's gonna work even if you go inside a building. The

1 bright green should work well outside and sometimes inside, and when you get into the blue it's
2 iffy outside and not going to work inside. So it's, you know, it's a...it all depends on the
3 structures around you, the amount of trees around you, all those lines you see, you see where
4 you see like a dark blue line that's a valley where the signal can't get into the valley. So this is
5 done with a computer that you put in the antenna design and the amount of power and how high
6 it's gonna be and it simulates how the coverage will be because we know the terrain at every
7 spot based on the topography and the maps we have.

8
9 Ms. Canto: Okay, thank you.

10
11 Vice-Chair Duvauchelle: Commissioner Castro?

12
13 Mr. Castro: I have a question. How is the power to that tower? You said you have a generator
14 but there's...

15
16 Mr. Schaefer: We'll have commercial power and 99, you know hopefully 100 percent of the time
17 the commercial power will be operating and we'll have no use for the generator. The generator
18 has a routine run every two or three weeks to make sure it's still running 'cause you don't want
19 to test it the day the power goes out. So if it had a fault on one of those routine runs we'd get it
20 repaired so it was ready in the event that the commercial power did go out, but it will be on
21 commercial power.

22
23 Mr. Castro: And the generator is it run by diesel or gas?

24
25 Mr. Schaefer: I believe it's diesel. I'd have to check on that to be sure. It is, it is diesel, yes.

26
27 Mr. Castro: Diesel. How is it stored?

28
29 Mr. Schaefer: There's a storage tank with...integrated into the generator. We have a generator
30 contractor that would fill it up regularly based on the amount that's run and it has a gauges and
31 we can communicate with it and figure out stuff like that.

32
33 Mr. Castro: Thank you.

34
35 Vice-Chair Duvauchelle: Commissioner Hedani?

36
37 Mr. Hedani: Mr. Schaefer?

38
39 Mr. Schaefer: Yes sir.

40
41 Mr. Hedani: At what mile marker does the coverage extend to along Hana Highway?

42
43 Mr. Schaefer: That's another good question. I don't know the mile markers off the top of my
44 head but we can find that out for you and get you an answer. It will push coverage down Hana
45 Highway but as you can see nowhere near.

46

1 Mr. Hedani: So nothing in the white areas?
2

3 Mr. Schaefer: Nothing in the white area that is correct. Yeah, the map is gonna be pretty
4 accurate with regards to Hana Highway.
5

6 Mr. Hedani: I fish at Halehaku Bay and I seldom get coverage down there and kinda wondering
7 whether or not you could actually get it out?
8

9 Mr. Schaefer: Hana Highway as you know the terrain is extreme, to fix Hana Highway from a
10 wireless perspective would require hundreds and hundreds of nodes and a price tag in probably
11 in the 50, 100 million dollar range. So yeah, we'd love to do it and maybe the network of the
12 future will have coverage on Hana Highway. It is a very challenging area because of the terrain
13 and the inability. So if you have mountain...mountainous terrain like that if you can get away
14 from it and point back you can cover it pretty efficiently but if you have to be on the mountain
15 itself you need cell site every, you know couple hundred feet.
16

17 Mr. Hedani: Actually I'm quite comfortable with the towers themselves. I think I helped to install
18 one at Kapalua that had branches on it that mimicked the cook pines back in 1994 if I'm not
19 mistaken.
20

21 Mr. Schaefer: Oh wow, awesome.
22

23 Mr. Hedani: So I'm comfortable with that. We used to have a commissioner that was a rocket
24 scientist on this commission. His name was Warren Shibuya and he designed listening devices
25 that he planted on enemy trails in Viet Nam and he tested. Ran away for three days when they
26 discovered him. But he was always concerned about the location of the radiation coming out of
27 the systems in proximity to people.
28

29 Mr. Schaefer: Absolutely.
30

31 Mr. Hedani: I have no problems with this particular location because it's in the middle of a
32 pasture.
33

34 Mr. Schaefer: Absolutely.
35

36 Mr. Hedani: I get concerned when I see it mounted on a roof where occupied spaces could be
37 within 20 feet and I saw you had a 20-foot exclusion zone in one of your diagrams.
38

39 Mr. Schaefer: Right.
40

41 Mr. Hedani: Does that go only this way or does it go in a sphere?
42

43 Mr. Schaefer: That's a great question. We use directional antennas. Most of the time we use
44 six and eight-foot antennas. So on an eight-foot antenna at 700 megahertz which is our primary
45 frequency here the...we call the vertical beam width would be about eight degrees. That's
46 where the power is, you know, if the power going out is 60 watts about four degrees down and

1 four degrees up so eight degree beam width you'll have at those points the 60 watts of power
2 will be at 30 watts and as you move out and out the antenna power gets constricted so we send
3 the vast majority of the energy straight out because that's where the users are out in front of us.
4 You know the cell site goes for half mile or miles so we want to focus the coverage out that way.
5 Very little of the energy goes down so that's the primary reason why. So as a general rule of
6 thumb about every foot of space you go below the antenna is equivalent to about 10 feet of
7 space in front of it. So if you were five feet below an antenna it would be about equivalent to be
8 about 50 feet out in front of it just as a rule of thumb because of the way the antenna is
9 designed to focus the energy out and that's 'cause it's directional antennas.

10
11 Mr. Hedani: And how far away do I have to be so I don't grow additional arms or...

12
13 Mr. Schaefer: So there is...you can get sick so like I'm a telecom worker so I'm up on these
14 rooftops all the time and I wear an RF monitoring device. It would go off when I hit that 100
15 percent level where the FCC says this is not safe. Our network, all what modern wireless
16 networks are quite low power. We want to be as close to the users as possible so it works well
17 and the phones are so small, the batteries are so small that they're low power and you need to
18 communicate both ways. So you can't send a really strong signal out because this thing needs
19 to get the same signal back. So it can't be much more powerful than this essentially. So as a
20 rule of thumb a couple meters is safe but it all depends on the type of antenna, the amount of
21 power so those specifics, the exact antenna gain, the antenna pattern, the power into that
22 antenna all designed site by site and when we do a rooftop build we model the energy that will
23 come out of there and we make sure it's safe. Anywhere where we're above the FCC
24 requirements we physically have to put up barriers and then so we do that as a simulation
25 before and then afterwards we pay a third party to go back out and insure the barriers are in the
26 right spots. So we make sure that the simulation matches the real world. This stuff...you know
27 RF seems complicated to people but we've...you know electrical engineers have been dealing
28 with this stuff for over a hundred years. So it's complicated but it's not rocket science so we can
29 figure out where that area is very reliably and if there were ever a situation where it didn't...we
30 basically don't have situations where the build doesn't match the simulation. If we did, we'd
31 have to make adjustments to the power or take the site down, but luckily our prediction models
32 are quite good in that regard.

33
34 Mr. Hedani: Thank you.

35
36 Mr. Schaefer: Sure.

37
38 Mr. Hedani: I knew I could trust the hair.

39
40 Vice-Chair Duvauchelle: Commissioner Robinson?

41
42 Mr. Robinson: Hi could you restate your title again please?

43
44 Mr. Schaefer: Yes, I'm the principle system performance engineer for the State of Hawaii.

45
46 Mr. Robinson: Okay, I've got two questions for you. First question, what phone do you have?

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46

Mr. Schaefer: I'm required by my company to carry an iPhone. I like all phones.

Mr. Robinson: What number?

Mr. Schaefer: This one's a 7.

Mr. Robinson: Okay. You know, make...(inaudible)...own what he got, okay. My second question is about emergency service and we talked about if the power goes down we have a generator and how long the day tank is. Is the philosophy of the company that that our phones will die in a day so you guys carry about a day's worth of power or what's the thinking behind that?

Mr. Schaefer: Yeah, we actually try to be more robust than that. So we have four hours of onsite battery backup because when the electricity goes out the generator can't kick on fast enough to keep the DC power plant running so we have batteries there that will last us about four hours. That would also give us time in the rare event that our bi-weekly generator test didn't catch a generator problem, the generator didn't kick on, we get four hours to get out there. So we do have portable generators that we can cart out in the event that something like that happened. Once the commercial power goes out and the generator kicks on it should have enough fuel for a few days and we have priority fueling contracts with vendors on island who can basically in an event of an emergency we'll get fuel before a lot of other folks because we've paid in advance for those fueling contracts. So we have people that are designated to go around the island and refill the generators during those emergencies.

Mr. Robinson: So hopefully what happened with Katrina won't happen here if there's a power failure you guys will hopefully get to keep on keeping those antennas up and as long as we have a solar plug in we can still in communication?

Mr. Schaefer: Absolutely, yeah. The power it tends to not be the biggest problem when it comes to emergencies, you know, emergency situations. What we tend to have happen a little more often is the connection to the cell site can go down. So if a tree falls on a piece of fiber optic cable even though the cell site has power if it doesn't also have a connection back to our switch that can be a problem.

Mr. Robinson: Thank you so much.

Mr. Schaefer: Yeah, sure.

Mr. Robinson: Thank you Chair.

Vice-Chair Duvauchelle: Thank you. Commissioner Castro?

Mr. Castro: The generator, is there a transfer switch where you can adjust the time. You know even if it just flickered it, you know, come on and then it senses that it's either power is restored and then it will knock off?

1
2 Mr. Schaefer: That's exactly right. Yeah, it's on an automatic transfer switch and because that
3 transient voltage isn't fast enough to keep the equipment running that's why we have the
4 batteries.

5
6 Mr. Castro: Thank you.

7
8 Vice-Chair Duvauchelle: Any other questions? Commissioner Hedani?
9

10 Mr. Hedani: I guess you would be the best person to answer this question too? Why did you
11 folks choose to move the trees to the site rather than move the site into the trees that were in
12 the picture?
13

14 Mr. Burgess: This is Jesse Burgess. The trees were located I think on a different parcel and
15 we couldn't have it be closer to the trees without getting into the setbacks. The property line at
16 max.
17

18 Mr. Hedani: I see.

19
20 Vice-Chair Duvauchelle: All right, can we have the Department's recommendation please?
21

22 **b) Action**
23

24 Mr. Quigless: Ryan Quigless, Planner of Maui County Planning Department. The Department's
25 recommendation for approval is subject to seven standard conditions for a County Special Use
26 Permit and 17 project specific conditions with compliance prior to the start to any disturbance or
27 construction and I'd like to go over a few of those major project specific conditions with you at
28 this time if that's okay?
29

30 Vice-Chair Duvauchelle: Yes.
31

32 Mr. Quigless: We spoke earlier about mitigating the visual impact of the antenna and that's
33 gonna start with the camouflage of the pine tree, pine tree camouflage and Number 8 on the
34 project specific conditions is that a copy of a landscape and irrigation screening plan shall be
35 submitted with the preliminary compliance report and the purpose of the plan is to mitigate the
36 visual impact the 65-foot tower from the view plane of adjacent neighbors and from the view
37 plane as seen from Kaupakalua Road. As represented by the applicant said plans shall show a
38 minimum of seven field stock size Cook Island Pines in a grove planting staggered and
39 clustered of sufficient size and growth characteristics as to obscure the perimeter chain link
40 fence and the 65-foot tower from view within three years of being planted with temporary
41 irrigation until the trees are established which will be 90 days after being installed. The
42 Department shall inspect the irrigation and landscape planting 90 days after being installed.
43 Landscape plants shall be maintained in a healthy and thriving condition for the life of the
44 project.
45

1 Upon termination of the tower the use of the subject property will be returned to original
2 condition including the removing of the tower and all associated equipment. As represented by
3 the applicant the property owner can decide whether or not the trees and other landscaping will
4 remain on site. If the property owner decides that the trees are to remain then the property
5 owner will assume full responsibility of the trees. And if the property owner decides to have the
6 trees removed, the applicant will remove the trees by standard level cut and stump grinding
7 procedures with backfill.

8
9 And Number 14 of the project specific conditions states that the Department of Land and
10 Natural Resources State Historic Preservation Division shall be notified via facsimile upon the
11 onset and completion of the proposed undertaking.

12
13 Number 15 states that in the event historic resources including human skeletal remains,
14 structural remains, cultural deposits or lava tubes are identified during construction activities all
15 work shall cease in the immediate vicinity of the find. The find shall be protected from additional
16 disturbances and the DLNR, State Historic Preservation Division, Maui Section shall be
17 contacted immediately. Work shall not continue until cleared by the DLNR, State Historic
18 Preservation Division.

19
20 The applicant shall meet the recommendations on the best practice guide as it relates to
21 reducing interference with the Maui County Public Safety Radio System as recommended by
22 the Federal Communications Commission.

23
24 And finally Number 24 of the project specific conditions is that as represented by the applicant
25 the resident of the dwelling located on the property shall be provided written notice of monthly
26 maintenance inspections or any work on the tower associated equipment at least two weeks
27 prior to the visit.

28
29 So further the County Special Use Permit conditions will be enforced pursuant to the provisions
30 of Chapter 19.530 of the Maui County Code as amended in 1980 and the Rules for
31 Administrative Procedures and Civil Fines for violations for Title 12, 14, 16, 19 and 20 of the
32 Maui County Code. Are there any further questions for the Department at this time?

33
34 Vice-Chair Duvauchelle: Commissioner Robinson?

35
36 Mr. Robinson: On the last one you read they have to give two weeks' notice to repair the
37 tower?

38
39 Mr. Quigless: To do the...there's scheduled monthly visits to upkeep the generator and so
40 we're recommending that they give the lessee or the owner whoever's staying in the property
41 written notice two weeks prior to that visit so they don't just show up onsite.

42
43 Mr. Robinson: I guess my question is if there's a problem with tower being down and people
44 not having service they're gonna have to wait two weeks for it to be repaired. It doesn't seem
45 like a good idea to me.

46

1 Mr. Quigless: I imagine in an emergency situation things might change to accommodate. This
2 is just to establish a protocol.

3
4 Mr. Robinson: Director would that be under a SMA minor that they would come to you for?
5

6 Mr. Spence: This isn't in the Special Management Area so that wouldn't apply. I would hope in
7 an emergency situation if you want to change this condition you can so that's clear, but in an
8 emergency situation I would think they would have immediate access. And I would bet under
9 the terms of the lease with the landowner it spells out those kinds of access issues? Please put
10 it on the record.

11
12 Mr. Burgess: The terms of access are explicitly addressed in the lease both for emergency and
13 for routine maintenance site visits.

14
15 Mr. Spence: Are there...do you have to notify the applicant or the owner when you come onto
16 the property?

17
18 Mr. Burgess: I believe there are notifications for certain kinds of visits and not for others. I'm
19 unfamiliar with this lease in particular but typically for emergency there's no notice. But for like if
20 they were going to do any modifications something where they'd be there for more than an hour
21 then they would give notice... (inaudible)...

22
23 Mr. Spence: Commissioners you can decide whether this condition is necessary or not. This is
24 our recommendation to you.

25
26 Mr. Robinson: Seems the applicant is okay with the condition.

27
28 Vice-Chair Duvauchelle: Commissioner Carnicelli?

29
30 Mr. Carnicelli: So I think just for clarity sake I mean coming from a standpoint of knowing what
31 leases are and we get another condition and they're in conflict, I think what I'll do is I'll make a
32 recommendation...or I'll say I'll make a motion to approve the Department's recommendation
33 but amending Condition 24 to where instead of it saying at least two weeks prior having it just
34 say as per the lease agreement.

35
36 Mr. Robinson: Second.

37
38 Vice-Chair Duvauchelle: Any discussion?

39
40 Mr. Spence: I assume that is a motion.

41
42 Mr. Carnicelli: I did say a motion. I make a motion to approve as recommended but with the
43 change of at least two weeks prior say as per the lease.

44
45 Vice-Chair Duvauchelle: So we have a motion to approve with the amended language as for

1 Item No. 24 as per the lease arrangements by Commissioner Carnicelli, seconded by
2 Commissioner Robinson. Any discussion? Okay, Director can you repeat the motion?

3
4 Mr. Spence: Motion is to approve as recommended by Staff except that No. 24, Condition No.
5 24 instead of two weeks prior, notification would be given in accordance with the terms of the
6 lease with the landowner.

7
8 Vice-Chair Duvauchelle: All those in favor? That's seven ayes. Motion passes. Thank you.

9
10 **It was moved by Mr. Carnicelli, seconded by Mr. Robinson, then**

11
12 **VOTED: To Approve the County Special Use Permit as Recommended by the**
13 **Department.**
14 **(Assenting – L. Carnicelli, K. Robinson, L. Hudson, P. Canto**
15 **S. Castro, W. Hedani, R. Higashi)**
16 **(Excused – M. Tsai)**

17
18 Vice-Chair Duvauchelle: Planning Commission is going to break for lunch at ten till 12:00, we'll
19 return here at 1 o'clock.

20
21 A recess was called at approximately 12:50 a.m., and the meeting was reconvened at 1:07 p.m.

22
23 Vice-Chair Duvauchelle: Maui County Planning Commission is now back in session. Director
24 would you like to read our next agenda item?

25
26 Mr. Spence: Commissioners we're on Item D-1. This is Mr. John Dunbar requesting a Land
27 Use Commission Special Use Permit for a Bed and Breakfast Home Permit in order to operate
28 the Maui Adventure Villa, a five-bedroom B&B in two dwelling in the State Ag District in Haiku
29 and...where did Kurt go? Oh there he is, and Kurt is the Staff Planner for this afternoon.

30
31 **D. UNFINISHED BUSINESS**

- 32
33 **1. MR. JOHN DUNBAR requesting a Land Use Commission Special Permit**
34 **and a Bed and Breakfast Home Permit in order to operate the Maui**
35 **Adventure Villa, a five (5)-bedroom bed and breakfast in two (2) dwellings**
36 **in the State Agricultural District at 192 Kaokoa Way at TMK: 2-8-002: 034,**
37 **Haiku, Island of Maui. (SUP2 2016/0008) (BBPH T2016/0004) (C. Yoshida/K.**
38 **Wollenhaupt) (Public hearing was conducted at the November 7, 2016**
39 **meeting. The matter was deferred as the Commission was unable to take**
40 **an action. The matter was considered at the Commission's November 22,**
41 **2016 meeting and the matter was deferred to the February 28 meeting as**
42 **the Commission was unable to take action at the November 22 meeting.)**

43 **Maui Planning Commission review is triggered by the fact that there is a**
44 **permitted bed and breakfast home operation located within 500 ft. of the**
45 **subject property.**

1
2 **The Commission may take action on the requests.**
3

4 Mr. Kurt Wollenhaupt: Good afternoon, Members of the Maui Planning Commission and the
5 members of the audience today. We have Clayton Yoshida, he's our Planning Program
6 Administrator here today also as this project commenced in November of last year and I happen
7 to be in Tokyo and consequently had no idea that we would be hearing it now in February.
8 However, Clayton is here to answer questions as well as I am. I'm going to provide a brief
9 overview of why we're here again today and the applicant, John Dunbar of the Maui Adventure
10 Villa will be doing a presentation so that everyone will be up to date and then they'll be public
11 testimony and we'll be discussing this project.
12

13 Just some points of matter. The first public hearing on this project was held on
14 November 7, 2016. That date starts a clock running of a 120 days. So we are at the limit today
15 folks. So today we really...if a decision cannot be made today as it has been deferred twice on
16 the 7th of November and the 22nd of November should this decision today be deferred due lack
17 of an ability to get an affirmative or negative vote of five people then a 120 days will expire and
18 the permit will be deemed approved.
19

20 So that being the case the project that we have before us today is a request from John Dunbar
21 for a Bed and Breakfast Home Permit and State Land Use Commission Special Use Permit. So
22 we have two kinds of permits we're going to be talking about today. The first is the B&B and the
23 trigger for the public hearing for the B&B is that there is one B&B within 500 feet so this is
24 different from the Short-Term Rental in which there could be two within 500 feet. The B&B law
25 still has after...if there's more than one within 500 feet then the Planning Commission will hear
26 this item. So that's the trigger for the B&B hearing.
27

28 The second is is that we're in Ag and you're very familiar that with any bed and breakfast or
29 short-term rental home in Ag requires a State Land Use Commission Special Use Permit. Just
30 to note, the applicant does have an approved farm plan, Farm Plan 2016/0027. It was
31 approved and Mr. Yoshida, myself and a representative from ZAED did go out to the property
32 on October 17, 2016 to look over the property, try to get a sense of what was going on there.
33

34 The applicant is requesting approval of a five-bedroom B&B. Mr. Dunbar has agreed to rent his
35 B&B guestrooms however no more than four at any one time, of course because he has to be
36 on property during the time that it is operating.
37

38 As of course I mentioned, State Land Use District is Ag. It is outside any growth boundaries of
39 the Maui Island Plan. It's in the Paia-Haiku Community Plan noted as Agricultural and the
40 Zoning is Agricultural. The surrounding neighborhood is single-family homes on rather large
41 two-acre lots in general. There currently are 38 permitted B&B homes in the Paia region out of
42 a total cap possible of 88. The immediate area around this applicant does not have any
43 approved short-term rental homes, however, but there is one bed and breakfast operation
44 adjacent to.
45

1 The criteria for review of the bed and breakfast are outlined in the staff report from Page 8 to
2 Page 12. It's important that we look at for these B&Bs the number and distance of the subject
3 parcels to other permitted B&B homes. The number and substance of protests for the B&B
4 home application balanced with the letters of support. There have been letters that have been
5 written by a number of neighbors expressing their concern. I believe there's...some of these
6 ladies and gentlemen are in the audience today. Existing or past complaints about rental
7 operations on the property, adherence with government requirements, and so we look at this in
8 the totality of the situation and that will be your mission today to ask Staff and the applicant how
9 they can successfully operate such an operation.

10
11 Second off, the State Land Use Commission Special Permit as you amply know has the five
12 criteria that looking at the ag operations. I can answer any other questions you have.
13 However, the applicant does have a presentation that he would like to give for the members.

14
15 Mr. John Dunbar: Good afternoon Director, Chair and Members of this Commission and to the
16 two Staff Planners that have dealt with me on this matter. Thank you very much for your
17 patience for the last two hearings and your time spent here on this. And for the sake of
18 Mr. Castro who was not at the last hearings I'd like to go over this and also to reiterate my
19 position with regard to the application and hopefully emphasize my status as a person
20 competent to run the B&B.

21
22 I would like to say briefly really quickly I believe it was last hearing or prior to that the first
23 hearing there was an issue brought up and I certainly wanted to ensure that Mr. Hudson
24 understands that I at no time wanted to give him the sense that I do not respect police officers
25 or that I have a problem with that. I'm very supportive. They've been essential to the
26 community and I have actually supported officers with off-duty opportunities and as Mr. Hedani
27 had made some criticism but in the proper venue at the Police Commission meeting I believe
28 with Mr. Hedani was there also so I just wanted to clear the air on that and ensure that you
29 understand that I wasn't attacking the Police Department in anyway so...

30
31 Anyway I'll go on with my presentation here. I might start with giving you an idea on the context
32 of this villa with respect to the name, Maui Adventure Villa. It's an opportunity for people to
33 experience not just pleasant accommodations in Upcountry in a residential ag area but the
34 opportunity to participate in some of the activities that are available on the island and doing
35 referrals to those to give these local operators business and at the same time actually extend
36 their stay which they wouldn't necessarily financially be able to do that at a hotel. So home
37 sharing I think worldwide has become a very acceptable and promising means of giving people
38 from all walks of life and neighborhoods and cultures an opportunity to share in our experiences
39 here on Maui and have people there like myself that have toured the island and know what to
40 recommend for.

41
42 And Mr. Higashi's statements coming on I wanted to emphasize that again because Mr. Higashi
43 really seemed to hit the point in the last two presentations with his support of the B&B and I
44 appreciate the other members and their comments to get to a point where we can have an
45 understanding of where I am and where you might be with this and if you have any questions of
46 course at any time during this please let me know. But I think the important things, the catchall,

1 and the safety valve, so if there are some issues with regard to neighbors and there are I know
2 that, and believe me please I'm trying to accommodate the neighbors the best as possible and
3 in fact, I must add the caveat that with the B&B operation the property will improve in
4 appearance. I've had a lot of responsibilities there not just my own with the property but taking
5 care of people and I have long-term there and I will continue to have long-term and that would
6 support the idea that you can have both B&B and long-term in the same and have the
7 interaction between them.

8
9 But in terms of accommodating the concerns of the individuals one was brought was cars
10 parked in the neighborhood and across the street from one of the neighbors who has been my
11 neighbor for over 20 years and that will actually disappear because you'll see in the plan that
12 the parking is basically out of sight of that property. So all the cars that are in front of that
13 property would certainly be moved.

14
15 There's another issue was brought up is a boat that's on the property. It doesn't belong to me.
16 It belongs to a gentleman and you'll see in one of the submissions from the neighbor that there
17 was some remark that he has cancer. Please I want to correct that. I never said that. I don't
18 believe he does. Hopefully he doesn't. He's an elderly gentleman. I took his boat in a couple
19 years ago with the understanding that he would remove it or sell it. The sale is pending on it so
20 that is one of the issues that was brought up and it may be a sight to people but I'd even
21 proposed at one point using that as a reference, but the neighbors are here and I told them
22 what the situation is and I think that can be resolved at some point. Let's hope I hit the right
23 button let's see...

24
25 This is just one other piece of information I'd like to pass onto the Commission. I'm sure you
26 have a lot to deal with, but this was raised by the Department and it's something that hopefully
27 will be considered in my case and with consideration to the fact that there was...it's not working,
28 okay. Oh great, makes it much easier.

29
30 Mr. Wollenhaupt: You need to speak into the microphone.

31
32 Mr. Dunbar: All right now can I be heard? Great. Okay, okay this is one of the letters that
33 came in prior to the last hearing November 22nd. This is my next door neighbor, Mr. Akanaka,
34 he's supportive of this. He's seen a lot come and go in the neighborhood. I believe he was one
35 of the first property owners and has...I believe he had eight children there and many
36 grandchildren are living there also. So there are a lot of young people in the neighborhood and
37 I've known the Akanaka Family for the full time I've been there approximately 28 years. And so
38 he is supportive of it as is my next door neighbor Mr. Nelson.

39
40 And I inserted these last time because there was some remark made about my being
41 dishonorably discharged. I can assure that the records make it clear that I was honorably
42 discharged. And there was some other issues brought up. And again, I'm sensitive to the
43 neighbors, it's important. I don't know want to live in a neighborhood where people are, I'm sure
44 nobody does that people feel resentment toward them. And I think I've demonstrated that the
45 majority with the exception of a few people that have some matters of concern that I think, I
46 hope I've addressed but we'll see. Okay, now I'm...okay wrong way.

1
2 Okay, again, emphasizing this importance of the B&B rentals. The price sensitive visitors, those
3 are people, sometimes the B&B applicants received that cannot afford to stay at a hotel so they
4 go out in the community and they're here for a longer period of time. There's more spending
5 and there's more interaction with the community and I think it's a wonderful opportunity for Maui
6 to have people that are culturally immersed with them for longer periods of time. And again, this
7 also emphasizes what I'm talking about, the commitment, the professionalism, the managerial
8 skills, and flexibility which I believe I have with regard to this operation.
9

10 We have had on the farm continuous activities. I have a banana farm. It was visited by the Maui
11 Planners. And produce dehydrated bananas and those are sent out primarily to friends on the
12 mainland but I've been doing this for many, many years and we do the fresh, frozen, dehydrated
13 and eventually we'd like to have permission from the Health Department to provide smoothies
14 for the guests using the bananas from the farm. We also feel that this is an opportunity for
15 people to learn about ag in Maui and Hawaii and what's grown here. You heard Crystal's
16 testimony this morning. I have to say I know her personally and her brother, they're definitely
17 dedicated farmers and her enthusiasm is fantastic.
18

19 And this is where I'd like to interject that beyond my participation and farmer markets and selling
20 my produce there, I spent many hours at the farmers market selling bananas and dehydrated
21 bananas. And the concern is for most people that go up there, you get up at 4 or 5 in the
22 morning and go up there and spend many hours for a couple hundred dollars. Sometimes it's
23 not worth their time. It's one day, actually one morning out of the week that they're able to bring
24 this up with such great enthusiasm and love for their products and really dedicate...some of
25 them are worn out. I've seen them. They've been doing this for so many years that I took the
26 initiative a couple years ago to speak with some property owners concerning use of their land,
27 even a lease if they could be obtained to open a farmers market of 10 acres or more. And I had
28 some success with one property owner and I can even give you his name Paul Boschetti who
29 owns 150 acres on that side and spoke with him about utilizing the land at least 10 acres of it for
30 a farmers market. It would provide parking for all the people going to it. As we know it's a
31 wonderful market Upcountry but it's on four acres. It's in a parking lot. My concept would
32 include the opportunity for people to participate and ...(inaudible)... a commercial kitchen where
33 they could have their goods for five days a week or even seven days a week and this is
34 something that should really be looked at in the future.
35

36 Vice-Chair Duvauchelle: Mr. Dunbar, you're gonna have an opportunity later to answer
37 questions and testify, if we could move on with the...
38

39 Mr. Dunbar: We'll move onto this.
40

41 Vice-Chair Duvauchelle: Thank you.
42

43 Mr. Dunbar: Okay, these are...this is the growth on the property. The coconuts, avocados,
44 guavas, lilikoi, you can see all of that. And here's the banana patch 500 plus. It takes a lot of
45 maintenance, I'm telling you with that and then harvesting them, cleaning them and dehydrating
46 or freezing them. This is one of the permit exempt structures on the property that's been used

1 for banana processing. It doesn't have electricity or water yet, but we hope to go through that
2 legal process to get it so that it can be done with bananas as many people know here and
3 coconuts rats can accumulate. They nest up in the banana plants. So anything that can be
4 done to help alleviate that we're trying to do, even putting nets around the bananas as they're
5 ripening or the birds will take them. This is another section of the property which we use in
6 preparing the bananas for dehydration. They're used on racks. Many of you may do this at
7 home anyway and see it.

8
9 The bamboo grove, I like to...I've looked at and I wouldn't say studied it but I looked at bamboo,
10 it's a wonderful crop in Hawaii that could be used for building and it's actually proven that with
11 sustainable buildings that are now using bamboo and in some country, Viet Nam but we have
12 bamboo here now that works for that. And I've shown people how to use the bamboo for
13 lean-tos and survival and that sort of thing, but it's also used in medicinal, not just structural but
14 aircraft engineering too, there's been research done on it. This is just an example, it's not on
15 my property by the way, it's just an example of how it can be used.

16
17 Avocado trees we now have about four. At least several different varieties and it's amazing to
18 see the difference of them and how they grow over time. Had one gentleman has told us that's
19 the crop for Maui. Grow as many avocado plants as you can.

20
21 And the coconut trees. You met the young lady and her mother are still on the property and
22 they're doing quite well I might add with the healing process and they use the coconuts for their
23 sustenance and a lot of what's grown. This it's grown dramatically. This garden is now about
24 three times the size and the mom is using for her preparations daily and it's really impressive
25 the healing that's going on. So this is the garden and you see quite full of the vegetables from
26 the garden.

27
28 And again, back to the landowners in this neighborhood. There are few new owners but
29 generally people have been there for quite some time and there's limited agricultural use. It's
30 more, in some regard it's residential and people are attending to their families and really for
31 some people two acres it's not a lot to do a big farming operations but some of them do use it
32 for that. This is the field which I've referred to as designated as the parking area for the B&B
33 proposal is where that marker is. And so that's really off the road and it's out of sight for most of
34 the...this is a view from one of the B&B units proposed and across the street. We rarely use
35 that driveway. It was built too steep. But there is parking beyond those cylinders and that's
36 would all change with the B&B operation. This is when it's up in shape and as was mentioned
37 during the prior presentation the rain has been horrendous so getting a tractor out and mowing
38 has been very, very tough. So these are some views of the property from different angles. And
39 my cat 17 years and there's one of the proposed B&B units, the entry to it.

40
41 So as you can see another thing about this particular unit is it's quite secluded and people like
42 to be able to feel at home away from home and well you can't find that in a hotel environment.
43 It's something you can get with the B&B. And the privacy goes throughout. And this is really
44 not visible to any of the neighbors other than the roof and this is inside, this is a pole house that
45 I built with a friend. These are some of the views from it. The roof by the way is gone. I
46 personally got up there and ripped it off with two friends and now it has the ...(inaudible)... the

1 best quality paper, I think you probably know is the peel and stick which can last a while and I
2 have the roof on order and it's gonna look beautiful and be painted. It's gonna be great again.
3 You've heard that before. So anyway it's all gonna be repainted and the new roof on it. And
4 you know, with the kind of income people have things have to be done piecemeal from one step
5 to another. This is an older structure. This is the cottage. I also built this and put the floor in
6 and some stuff has to be sanded again, but it's a lot of upkeep. People like old structures as
7 long as they're kept clean and in good order, and in fact I've a neighbor stay in there for
8 different reasons but they'd stayed overnight and there's the bathroom. This is another room
9 inside the house where there are one, two, three rooms, and then outside attached room that's
10 the forth. And this was done by a professional carpenter that stayed on the land for a while and
11 he's got great skills. So we hope to do all the rooms so they've very attractive and redoing the
12 deck.

13
14 I'm gonna flip through these a little faster. So these are some of the people. These are my
15 personal friends that have come. They're both now headed for ...(inaudible)...they're Navy
16 veterans and they loved it. They both went cycling to Haleakala. They want to come back and
17 stay there and their two kids are now seven years old, but the other part of it they're veteran
18 friends of mine and I've indicated that I would like to have some veterans come over there. And
19 I recently had someone say they would support that idea veterans coming or a vacation and
20 even kids, some of the kids from the deceased fathers that were participating. And I have fun
21 taking people out on adventures even to other islands and the napali coast and rafting and
22 kayaking so it's something I like to participate in.

23
24 As again I brought up before it does some indication and I totally acknowledge that it was done
25 without a permit but these are some of the reviews that have come forward from those times
26 that I was and it's been well over a year now, so I just wanted to bring this up and show that
27 things can upgrade and I urge the committee to look at this fact that there is a condition there
28 that...which started even before here to go through the repermitting process again.

29
30 These are some of the views from the road, it's approaching the property. This is Aliikoa and
31 there's one of the neighbors, I believe they're here today. Phil with the wall and here's the boat
32 that has been an issue. It's been moved back further. And my hopes were to either paint it but
33 now with the pending sale you know, Mama's Fish House has a couple of those so they don't
34 look so bad when they're dressed up. And this is again the front property where the parking has
35 been much easier for the long-term tenants and I have those names if you'd like to have those
36 people long-term. I know there was an issue. Some of them look like rental cars. People come
37 and visit and they stay for the day or overnight to visit Thahn and I don't see any problem with
38 that. So this is what was on the road across from the property so it made some hazardous,
39 hazardous walking at night. Okay, I think we're about clear here.

40
41 This is Kaokoa, now this particular street across from Ms. Del Dago's property will not be used,
42 would not be used by the proposed B&B guests. So they wouldn't even come onto that road. It
43 would be strictly down Aliikoa and into the field where the designated parking is. Okay, so
44 that's it. If anybody has any questions?

45

1 Vice-Chair Duvauchelle: Thank you. At this point, we would like to go ahead and have public
2 testimony. We'll ask questions after.

3
4 Mr. Dunbar: Sure, okay.

5
6 Vice-Chair Duvauchelle: Unless the Department is done with their portion? Okay, all right so...

7
8 Mr. Michael Loncaric: Aloha, Michael Loncaric.

9
10 Vice-Chair Duvauchelle: Okay.

11
12 Mr. Loncaric: 211 Kaokoia Way, directly across the street from Dunbar. This morning he said
13 the property and building has been inspected as stated by the gentleman previously and are all
14 the requirements being met concerning the agriculture property of taxes, statements turned in
15 as it says in the rules on the Maui County website. Have those been you know documented? I
16 just wondered.

17
18 There's seven adjacent property owners have submitted letters as well as the Maui Police
19 Department objecting to Dunbar at 190 Kaokoia Way. For him to be given a permit to legally
20 operate a bed and breakfast. It would be opening the door to further disruption of the
21 neighborhood peace and quiet and safety of keiki, kupuna—

22
23 Vice-Chair Duvauchelle: Sir, could you speak into the microphone. We're having a hard time
24 hearing you.

25
26 Mr. Loncaric: It would be opening the door to further disruption of the neighborhood peace, and
27 quiet and safety of the keiki, kupuna and animals. The Planning Commission needs to see the
28 possible legal ramifications of this particular person for it to be legally operating his bed and
29 breakfast. This disturbances have accelerated since the last hearing as our mailbox has been
30 vandalized, our ohana burglarized on Christmas Eve and just three days ago one of your laying
31 hens was killed by a dog owned by one of the construction workers that's remodeling the
32 existing B&B at 212 Kaokoia Way resulting in a citation to him by the responding Animal Control
33 Officer. There would be more transient activity will continue to increase and terrorizing of the
34 neighborhood people and livestock residing here. Denial of the permit is prayed for. Thank you
35 for your time being commission members.

36
37 Vice-Chair Duvauchelle: Thank you. One moment. Commissioner Canto?

38
39 Ms. Canto: Sir, I have a question for you. At the very beginning of your testimony you either
40 made a comment or I wasn't sure what you were saying?

41
42 Mr. Loncaric: It was a question. I asked if...I heard that the property had been inspected. I
43 was just wondering if that was verified by the Commission that the property had been inspected.

44
45 Ms. Canto: Okay, right after that you had another comment...was it a comment or a question
46 regarding taxes?

1
2 Mr. Loncaric: Yeah, I questioned if all of the legal requirements that are on the Maui County
3 website pertaining to a bed and breakfast on Agricultural property are being met and had been
4 established regarding his tax statements, income, as it does say on the website.

5
6 Vice-Chair Duvauchelle: Commissioner Canto?

7
8 Ms. Canto: I'm not sure.

9
10 Mr. Spence: That would probably be a question for Kurt or Clayton. Whatever you inspected
11 and assured that he has TAT, GET...

12
13 Mr. Carnicelli: Point of order? Is that questions...right now were just asking questions just to
14 the testifier?

15
16 Mr. Spence: Okay, then we should return to it.

17
18 Mr. Carnicelli: 'Cause I do have a question for him. You said that your house was burglarized
19 on Christmas Day?

20
21 Mr. Loncaric: The ohana Christmas Eve.

22
23 Mr. Carnicelli: Was that from somebody from Mr. Dunbar's property?

24
25 Mr. Loncaric: It's questionable.

26
27 Mr. Carnicelli: Okay, so you don't know. Okay, thank you.

28
29 Vice-Chair Duvauchelle: Anyone else wishing to testify?

30
31 Ms. Jacqueline Zambrano: Hello, aloha and my name is Jacqueline Zambrano and I live across
32 the street from Mr. Dunbar's property. Like many people I have a letter and I'm sure you've
33 read all the letters. I have never met Mr. Dunbar before. In fact, I didn't know what he looked
34 like until today. So I also think that...know in past communities what happens when someone is
35 interested in doing something like this of a magnitude as they have sometimes a conversation
36 with neighbors first, but I don't know this neighbor. Although he is closest to me or I'm closest
37 to him in proximity.

38
39 You know the thing about Aliikoa is it's a really small street. I don't know how many houses it
40 has maybe 18, maybe 20 and has speed bumps, but what to me is so beautiful about Aliikoa is
41 that when school lets out there are very little kids walking down the middle of the street and on
42 the side 'cause there no sidewalks like little ducks. You know, everybody in the community
43 knows what time the kids get out. Everybody who lives there knows who has a deaf cat. You
44 know everybody knows you know who rides their horses up and down the street to exercise
45 them. And my concern is just the idea of a five-bedroom B&B on a street of 18 houses that is
46 potentially two people in each bedroom and that's ten, possibly ten people and that's five cars of

1 not long-term renters, but people that won't know this neighborhood and also when you come
2 into Aliikoa it's a limited, almost blind sight so you come around and then there it is. And I
3 remember when I first bought my property about 14 years ago I had to really understand what it
4 meant to live on this street because it's a very quiet cul de sac street with two shorter cul de sac
5 streets. So you know, you have to really take care. So my concern you know, is really about
6 the community and that this particular size and magnitude and the position of it is more than the
7 community can bear.

8
9 You know also I was surprised to hear just now in testimony that there are also long-term,
10 possibly long-term tenants in addition to the vacation rental so I'm not quite sure. I think my
11 letter speaks for itself in terms of my concerns. It is hard to believe that this property has been
12 inspected. There has been an abandoned boat on the front for a long time and various other
13 things. But I think that, you know obviously this isn't a farm, we've seen farmers today. I don't
14 have a philosophical issue with rentals, long-term rentals, vacation rentals, I simply ask you to
15 consider that these things are not secluded and can be...the main structures can be seen from
16 the street. I am the closest physical proximity neighbor and in the past there had been a lot of
17 issues with the tenants and I would certainly not want to revisit that again.

18
19 But again, my biggest concern is for the community and so I ask you to consider it in terms of
20 how small this community, how large this B&B would be in the context of this community and
21 that the responsibility for our community...also the last thing is you know I'm not political, I don't
22 know anything about politics and I didn't realize when I had originally talked to the planner I said
23 'cause I was not here, you know I just got here, and said, okay so the first time the hearing
24 didn't have a consensus and the second time it didn't have a consensus so does this just go on
25 and on you know forever? And he said no, if there isn't a consensus on the third time it just
26 happens. You know, that seems counterintuitive to me. If there isn't a consensus that means
27 there's a problem. But if this is the way it is and this is where we're at, I ask you to please
28 consider that the fate of our community is in your hands and thank you very much.

29
30 Vice-Chair Duvauchelle: Any questions? Commissioner Hudson?

31
32 Mr. Hudson: You purchased the property 14 years ago. How long have you actually lived on
33 the property?

34
35 Ms. Zambrano: I have lived on the property on and off. I lived on the property when I bought it
36 for about a year and then I come back every year for a month to two months to do work on the
37 property and I just retired and moved here a month ago. But I have been on my property every
38 year.

39
40 Mr. Hudson: Thank you.

41
42 Ms. Zambrano: You're welcome.

43
44 Vice-Chair Duvauchelle: Any other questions? Thank you. Any other testifiers?

45

1 Ms. Monserrate Del Dago: Aloha and good afternoon Maui Council Chairman and Council
2 Members. I appreciate your time and energy. My name is Monserrate Del Dago. With all due
3 respect I'm baffled and confused that Mr. Dunbar is still being considered for a permit to operate
4 a five-bedroom B&B on land zoned for agriculture, country. Country what does that word signify
5 to you? To me it evokes peace, quiet and tranquility something I haven't been privy to for
6 20 years. Are we to be denied our inalienable right of the pursuit of happiness and peace? I
7 would like to eliminate any further subterfuge on this matter. Mr. Dunbar is not a farmer. He
8 does not have a farm promoting health and education as he professes. He has only three palm
9 trees. I, myself, have over 50. My coconuts are sold to Kombucha, Haiku Kombucha and Mana
10 Foods not by me, but by a gentleman I encourage to make money. He cuts them and he sells
11 them and he keeps them. He cannot even manage the time to mow his lawn. His property is
12 very unkept.

13
14 The purpose for operating a B&B is pure greed for Mr. Dunbar. The noise, traffic and
15 congestion of a five-bedroom B&B next to a three-bedroom B&B will change the dynamics of
16 the neighborhood and the future of my small goat farm. Both of these properties are directly
17 across from my property. My whole property from one end to the other is across the street from
18 two vacation rentals or B&Bs. Both Mr. Dunbar...I already experience noise living directly
19 across the street from him as recently as two weeks ago. I'm awakened at night with arrivals,
20 trunks being closed and opened and shut, loud talking and laughing, people generally having a
21 good time as tourists do when they arrive in paradise.

22
23 I submitted current photos of John Dunbar's property that I took just a couple of weeks ago.
24 These photos are just a glimpse of the unmaintained and rundown property that neighbors are
25 forced to look at every day. Not only is it detrimental to property values, it also harbors
26 unwanted pests and disease carrying rats a place to reproduce. His banana patch is small. I
27 gave him the bananas as I had an account ...(inaudible)...banana patch farm 25 years ago. I
28 also gave him the three coconut palms 'cause he had no landscaping.

29
30 The abandoned, deteriorating boat has been parked on the street for over eight years. It has
31 been tagged by Maui Police Department months ago and has not been removed. When it
32 wasn't removed by the County who came by on three different occasions Mr. Dunbar celebrated
33 by putting flags all around the boat as in the flags that are put on used car lots and proceeded to
34 give me the finger. Mr. Dunbar says he's sensitive to his neighbors but he always gives me the
35 finger and uses unbecoming language towards me as he has since I've lived there.

36
37 Why is this even being considered? The majority of property owners and tenants in our
38 community are outraged that this B&B is even considered in lieu of the fact that Maui Police
39 Department opposes the issue of a permit. I humbly ask the commission to consider his
40 neighbors and the future of our community and my goat farm, many of the kids come over to pet
41 the goats and they also come over to see the chickens. I've spoken with many mothers and I've
42 asked them to write a letter. These are tenants. They don't want to get involved. They don't
43 want to stir up trouble, but they're not in favor of a B&B. That's all I have to say. Thank you for
44 your time and energy. I hope you all had a good holiday and a Merry Christmas and a Happy
45 New Year.

1
2 Vice-Chair Duvauchelle: Thank you.

3
4 Ms. Del Dago: Aloha.

5
6 Vice-Chair Duvauchelle: Any other testifiers at this time? Anybody else wishing? Please come
7 forward?

8
9 Mr. Christopher Carroll: Yes, hi Members of Commission, Commissioners, I am Christopher
10 Carroll, I testified the last time on Mr. Dunbar's behalf regarding my association with him and my
11 experiences on this property as a visitor. I have not been a tenant or guest of Mr. Dunbar
12 except overnight on several occasions.

13
14 I found the question to the comments of the neighbors to be somewhat curious because the
15 foliage in this property and the size of this property does not seem to impinge on neighbor's
16 zones of privacy or earshot zone. I'm not there all the time. My interest and my association
17 with Mr. Dunbar is we're both interested in fitness and health and we formed an association on
18 that basis.

19
20 I have seen the guests on the property and have spent time in both of his structures and find
21 them to be continually under improvement and repair. Plus in the years that I have known
22 Mr. Dunbar and observed his property it has been under continuous improvement in many ways
23 both on the exterior and the interior of the buildings. I've met with the guests and talked to them
24 and they are happy to be in an area that is in the country and surrounded by plants grow both
25 the commercial side of growing and this neighborhood seems to be expansive enough that I
26 cannot imagine a four-bedroom B&B having much of an impact on this because there's this
27 parking lot that he uses you could get lost in and hard to know where the boundaries of the
28 property are or to even see the buildings that are on the property together. From one building
29 it's hard to see the other one. So the physical layout of Mr. Dunbar's property seems to militate
30 against any suggestions of noise or confusion with neighbors.

31
32 And as far as my discussions with the people who live there, they seem to be mature people of
33 education and of good standing in life who come interested not to party or to make noise but to
34 really enjoy the beauty of Maui's rural atmosphere and the time that they spend there most
35 guests are gone and enjoy touring the island and come back to the bed and breakfast for the
36 evening and for their sleeping accommodations.

37
38 As far as complaints from neighbors, I have...the only complaint I have received from a
39 neighbor was from this lady here about my testimony here last time where she came into the
40 parking lot and told me that for an old man I should not have lied about being on the property
41 that many times. Her boyfriend had to pull her away from me because of her agitated condition
42 and behavior. Otherwise, I just wanted to let you know that people have agendas when they
43 testify and that they have an interest in preserving their—

44
45 Vice-Chair Duvauchelle: Please wrap it up.

46

1 Mr. Carroll: --privacy and I think that Mr. Dunbar's operation will benefit.

2

3 Vice-Chair Duvauchelle: Question for...Commissioner Carnicelli?

4

5 Mr. Carnicelli: Hi, good afternoon. So you said that you've spent time with Mr. Dunbar at his
6 property and you kind of talked to some of the people that stay there?

7

8 Mr. Carroll: Yes, I have.

9

10 Mr. Carnicelli: When like, just as of recently? I mean, when was the last time that you've kind
11 of hung out with him and talked to these people that stay there?

12

13 Mr. Carroll: I would say it was...it has been several months 'cause I'm a very busy individual
14 myself. I'm a practicing lawyer here on Maui and my weekends are open and that's in the time I
15 spend visiting with John and having exposure to his guests.

16

17 Mr. Carnicelli: But you'd say it's been within the last couple of months then?

18

19 Mr. Carroll: Yes.

20

21 Mr. Carnicelli: Thank you.

22

23 Vice-Chair Duvauchelle: Any other questions? Thank you very much Mr. Carroll.

24

25 Mr. Carroll: Thank you.

26

27 Vice-Chair Duvauchelle: Any other testifiers? Seeing none, we're going to close public
28 testimony and we'll take questions from the Commissioners. Commissioner Carnicelli?

29

30 Mr. Carnicelli: I'm sorry to cut you off on that one Director earlier but the question I guess now
31 is for Kurt with paying the property taxes I think is that testifier talked to?

32

33 Mr. Wollenhaupt: Well, there was a question that alluded to property tax. We don't ask for
34 people's 1040s or we don't get a tax clearance form prior to an application. That's normally
35 customary. However, the gentleman, the applicant does have a General Excise Tax license
36 and does have a TAT Tax license on file and those are the requirements in the bed and
37 breakfast application process. Though as for his individual tax returns that's certainly nothing
38 that we would look into.

39

40 Vice-Chair Duvauchelle: Commissioner Canto?

41

42 Ms. Canto: Thank you for that response. Based on the Planning Department's
43 recommendation for approval I'll supporting the recommendation by the Department. I just want
44 to comment on that.

45

46 Vice-Chair Duvauchelle: Thank you.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45

Mr. Hedani: I'm sorry I didn't hear, she said...(inaudible)...

Ms. Canto: Yeah, I didn't make a motion, a motion to accept. I just wanted to comment.

Vice-Chair Duvauchelle: Just a comment.

Unidentified Speaker: We can still ask questions?

Vice-Chair Duvauchelle: Commissioner Hedani?

Mr. Hedani: I'm sorry, I can't hear what's going on.

Vice-Chair Duvauchelle: Oh.

Ms. Canto: So based on the Department's recommendation of approval for the Bed and Breakfast Permit, I'll be supporting the recommendation by the Department. I did not make the motion at this point.

Vice-Chair Duvauchelle: Commissioner Higashi?

Mr. Higashi: I have a question for Mr. Dunbar.

Mr. Dunbar: Yes sir.

Mr. Higashi: Mr. Dunbar are you familiar with Ms. Del Dago's photos of your property?

Mr. Dunbar: Yes, I ...(inaudible)... look at them last night and this is the first time I had seen them.

Mr. Higashi: I have a question about, there's a photo over here of...looks like somebody lives in a shack or something. I don't know take a look at it.

Mr. Dunbar: Yeah, I honestly can't even make out whether that's a pile of lumber or what but I do have a structure there and I've identified that as one of the permit exempt structures that the...it was inspected when I believe four or five people come out. I showed them and walked them through that so that's...no one—

Mr. Higashi: So you're saying nobody lives there?

Mr. Dunbar: No.

Mr. Higashi: Okay. That's one. Number two, there's a boat is that on your property or is that on the road itself, County?

1 Mr. Dunbar: Good question because it's not on the County's land. I made an effort during the
2 rains to get it moved with a truck and get it back onto my property and the issue again to
3 reiterate is the trailer is rusted on it and trailers for boats are very expensive, four or five
4 thousand dollars. The owner doesn't have it so I did my best to move it off the property until we
5 can get the pending sale and the person can come with a trailer but it is on my property and I've
6 cleared this with the Abandoned Vehicles Department. They came out and looked at it and the
7 Police Department I was very respectful with the police when they came. I've always
8 commended police officers for their work and professionalism when the opportunity arises and
9 this was one instance where they came, they got a call and they said it was anonymous calls so
10 I don't know who to even go and approach and say, the boat, you know what the situation is
11 and I didn't...I've never Ms. Zambrano before, so...

12
13 Mr. Higashi: According to this photo—

14
15 Mr. Dunbar: Yes.

16
17 Mr. Higashi: --of the boat it seemed like the Police Department put on a sticker of abandoned.

18
19 Mr. Dunbar: Yes, correct.

20
21 Mr. Higashi: Did you contact the Police Department—

22
23 Mr. Dunbar: Absolutely.

24
25 Mr. Higashi: --to let them know that this particular property should be removed from your
26 property?

27
28 Mr. Dunbar: No, I never contacted them, no. One of the neighbor did, I don't know who. It was
29 anonymous, but yes I had contact with the Police and the Abandoned Vehicles Department and
30 the Engineering Department to verify where the property line was and I spoke with Mr. Goode
31 and got it all clarified so it's on my property and it's...any issue with it is not anything to do with it
32 being in an illegal...on the road.

33
34 Mr. Higashi: But the reason why I ask that question was originally you had put on my statement
35 about neighbors and—

36
37 Mr. Dunbar: Correct.

38
39 Mr. Higashi: --getting together and so forth and seemed like this particular neighbor is very
40 much concerned about this particular boat because they're looking directly at it every day.

41
42 Mr. Dunbar: I didn't know which neighbor was the one who called.

43
44 Mr. Higashi: I don't know, I don't know either.

45

1 Mr. Dunbar: I don't know either, I don't know if it was Ms. Del Dago or someone else, I don't
2 know Ms. Zambrano I never met her. She hasn't been around and I've spoken with her tenants
3 and I've asked them questions about the letter and they knew nothing about it and had no
4 objection to me, all the tenants that Ms. Zambrano—

5
6 Mr. Higashi: But you didn't pursue it with the Police Department to get it removed?

7
8 Mr. Dunbar: Absolutely. Did I pursue?

9
10 Mr. Higashi: Yeah.

11
12 Mr. Dunbar: To have it removed?

13
14 Mr. Higashi: Yeah.

15
16 Mr. Dunbar: No this would have been a private tow company that is contracted by Abandoned
17 Vehicles Department and they come and remove it. They did come and I said okay, hold off I'll
18 get it off the street if it's in a place it needs to be. So I moved it, moved it back onto my
19 property. It was extended out into the 10-foot zone.

20
21 Mr. Higashi: Okay, thank you.

22
23 Vice-Chair Duvauchelle: I have question for Kurt. The permitting question has come up a few
24 times. How many permitted structures are on the property and how many permit exempt which
25 I'm assuming means they're 200 square feet or less buildings are on the property?

26
27 Mr. Wollenhaupt: Well we have the two permitted structures that would be the main house.
28 That's the proposed four bedrooms bed and breakfast.

29
30 Vice-Chair Duvauchelle: Okay.

31
32 Mr. Wollenhaupt: Then we also have the pole house that's been referred to, that's a one-
33 bedroom cottage. Those would be the two permitted structures. There's permitting process
34 requirements in parts. One is that were there permits at the time it was built and we you have
35 permits in the file from that time. Here is a Condition No. 18 if the Commissioners will move
36 down that road and that is that the gentleman will have to get a ASHI Certified Home Inspector
37 in order to do a complete bed and breakfast home inspection that is very detailed, multi-pages,
38 it has a codicil in there that holds the County harmless. It has to be notarized. Has to be signed
39 by the ASHI Inspector. Now the applicant would have to do that before any renting could occur.

40
41 As for the number of unpermitted structures when the three of us were out there, Mr. Yoshida
42 and a lady from Zoning and myself, we did see some small, some under 200 square foot
43 structures. I can't comment on how many there are, I don't have that number, but that's as
44 much as I can answer on that.

45
46 Vice-Chair Duvauchelle: Thank you. Director?

1
2 Mr. Spence: And just a comment on agriculturally related structures there was an Act about two
3 years ago passed by the Legislature and signed by the Governor that agriculturally related
4 buildings I think it's up to a 1,000 square feet do not need...

5
6 Mr. Carnicelli: Two hundred. Under 200.

7
8 Mr. Spence: Okay, I'll look at that again. But they do not need a building permit.

9
10 Mr. Carnicelli: Correct.

11
12 Mr. Spence: All they're supposed to do is register with DSA, with Public Works and say, hey I
13 built this building here and that just exempts from building permits. If Mr. Dunbar as he said he
14 wants to put electricity in one of them he would have to get an electrical permit. It doesn't have
15 to get building permit.

16
17 Mr. Dunbar: To answer your question, Chair. There are three of them and one's a tool shed,
18 the other's storage and the other one is being used for intermittently for the banana processing
19 so and it's open to any member that likes to look at to see how these are used. But one's a tool
20 shed, fortunately you need one in Haiku with the rain to do any type of work and I do a lot of the
21 carpentry work myself.

22
23 Vice-Chair Duvauchelle: Thank you. Commissioner Carnicelli?

24
25 Mr. Carnicelli: Mr. Dunbar, when's the last time that you were at the farmer's market?

26
27 Mr. Dunbar: I was there on Saturday.

28
29 Mr. Carnicelli: Saturday.

30
31 Mr. Dunbar: Not with my goods though.

32
33 Mr. Carnicelli: Not with your stuff?

34
35 Mr. Dunbar: No, I've been quite busy. In fact the property has been prepared for the inspection
36 and unfortunately the inspector didn't show up so that's the next step which would comply with
37 the conditions there...but in terms of marketing my products I haven't done that but the products
38 are being made the frozen bananas and dehydrated bananas and I have many people that I
39 send those to and I give them to on the property they use them. But until this process is
40 complete, it's an issue of time.

41
42 Vice-Chair Duvauchelle: Commissioner Higashi?

43
44 Mr. Higashi: Mr. Dunbar, I have a question about your farm plan.

45
46 Mr. Dunbar: Yes.

1
2 Mr. Higashi: You have two acres of land.

3
4 Mr. Dunbar: Correct.

5
6 Mr. Higashi: And about little over half of it is agriculture.

7
8 Mr. Dunbar: Yes.

9
10 Mr. Higashi: You have about one-fourth, 25 percent in banana?

11
12 Mr. Dunbar: Yes.

13
14 Mr. Higashi: The rest are all single plants and so forth.

15
16 Mr. Dunbar: Coconuts...they're spread out across the property. Avocado trees in different
17 location and coconut and there's guava and there's lilikoi and then there's the big vegetable
18 farm and Kamani trees which are growing wonderfully now and oranges, Valencia oranges so
19 it's all spread out in an area where they can expand, and increase the numbers of—

20
21 Mr. Higashi: Well, I was kind of following Mr. Carnicelli's question about your farming situation.

22
23 Mr. Dunbar: Right.

24
25 Mr. Higashi: So your total plan itself for the farm is basically banana?

26
27 Mr. Dunbar: Pretty much banana, right.

28
29 Mr. Higashi: For income?

30
31 Mr. Dunbar: Right that's the emphasis on it and there were some comments earlier about not
32 doing it. I have an entire, I can provide to the Planning Department and the whole plan that's
33 been worked out for a year for a banana processing facility that young people would be able to
34 participate in all the way to the packaging and know what it's like a cottage industry is like to
35 process agricultural fruit on the farm. It's a wonderful opportunity for all the way from the
36 harvesting and cleaning and processing the bananas to dehydrating them and taking them out
37 and putting them in packages. So that's something I've developed over the years in addition to
38 my efforts. In fact I met with the property owner in San Francisco and emphasized the
39 importance of a farmers market in Maui and one that operates more than just in the morning
40 and it has an opportunity for people to have a commercial kitchen on it. I've spoken with the
41 Health Department what the requirements are. So with bare land the operation could go in
42 effect in a month and to have people being able to sell their produce and encouraging ag and I
43 appreciate that this commission does put emphasis on ag use.

44
45 Mr. Higashi: But your proposal is, your farmers market is not on your property it's finding
46 someplace else.

1
2 Mr. Dunbar: No, of course not. No, it's a 10 acres by Code and it's the State and this
3 Commission would look at whether or not it fits in with the plan and the location of it. It's really
4 essential. I've spoken with the Mayor and the Governor about the need for it and it hasn't
5 happened.

6
7 Mr. Higashi: So your projection for income on the banana since that's your primary product that
8 you're—

9
10 Mr. Dunbar: It's minimal. It's two acres, it's as you...25 percent of that.

11
12 Mr. Higashi: I understand that. I'm just saying that based upon the fact that this is a farming
13 community that how much of it do you expect to generate from this product itself?

14
15 Mr. Dunbar: Well, if the proposed B&B operation continues and I'm able to get also in
16 conjunction with that a health permit we could make banana bread and smoothies, once they're
17 processed it requires the health permit. But eaten raw there are a lot consumed on the property
18 just with the long-term people.

19
20 Vice-Chair Duvauchelle: Excuse me, Commissioner Higashi?

21
22 Mr. Higashi: Do you have a projection?

23
24 Mr. Dunbar: No, I don't. I can't give you any financial projection on the amount of it. I've
25 declared it in my taxes because I do sell some of it, but it's a minimal amount. I mean a lot of
26 people on two acres they're really...it's sad that you can't really make a big income on it.

27
28 Vice-Chair Duvauchelle: Commissioner Carnicelli?

29
30 Mr. Carnicelli: So this is my attempt to get Mr. Giroux some face time. So you know today
31 we've had two farms come before us that I had even mentioned on the record have set the bar.
32 However, before us now is someone has an approved farm plan and we can get into do they
33 meet the same bar or not. For the sake of making our decision is that threshold enough to say
34 they've got a farm plan, they're now a farm, check that off the box, done?

35
36 Mr. Giroux: I think we're gonna frame it on what your decision making criteria is. Because I
37 mean if you look at your criteria for a bed and breakfast, I mean, I'm not gonna tell you how to
38 do your job, but I don't see a requirement for a farm plan in that. Not to say that you're dealing
39 with State land use issues, County land use issues where you are required to preserve
40 agricultural lands for agricultural uses. So if that doesn't help you just let me know.

41
42 Mr. Carnicelli: I guess so now I've got a question for the Director?

43
44 Vice-Chair Duvauchelle: Director?

45

1 Mr. Spence: Excuse me, we're looking in the application itself and one of the checklist, items
2 for the checklist of what needs to be submitted for a bed and breakfast that if you're in the State
3 Agricultural District you submit your farm plan. And in this case, it's a fully implemented farm
4 plan and which he's done. The applicant has done. And you look on Page 3 of your report and
5 it says, second paragraph down, the property has an implemented farm plan and gives the
6 number that was approved by Zoning and Enforcement. And when we say something is
7 implemented that means we have gone out and inspected to make sure it has been
8 implemented. Involves a total area of 49,000 square feet for a lot coverage of 55.9 so almost
9 56 percent of the property. So the requirements for a farm plan, an implemented farm plan are
10 you, you know, you set requirements someplace. Are some people gonna meet requirements
11 better than others? Is somebody gonna do 36,000 acres of monocropping would that qualify for
12 a farm plan? Yeah, probably. How about the applicant's, you saw this morning yeah, the
13 Commission seems pretty satisfied with that. How about just meeting the requirement for an
14 implemented farm plan? Well, according to what we've said, they meet that. This applicant
15 meets that.

16
17 Mr. Carnicelli: Yeah, and that's why I just wanted to try to get clarity because as Mr. Giroux
18 likes to point out to me sometimes is I need to make decisions that if challenged, you know, a
19 man or woman in a black robe will have to see why I made those decisions. And so I'm trying to
20 just say, okay can I use...is this discretionary? Can I make a decision based on this or not?
21 And that's just kinda what I'm trying to wrap my head around. And so anyways one other
22 question is what happens if we approve one of these permits and not the other? I mean, I know
23 that...anyways, I'm sorry maybe I'm going down another bunny trail that just doesn't really
24 matter but just curious if we split them and one got approved and not the other?

25
26 Mr. Spence: First off he would need both to enable to operate the bed and breakfast. For the
27 purposes of the record, you would want to state on the record why you believe the application
28 meets the criteria for one of the permits and then also state for the record why it doesn't meet
29 the criteria for the second permit. So you would have to really differentiate between the two.

30
31 Mr. Carnicelli: Thank you.

32
33 Vice-Chair Duvauchelle: Commissioner Higashi?

34
35 Mr. Higashi: I guess that's why I was pursuing the farm plan 'cause if it's a bed and breakfast it
36 sounds like the purpose for requesting for this bed and breakfast is to generate income rather
37 than—

38
39 Mr. Dunbar: Correct.

40
41 Mr. Higashi: Rather than having it complementary to what the people are coming to see
42 whatever kind of products you have on your farm. And so banana I don't think would be
43 something that would attract a lot of people to come to your place unless they just want a bed
44 and breakfast.

45
46 Mr. Dunbar: Well, there are people that come to the island with children and would like to have

1 their children learn about the local produce and how it's handled and going to markets and I
2 know many people go to the market and they get, you know, inspired to come back and grow
3 their own. I just purchased seeds there on Saturday for the vegetable garden.

4
5 Mr. Higashi: Well, as the Director said according to the Planner you meet the minimum
6 requirement of a farm plan.

7
8 Mr. Dunbar: Correct. And we want to expand on that. And just...you mentioned the neighbors
9 earlier I'd really like to just take a moment to express something that's important regarding—

10
11 Vice-Chair Duvauchelle: Excuse me, excuse me, we need to answer direct questions, sorry.

12
13 Mr. Dunbar: Well it had to do with Mr. Higashi's remarks on the neighbors and I just wanted to
14 make sure—

15
16 Mr. Higashi: Okay, thank you.

17
18 Mr. Dunbar: Okay.

19
20 Vice-Chair Duvauchelle: If he has any other questions he'll ask you.

21
22 Mr. Dunbar: Okay, fine.

23
24 Vice-Chair Duvauchelle: Any other questions from the Commissioners? Do we have any
25 motions? I'm sorry, the Department's recommendation.

26
27 Mr. Wollenhaupt: The Department will be looking at both permits. The first one being the Bed
28 and Breakfast Home Permit. The application submitted by the applicant does comply with the
29 Maui County Code Title 19.64.030 for the bed and breakfast for the reasons stated in the
30 Department's report today for the dated November 7th and November 22nd and then of course,
31 today being the 28th of March.

32
33 Mr. Spence: February.

34
35 Mr. Wollenhaupt: February, sorry. That being said, the conditions are standard conditions of
36 the bed and breakfast with the exception of the one I mentioned No. 18 which has to do with
37 requiring the applicant to do a full ASHI Certified Home Inspection prior to any operation. There
38 would also be a modification in Condition No. 1 that would state that the B&B Home Permit shall
39 be valid until...it would be until February 28, 2018. This is a difference from other B&B Permits.
40 The Department either administratively has the ability to grant from one to three years. The
41 Commission also equally has the ability to grant from one to three years when they so feel that
42 in a specific case that it merits perhaps a higher level of review over that year. And in this case
43 because there have been some concerns the Department would be recommending that this
44 permit would be valid for one year from today with the associated 18 conditions.

45
46 The second permit would be the Land Use Commission Special Use Permit. This one concerns

1 the agricultural operations. Again, we would be requesting a modification in Condition No. 1
2 that would parallel the timing that would be good for one year. So that would be that the State
3 Land Use Commission SUP shall be valid until February 28, 2018, and with the associated
4 seven conditions, importantly that the farm plan would remain implemented during this duration.
5 That being said, those would be the two recommendations of approval for one year for the Bed
6 and Breakfast and the State Land Use Commission Special Permit. Thanks

7
8 Ms. Canto: Chair?

9
10 Vice-Chair Duvauchelle: Yes, Commissioner Canto?

11
12 Ms. Canto: Move to approve based on the changes of the Home Permit as well as the Land
13 Use Permit.

14
15 Vice-Chair Duvauchelle: We have a motion to approve based on the Department's
16 recommendations, Commissioner Canto. Do I have a second? Okay, motion--

17
18 Mr. Higashi: I second the motion.

19
20 Vice-Chair Duvauchelle: Second by Commissioner Higashi. Discussion on the motion?

21
22 Ms. Canto: I'll speak to the motion.

23
24 Vice-Chair Duvauchelle: Commissioner Canto?

25
26 Ms. Canto: So primarily I'm concerned with the one year. I think that's good because of the
27 concerns that have come before us so I like that change. So yes, I'll support the motion.

28
29 Vice-Chair Duvauchelle: I second the motion based on reservation from the standpoint that
30 number one, if we don't act on it, it automatically becomes approved and I think this particular
31 motion will give the Director time to evaluate what's happening with this particular application
32 and so I think that's kinda where I sit with this particular motion. So thank you.

33
34 Vice-Chair Duvauchelle: Any further discussion? Commissioner Castro?

35
36 Mr. Castro: Yes, I have a question. If we don't vote on this it automatically takes effect?

37
38 Vice-Chair Duvauchelle: Director?

39
40 Mr. Castro: And would it be for one year as well?

41
42 Mr. Spence: Yeah, since the recommendation...okay, first off it's a part of your rules that if from
43 the time of the...it was one of the handouts...okay, a copy of your rules is that...the
44 Commission's Rules 12-201-34, except for State administered permit programs delegated
45 authorized or approved under Federal Law the Commission shall review and make a decision
46 on applications within 120 days from the later of either 1) the date of the application deemed

1 complete by the Director; or 2) the closing of the public hearing on the application which in this
2 case the public hearing was closed back in November.

3
4 Mr. Wollenhaupt: November 7th.

5
6 Mr. Spence: November 7th. So that starts the 120 days running. If the Commission fails to
7 make a decision within that 120 days it's the application is deemed approved. So...

8
9 Mr. Wollenhaupt: And the recommendation would be the original one which was contingent
10 upon the November meeting and that would be then that the applicant would have until
11 October 1st of this year, 2017 for both of the applications since that was the original
12 recommendation.

13
14 Vice-Chair Duvauchelle: Any further discussion? So we have a motion to approve by
15 Commissioner Canto and seconded by Commissioner Higashi. So all those in favor?

16
17 Mr. Spence: That's three ayes.

18
19 Vice-Chair Duvauchelle: All those opposed?

20
21 Mr. Spence: That's three opposed. Motion is not carried.

22
23 **It was moved by Ms. Canto, seconded by Mr. Higashi, and**

24
25 **The Motion to Approve the Land Use Commission Special Permit and Bed and**
26 **Breakfast Home Permit, FAILED.**

27 **(Assenting – P. Canto, R. Higashi, S. Castro)**

28 **(Dissenting – L. Carnicelli, L. Hudson, W. Hedani)**

29 **(Excused – M. Tsai, K. Robinson)**
30

31 Vice-Chair Duvauchelle: Okay—

32
33 Mr. Carnicelli: So if I could Chair?

34
35 Vice-Chair Duvauchelle: Yes, Carnicelli.

36
37 Mr. Carnicelli: So I guess the question that I am posing to myself right now is rather than it just
38 being approved by acclamation is there additional conditions that say the three of us that voted
39 against this could put in there to say like okay, if it had this then I could approve it. You know
40 rather than... 'cause if we don't do anything then it's getting approved just as it sits. So is there
41 something that you know rather than saying like okay, if we add it something does it become
42 palatable and I don't have the answer in my own brain right now but I'm just sort of posing the
43 question to try to come to a resolve rather than it just being you know, passed because you
44 know, we're split.

45

1 Vice-Chair Duvauchelle: Would anyone like to make a...move for executive session...to make
2 a motion for executive session?

3
4 Mr. Carnicelli: Sure.

5
6 Ms. Canto: So move.

7
8 Mr. Carnicelli: Second.

9
10 Vice-Chair Duvauchelle: Second. Thank you, at this—

11
12 Mr. Giroux: Just for the record, and this would be to go into executive session to talk to your
13 attorney about your powers, duties, rights, responsibilities, liability as far as your decision
14 making.

15
16 Vice-Chair Duvauchelle: Yes. Thank you. Everyone could please leave for a few minutes we'll
17 call you when we get back in session.

18
19 Unidentified Speaker: You need to vote on the motion.

20
21 Vice-Chair Duvauchelle: Oh, I'm sorry. I'm sorry. I'm green at this.

22
23 Mr. Spence: All in favor of going into executive session please signify?

24
25 Vice-Chair Duvauchelle: All in favor raise your hand.

26
27 Mr. Spence: Okay, that's six ayes.

28
29 Vice-Chair Duvauchelle: Thank you. Sorry.

30
31 **It was then moved by Ms. Canto, seconded by Mr. Carnicelli, then**

32
33 **VOTED: To Go Into Executive Session.**
34 **(Assenting – P. Canto, L Carnicelli, L. Hudson-Abstained, W. Hedani,**
35 **S. Castro, R. Higashi)**
36 **(Excused – M. Tsai, K. Robinson)**

37
38 The Commission went into Executive Session at approximately 2:23 p.m., and the regular
39 meeting was reconvened upon completion of the Executive Session at 2:38 p.m.

40
41 Vice-Chair Duvauchelle: Thank you for your patience with us. Maui Planning Commission is
42 now back in session. So Commissioners discussion, motion? Commissioner Carnicelli.

43
44 Mr. Carnicelli: I would like to make a recommend...I'm sorry, I'd like to make a motion to
45 approve both permits as stated by the Department with the following amendment to Number 1 in
46 both that the permit shall be valid until February 27th or I guess would be March 1st because

1 there's not going to be a February 28th next year. March 1st. Okay, so it would be
2 March 1, 2018 subject to further time extension by the Planning Commission pursuant to the
3 provisions.

4
5 Mr. Hudson: Second.

6
7 Vice-Chair Duvauchelle: Commissioner Hudson seconded. Discussion? Commissioner
8 Hedani?

9
10 Mr. Hedani: I find it difficult to support this particular motion. I voted against the main motion,
11 the prior motion to approve because I didn't feel comfortable with the presentation. The
12 structure to me represented a structure that was defective as far as the work was concerned or
13 the general upkeep and maintenance of the property seemed deficient from my perspective.
14 There was a propane tank that was inside of the facility where it shouldn't have been which
15 could have exploded.

16
17 The applicant numerous incidents with the police reflecting on occurrences that happened with
18 tenants that were on the property that resulted in violence. From my perspective that doesn't
19 reflect on a safe environment to invite visitors from wherever that have no knowledge of any of
20 this history expecting a level of security and safety in the property that they may not get. That's
21 my concern.

22
23 I know he's a veteran. I know he's a SEAL. I know he's had honorable service to our Country
24 and on that side you know part of me says that we should give him a break and let him try. On
25 the other hand, there have been so many incidences with the police and with the neighbors that
26 I am uncomfortable with entrusting the safety of visitors in the future that know nothing about the
27 person to stay in this location and that's why I find it difficult to support it and I'll be voting
28 against the motion.

29
30 Vice-Chair Duvauchelle: Commissioner Hudson?

31
32 Mr. Hudson: I have an extremely hard time with this one, even seconded it. I just wanted to
33 make for the record I 100 percent agree with you. I will support this measure, but inside of my
34 stomach we're gonna have a hard time sleeping tonight. Thank you.

35
36 Vice-Chair Duvauchelle: Any further discussion? Commissioner Carnicelli?

37
38 Mr. Carnicelli: Yeah, I find it kind of ironic that you know I guess the three of us that voted
39 against it I'm now the maker of the motion for it. You know I've said on the record here before
40 that don't let perfect get in the way of really good. I don't think that this is really good, but it's
41 kind of I feel sort of backed into a corner that this is kinda what I need to do right now. I agree
42 with everything that Commissioner Hedani has said. That I have a lot of reservations about this.
43 However, it will be with reluctance that I vote in favor of it just because I feel as though we need
44 to pass this rather than have it be approved via acclamation.

45

1 Vice-Chair Duvauchelle: Any other discussion? I'd like to make a quick comment. My
2 reservations about the permit is it mirrors some of Commissioner Hedani's, it's the safety of the
3 guests that stay there. Even though we're gonna go as far as have a home inspector inspect
4 the homes I'm concerned whether the septic system, cesspool, electrical connections, of the
5 water lines, whether there's ag water, whether it's potable water, was the correct lines...you
6 know there's a lot of things that go into a building permit than just the structure itself. It triggers
7 a lot of other issues. Cesspools are no longer required. Just the sheer makeup of it makes me
8 very uncomfortable for guests. So I just wanted to add my comments. Thank you.

9
10 Okay, any other discussion? We have a motion on the floor to...Commissioner Hedani?

11
12 Mr. Hedani: I guess this is...I'd like to make a point for Mr. Dunbar to consider. As an operator
13 of a hotel--you don't have to respond this is just amongst the Commission—

14
15 Mr. Dunbar: Okay, I just...(inaudible)...

16
17 Mr. Hedani: As an operator of a hotel you owe an extraordinary duty of safety to your guests.
18 They have no knowledge of deficiencies. They have no knowledge of dangers that may occur
19 on your property that may be obvious to you but not obvious to somebody that's unfamiliar with
20 the property. It's an extremely high level of care that needs to be exercised in order to protect
21 you from liability if anyone gets hurt or injured in the future.

22
23 From my perspective if a Navy SEAL were to be operating my B&B I will feel as comfortable as
24 a teddy bear in somebody's bed. I should be. I'd be protected from whatever might happen.
25 I'm concerned with this particular application because people that have been at the property
26 before have come back, they burglarized the property, there have been fights, you, yourself
27 have been involved in assaulting somebody that was in your home, and it's in the police report,
28 and from that perspective I think the next year assuming this will pass will tell whether or not the
29 neighbors are correct or whether you deserve to have your permit extended.

30
31 In reviewing the comments that you provided to us little things to me trigger red flags. The fact
32 that you claim in terms of how you present your comments. The fact that you refer to your
33 neighbors as vile which I read in one of your comments it really bothers me. And I guess time
34 will tell whether the Commission has made the right decision in this particular case. So from
35 that perspective good luck.

36
37 Vice-Chair Duvauchelle: Okay, no further comments we'll call...Director would you repeat the
38 motion?

39
40 Mr. Spence: Okay, the motion is to approve both permits as recommended by Staff except for
41 two things. First that the permits that will be valid until March 1, 2018 and that the renewals
42 shall be heard by the Commission and not allow the Director to do that renewal.

43
44 Vice-Chair Duvauchelle: Okay, all those in favor?

45
46 Mr. Spence: That's one, two, three, four ayes.

1
2 Vice-Chair Duvauchelle: Four ayes. All those opposed?

3
4 Mr. Spence: One opposed. Abstention is counted as in favor. That's five ayes.

5
6 Vice-Chair Duvauchelle: Okay, motion passes.

7
8 Mr. Dunbar: Thank you Members of the Commission and Director.

9
10 **It was then moved by Mr. Carnicelli, seconded by Mr. Hudson, then**

11
12 **VOTED: To Approve the Land Use Commission Special Permit and Bed and**
13 **Breakfast Home Permit as Recommended by the Department and**
14 **that Permits be Valid Until March 1, 2018 and Renewals Shall be**
15 **Heard by the Commission.**
16 **(Assenting – L. Carnicelli, L. Hudson-Abstained, P. Canto, S. Castro,**
17 **R. Higashi)**
18 **(Dissenting – W. Hedani)**
19 **(Excused – M. Tsai, K. Robinson)**

20
21 Vice-Chair Duvauchelle: All right, Director Communications?

22
23 **E. COMMUNICATIONS**

24
25 **1. Discussion on Rule Making as it relates to filing and digital copies,**
26 **Chapter 91, HRS. (Maui Planning Commission Chair Max Tsai) (Deferred**
27 **from the February 14 meeting.)**

28
29 **The Commission may take an action on this request.**

30
31 Mr. Spence: So Commissioners, Communications Number 1, Discussion of Rule Making as it
32 relates to digital copies. This started out with Max and Max is not here. Would you like to defer
33 again?

34
35 Commission Members: Yes.

36
37 Mr. Spence: Otherwise it will be automatically approved.

38
39 Commission Members: Laughter.

40
41 Mr. Spence: Okay, we'll put it on again next time. While we're on this item, discussion of
42 rulemaking would this be an appropriate time? Would you rather wait?

43
44 Mr. Giroux: You know, I was thinking if we were gonna talk about this one that we're gonna talk
45 about the time period issue we might want to leave that for the agenda making?

46

1 Mr. Hudson: Yeah, let's put it on the agenda.

2
3 Mr. Spence: Okay.

4
5 **F. ACCEPTANCE OF THE ACTION MINUTES OF FEBRUARY 14, 2016 and PORTION**
6 **OF DECEMBER 13, 2016 MINUTES ITEM C-1**

7
8 Mr. Spence: Okay, Item F, Acceptance of the Action Minutes of February 14, 2016 and Portion
9 of December 13, 2016.

10
11 Mr. Carnicelli: So moved.

12
13 Mr. Castro: Second.

14
15 Vice-Chair Duvauchelle: Moved by Commissioner Carnicelli, seconded by Commissioner
16 Castro. Minutes are accepted. Oh, all those in favor raise your hand? I'm sorry it's been a long
17 day. That's six ayes. Minutes are accepted. Thank you.

18
19 **It was moved by Mr. Carnicelli, seconded by Mr. Higashi, then**

20
21 **VOTED: To Accept the Action Minutes of February 14, 2016 and Portion of**
22 **December 13, 2016 Minutes Item C-1.**
23 **(Assenting – L. Carnicelli, S. Castro, L. Hudson, P. Canto,**
24 **W. Hedani, R. Higashi)**
25 **(Excused – M. Tsai, K. Robinson)**

26
27 **G. DIRECTOR'S REPORT**

28
29 **1. MR. WILLIAM SPENCE, Planning Director, notifying the Maui Planning**
30 **Commission pursuant to Commission's SMA Rules of the following Special**
31 **Management Area (SMA) Emergency Permit:**

32
33 **a. Approval letter dated February 2, 2017 to MS. SANDY SZYMANSKI,**
34 **President of the KAHANA REEF AOA requesting an SMA**
35 **Emergency Permit to implement temporary mitigative measures to**
36 **control sink hole and failed lanai at 4471 Lower Honoapillani Road,**
37 **TMK: 4-3-005: 009, Kahana, Island of Maui. (SM3 2017/0002) (J.**
38 **Buika)**

39
40 Mr. Spence: Okay Commissioners Item G. Me, as Planning Director notifying you we issued an
41 SMA Emergency Permit to the Kahana Reef AOA to control a sinkhole at Lower Honoapiilani
42 Road on the side. It's just for your notification. They will be required to come in for a permit as
43 well like a permanent permit.

44
45 **2. SMA Minor Permit Report**

46

1 **3. SMA Exemptions Report**

2
3
4 Mr. Spence: Item 2 your SMA Minor Permit Report and Number 3, SMA Exemptions Report.
5 Any comments on that?

6
7 Vice-Chair Duvauchelle: May I have a motion to accept the...

8
9 Mr. Higashi: So move.

10
11 Mr. Hedani: Second.

12
13 Vice-Chair Duvauchelle: Motion by Commissioner Higashi, second by Commissioner Hedani.
14 All those in favor to accept the SMA Minor and SMA –

15
16 Mr. Spence: That's six ayes.

17
18 Vice-Chair Duvauchelle: Six ayes. Motion carries.

19
20 **It was moved by Mr. Higashi, seconded by Mr. Hedani, then**

21
22 **VOTED: To Accept SMA Minor and SMA Exemption Reports.**
23 **(Assenting – R. Higashi, W. Hedani, L. Carnicelli, L. Hudson,**
24 **P. Canto, S. Castro)**
25 **(Excused – M. Tsai, K. Robinson)**

26
27 **4. Discussion of Future Maui Planning Commission Agendas**

28
29 **a. March 14, 2017 agenda items**

30
31 Mr. Spence: Future Planning Commission Agendas. Commissioners on your March 14th
32 meeting we're going to...on March 14th meeting we're going to be taking up again the Makena
33 Environmental Assessment and so I know the last the Commission had questions and wanted
34 additional information so they have come up with the information and they would like to present
35 it to the Commission at the March 14th meeting.

36
37 Mr. Carnicelli: Chair, is it possible I still...I had two other questions that burped into my head. Is
38 it still possible to ask those questions of them or is it kinda like that window is closed?

39
40 Mr. Spence: You can ask. I mean they are...

41
42 Vice-Chair Duvauchelle: Oh, you mean of Makena?

43
44 Mr. Carnicelli: Right of Makena.

45
46 Vice-Chair Duvauchelle: Oh I'm sorry I thought you meant—

1
2 Mr. Carnicelli: Of what is it THC Holdings or...

3
4 Mr. Spence: Yeah, ATC.

5
6 Mr. Carnicelli: ATC Holdings.

7
8 Mr. Hudson: Two weeks would be sufficient time to respond. They should have the questions
9 by the time they come, right?

10
11 Mr. Spence: You can ask and then we'll...

12
13 Mr. Carnicelli: Okay so for the record, the first question I have is of the current landscape that's
14 there if any of the that current landscape is going to remain as part of their site plan. You know,
15 you see they'll go tag certain trees or whatever it is like this one, you know leave this one alone,
16 is any of the landscaping going to stay and if they could demarcate that to us?

17
18 The other part is because they talked about drilling down and doing what they called mining
19 there was a couple of testifiers that talked about how there's fresh water that goes through there
20 and goes into the bay if they have done any sort of geological study that shows that they know if
21 that's true and where that is?

22
23 Mr. Spence: Okay. Okay, we'll forward those on.

24
25 Mr. Carnicelli: Okay. So also Chair if I could make a motion to amend our commission rules—

26
27 Mr. Giroux: Let me, just procedurally what we can do is have just the putting of this issue on the
28 next agenda then we can discuss it fully and at that time formulate a motion but even then what
29 you would probably want, we would probably want to get from that discussion is an opportunity
30 for the Planning Department and the legal side to get together and maybe get you guys some
31 draft language, bring that back to you and then when you guys have something to knock around
32 then make a motion to adopt that and then okay, the Department to go ahead with the public
33 hearing process so ruling making.

34
35 Mr. Hudson: So just get it on the agenda is the next meeting?

36
37 Mr. Giroux: Yeah. And then we'll have a discussion and then we'll...I'll talk about...I'll try to
38 bring some kind of sample language that you guys can you know, kinda so we have a direction
39 to start drafting and then we'll bring that draft back to you and then you can okay that.

40
41 Mr. Spence: Okay, so everybody heard that? Corporation Counsel is responsible for drafting
42 language.

43
44 Mr. Giroux: No, you completely misheard me. Ideas, ideas.

45

1 Mr. Spence: No, that just means we don't, the Planning Department doesn't have to come up
2 with the draft language.

3
4 Mr. Giroux: Ideas. We need ideas, good ideas.

5
6 Mr. Spence: Okay.

7
8 Vice-Chair Duvauchelle: Any other discussion?

9
10 Mr. Carnicelli: Can we have a list from Buika?

11
12 Unidentified Speaker: Yeah, from Buika.

13
14 Vice-Chair Duvauchelle: We didn't need to vote on it. That was a just communication.

15
16 Mr. Carnicelli: Oh okay, communication sorry.

17
18 Vice-Chair Duvauchelle: That's all right.

19
20 Mr. Spence: Okay, I think we're good.

21
22 Vice-Chair Duvauchelle: Any other discussion? All right, Maui County Planning Commission is
23 now adjourned.

24
25 **H NEXT REGULAR MEETING DATE: MARCH 14, 2017**

26
27 **I. ADJOURNMENT**

28
29 The meeting was adjourned at 2:56 p.m.

30
31

Submitted by,

32
33

Carolyn Takayama-Corden
Secretary to Boards & Commissions II

34
35

36
37

38

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20

RECORD OF ATTENDANCE

Present

- Pua Canto
- Lawrence Carnicelli
- Stephen Castro
- Sandy Duvauchelle, Vice-Chairperson
- Wayne Hedani
- Richard Higashi
- Larry Hudson
- Keaka Robinson (excused from the afternoon session)

Excused

- Max Tsai, Chairperson

Others

- Will Spence, Director, Planning Department
- James Giroux, Deputy Corporation Counsel, Department of the Corporation Counsel
- Rowena Dagdag-Andaya, Deputy Director, Department of Public Works (on-call)