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

A. CALL TO ORDER

The regular meeting of the Maui Planning Commission was called to order by Chairperson Max Tsai at approximately 9:07 a.m., Tuesday, March 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.)

Chair Tsai: Good morning everyone. Thank you all for waiting. Today is March 28, 2017. Maui Planning Commission is called to order. At this time I want to introduce our Commissioners. I'm Max Tsai, I'm your Chair. We have Commissioner Sandra Duvauchelle, our Vice-Chair, Commissioner Hedani, Commissioner Castro, Commissioner Higashi, Commissioner Carnicelli, Commissioner Hudson, Commissioner Robinson, Commissioner Canto. Good morning. We also have our Director here.

Mr. Spence: Good morning Mr. Chairman.

Chair Tsai: Thank you. And we also have our Corp. Counsel, James Giroux. Thank you all for being here.

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

Chair Tsai: At this time we're gonna open the floor for public testimony. At this time, anyone who wishes to testify on any agenda items can testify now or you can wait until the agenda item comes up. This gives the opportunity if people cannot be here when the agenda item comes up to testify. However, you can only choose to pick to testify now or you can wait, you can't do both. So I have one person on this list. So let me know if you want to wait or you want to testify now. Also, I want to make a note that the limit is three minutes so please keep your testimony to three minutes. I will unfortunately have to cut you off if you exceed that. Thank you. I have that Eric Molina?

Mr. Molina: I'll wait for the item.

Chair Tsai: You'll wait. Anyone else wish to testify? Please come forward, identify yourself. You have three minutes.

Mr. John Dunbar: Good morning Commissioners, Chair.

Chair Tsai: Good morning.

Mr. Dunbar: Mr. Spence and Members of the community.

1 Ms. Callentine: Pull the mic up to your mouth.

2

3 Mr. Dunbar: My name is John Dunbar. You probably recall I was here about a month ago when
4 this honorable Commission approved my bed and breakfast. My testimony concerns what's on
5 the agenda today and for most it most part in general and it's on a positive note I should say. I'd
6 like to commend the members of the commission for their volunteering in the service of the
7 community—

8

9 Chair Tsai: John can you speak to the mic more?

10

11 Mr. Dunbar: Yes, sorry. —in the stewardship of the aina so to speak and which is important for
12 our Hawaiian lands here and I think that you've done a tremendous job and appreciate that we
13 have a commission, commissions in the community for that purpose. And you've been selected
14 from all parts of the community with diverse backgrounds and success and accomplishments
15 and that's wonderful. And likewise, we have people from the community that are here today
16 that are would be considered peers of you also they've accomplished items in the community
17 and have been successful and I don't want to speak of myself, but I have done things in the
18 community. And for example, I've given a roof over the heads of many, many people hundreds
19 and also have given them a place to live, a home. Some haven't had money I've been able to
20 accommodate them and they've appreciated it and unfortunately some, they're all human
21 beings they have difficulties in life, struggles, the homeless, they don't have money and certain
22 things occur when police have to be called for example. Many of you that rent, you have homes
23 you know that dealing with that you have to rely on the police services which have been a great
24 asset to the community.

25

26 That said, I'd like to say that it's very important given in our culture now and in with the
27 electronic communication that a lot of what's said about people particularly at a commission
28 that's recorded I don't seen the cameras here today, but they were in my instance and remarks
29 were made inadvertently, intentionally, whatever it might be and sometimes this is not a good
30 thing obviously. So I'm here today obviously to give credit to this commission and the members
31 and I want to thank Ms. Cantos and Mr. Higashi for their strong support of my B&B operation
32 and you won't be let down by any means. As you could see I that I had operated before.

33

34 At any rate, what I do need to say today this is on a negative note is that Mr. Hedani, and you
35 can confer with your attorney on this matter, you slandered me. You used defamatory remarks
36 in the last hearing which were recorded and broadcast across the television multiple times.
37 Now I hear I'm gonna have to come back to this Commission again and I hope this doesn't harm
38 me but I do have to state what is the truth. We can't live with fabrication. This was damaging to
39 my business and I'm sure you can understand and appreciate that this the situation. I want to
40 have before the termination—

41

42 Chair Tsai: Thank you. Appreciate it.

43

44 Mr. Dunbar: --before the termination of your term.

45

46 Chair Tsai: No, you're done.

1
2 Mr. Dunbar: --written—

3
4 Chair Tsai: You're out of order.

5
6 Mr. Dunbar: I'm sorry, but I want written—

7
8 Chair Tsai: You're done.

9
10 Mr. Dunbar: --retraction.

11
12 Chair Tsai: You're three minutes are done.

13
14 Mr. Dunbar: And it removed from Akaku. Thank you very much.

15
16 Chair Tsai: Okay, apologize for that folks. Anyone else wish to testify at this point? Seeing
17 none, public testimony is now closed. We're going to our agenda.

18
19 Mr. Spence: Okay, Commissioners good morning. We're on Item C of your Commission's...of
20 your agenda this morning. This is the second thing we're doing or third technically.

21
22 **C. RESOLUTIONS THANKING OUTGOING MEMBERS – WAYNE HEDANI and**
23 **MAX TSAI**

24
25 Mr. Spence: I want to read the resolutions for outgoing...for Max Tsai and Wayne Hedani. We
26 do this...if you don't know this is their last meeting and we're sorry to see them go. So the
27 resolution for everybody's signature:

28
29 WHEREAS, The Maui County Planning Commission was established in 1958; and

30
31 WHEREAS, since April 2012, Max Tsai has served as a member of the Maui Planning
32 Commission; and has served as Vice -Chairperson of the Maui Planning Commission from
33 April 2015 to March 2016; and Chairperson of the Maui Planning Commission from April 2016
34 to March 2017; and

35
36 WHEREAS, Max Tsai, has served the Maui Planning Commission with dedication and
37 provided valuable guidance in serving the needs of the people of Maui County; and

38
39 WHEREAS, Max Tsai's term of office will expire on March 31, 2017, now therefore

40
41 BE IT RESOLVED, by the Maui Planning Commission that it does hereby express its
42 deepest gratitude and appreciation to Max Tsai for his service during the past five years
43 and does hereby extend its best wishes in his future endeavors; and

44
45 BE IT FURTHER RESOLVED, that copies of this resolution be transmitted to the
46 Honorable Alan M. Arakawa, Mayor of the County of Maui and the Honorable Mike White,
47 Chairperson of the Maui County Council.

1
2 Mr. Spence: And I would personally like to thank you for your service and I've totally enjoyed
3 working with you.

4
5 Chair Tsai: Thank you Will. I just want to say quickly thank you all for your volunteering, your
6 time, your hard work. It's been a truly honor to serve with your guys and I'm confident you know
7 as me and Wayne finish your term as last term today that you guys will do your job best for the
8 community and thank you all for your service. It's a great pleasure to be a part of this. Thank
9 you.

10
11 Mr. Spence: And so Commissioners, we also have a very nice certificate to be presented and a
12 letter of thanks from the Mayor.

13
14 Chair Tsai: Thank you.

15
16 Mr. Spence: The second Commissioner whose term is up today is Mr. Wayne Hedani, and if for
17 people who don't know boy he's quite a veteran of this Commission. I think he served another
18 five-year stint before this one and on the Charter Commission. He's very active in this
19 community and volunteerism.

20
21 WHEREAS, The Maui County Planning Commission was established in 1958; and

22
23 WHEREAS, since April 2012, Wayne Hedani has served as a member of the Maui
24 Planning Commission; and

25
26 WHEREAS, Wayne Hedani, has served the Maui Planning Commission with dedication
27 and provided valuable guidance in serving the needs of the people of Maui County; and

28
29 WHEREAS, Wayne Hedani's term of office will expire on March 31, 2017, now therefore

30
31 BE IT RESOLVED, by the Maui Planning Commission that it does hereby express its
32 deepest gratitude and appreciation to Wayne Hedani for his service during the past five years
33 and does hereby extend its best wishes in his future endeavors; and

34
35 BE IT FURTHER RESOLVED, that copies of this resolution be transmitted to the
36 Honorable Alan M. Arakawa, Mayor of the County of Maui and the Honorable Mike White,
37 Chairperson of the Maui County Council.

38
39 Mr. Spence: And again, it's a certificate and letter from the Mayor, and again, it's been a
40 pleasure working with you. Wayne always has, you know whenever he votes in favor or denies
41 and denial or whatever, there's always a reason behind it and we may all agree or disagree on
42 the reasons but they're well thought out and you can certainly appreciate the process behind it.
43 So again, thank you very much for sitting on this Commission. It's been a pleasure to serve with
44 you.

45
46 Mr. Hedani: Thank you Director Spence and thank you for the...fellow Members of the
47 Commission, Counsel, I may need your help in the future. But it's been a pleasure working on

1 the Commission. The only advice I can give to Commissioners going forward is to just do your
2 best. Although the materials get thick at times, read all the materials and let your conscience be
3 your guide. It's been an honor and a privilege. Thank you.

4
5 Mr. Spence: Okay, Commissioners moving onto public hearings. We have four of them this
6 morning. First is, Jeana Naluai of Hawaiian Spa Maui, LLC requesting a Conditional Permit and
7 State Land Use Special Use Permit to operate an Educational Center, et cetera. My Staff
8 Planner this morning is Ms. Gina Flammer.

9
10 **D. PUBLIC HEARINGS** (Action to be taken after each public hearing.)

- 11
12 1. **MS. JEANA I. NALUAI of HAWAIIAN SPA MAUI, LLC requesting a**
13 **Conditional Permit and a State Land Use Commission Special Permit**
14 **Amendment in order to operate the Educational Center for the Perpetuation**
15 **of Hawaiian Healing Arts and Native Medicinal Plant Conservation and**
16 **Hoomanu Hawaiian Spa in the State Agricultural District at 1550 Piiholo**
17 **Road, TMK: 2-4-013: 142, Makawao, Island of Maui. (CP 2015/0002)**
18 **(SUP2 2015/0003) (G. Flammer)**
19

20 Transcript of Item D-1 was prepared by a court reporter and was accepted by the Commission
21 and is on file in the Department of Planning.

22
23 **It was moved by Mr. Hedani, seconded by Ms. Canto, then**

24
25 **VOTED: To Approve the Amendment to the State Land Use Commission**
26 **Special Use Permit and Recommend Approval to the County Council**
27 **of the Conditional Permit as Recommended by the Department and**
28 **amended with a Five-Year Time Period.**
29 **(Assenting – W. Hedani, P. Canto, L. Carnicelli, K. Robinson,**
30 **L. Hudson, S. Duvauchelle, S. Castro, R. Higashi)**
31

32 Chair Tsai: All right we're gonna take a 10-minute recess and reconvene at 10:35 a.m.

33
34 A recess was called at 10:25 a.m., and the meeting was reconvened at 10:39 a.m.

35
36 Chair Tsai: I've been advised that we have to take a recess at 11:15 today for our luncheon so
37 FYI for the Commissioners and the public. We're going onto the next agenda item, Director?

38
39 Mr. Spence: Okay, our second public hearing item for this morning is Ms. Robyn Kahalelehua
40 for Centerline Solutions on behalf of Verizon Wireless requesting a County Special Use Permit
41 for a cell tower and it's in Napili and our Staff Planner this morning is Livit Callentine.

- 42
43 2. **MS. ROBYN KAHALELEHUA of CENTERLINE SOLUTIONS on behalf of**
44 **VERIZON WIRELESS requesting a County Special Use Permit for the**
45 **HON Napili Verizon Wireless Telecommunication Facility to consist of a**
46 **fifty (50)-foot high monopole tower disguised as a pine tree, twelve (12)**
47 **panel antennae, microwave dish, and appurtenant structures at 4910**

**Honoapiilani Highway, TMK: 4-3-001: 085, Napili, Lahaina, Island of Maui.
(CUP 2016/0003) (L. Callentine)**

Ms. Livit Callentine: Thank you. Thank you Director and good morning Commissioners and it is...I want to tell you it's thrilling to see all seats filled today so love it, it's great.

So this project as the Director mentioned is in Napili. It is a 50-foot telecommunications tower and it's a monopine cell tower camouflaged as a pine tree with associated equipment to include at this point 12 sub panel antenna, a backup generator and an equipment cabinet. The whole site will take up 25 by 25 square foot area of the property. The proposed site plans and elevation and images of the property are shown in your staff report, Exhibit 1. You can look at aerial images of the site in Exhibit 2, and Exhibit 3, shows you some photographic simulations of the proposed tower. And finally, Exhibit 4 is photographs of a story pole that was actually placed in the location of the proposed tower as I drove around the property and took photographs from different positions.

So the applicant, just to give you a real brief history of the application, applicant came in with an application for an 80-foot tower and it's in the Public/Quasi-Public District in P-1 designation specifically and that has a height limit of 50 feet. So for a while the applicant contemplated getting a variance but decided not to and back in October they came back in with a revised application and they had modified the project to comply with the zoning district.

So the property is almost eight acres and it is the home of the Maui Preparatory Academy which has...the applicant has a lease with the Maui Preparatory Academy for their use of the property. The property is in the Urban Land Use District, State District. It is within Urban Growth Boundaries. It is outside of any protected areas and it is designated Public/Quasi-Public in the West Maui Community Plan as well as in County zoning.

It's surrounded...the property is surrounded by Napili Market, Napili Farmer's Market, Napili Hau single-family residential area, the east and south with agriculture lands and to the west with the Honoapiilani, agricultural lands and single-family residential. The parcel is located on the mauka side of the Honoapiilani Highway and it is not in the SMA. It is in Flood Zone X which is a nonhazardous zone.

We transmitted the application to four County agencies, three State agencies and to Hawaiian Telcom and we received no comments back. We did receive a couple of no comment comments but they aren't included in here. So nobody had any comments on it.

So the project complies with the restrictions of the districts in which lies and we have had no testimony on the project as of March 8, actually as of today. We hadn't received no testimony of any kind. I would like to now allow the applicant to do a presentation. The applicant's representative, this won't be Robyn but it will be Jesse Burgess and Cory Schaefer, they'll kind of take turns doing different portions of their presentation.

Mr. Jesse Burgess: Good morning, Jesse Burgess. I'll try to brief and cognizant of the lunch hour. Thank you for your time and consideration this morning and thank you to the Planning

1 Department for your help with this application. We're here to request a County Special Use
2 Permit.

3

4 Mr. Higashi: You gotta talk in the mic.

5

6 Mr. Burgess: Is that better?

7

8 Mr. Higashi: Yes.

9

10 Mr. Burgess: Sorry. If you have any questions please stop me. If I'm not speaking loudly
11 enough or you have any questions about the slides let me know. The next couple slides are
12 kind of an overview. As Livit mentioned this is for a 50-foot monopine on a eight-acre property
13 that is owned by Maui Preparatory Academy. You can't really see it but on the right-hand side
14 where there's some trees on the far right-hand side is basically where the proposed facility
15 would be. This is in Napili. As Livit mentioned this is zoned P-1 and is Publi/Quasi-Public Open
16 Space under both the County and the West Maui Community Plan. It's within the State Urban
17 District and the location where we have proposed locating the facility is right near some trees.
18 There's an existing tree line of Cook Island Pines where we've selected the location. The
19 location was selected not just because of the excellent screening that the Cook Island Pines
20 provide but also because it was consistent with the future expansion plans of the Maui
21 Preparatory Academy. We want to make sure that we had a place that could be accessed
22 without having to do any new roads and also wouldn't be in the way of any future buildings or
23 the facilities that they had planned there.

24

25 So the next couple slides show the project location on a map view. So here's kind of the
26 overall, ...(inaudible)...you can see about eight miles north of Lahaina. This next one is a zoom
27 in. You can see how it's basically surrounded pretty much on all sides except to the north with
28 agricultural use. Cory is gonna speak more to the actual search ring that we had for this area,
29 but I will note that most of these lands that you see in green here are owned by Maui Pineapple.
30 We approached them to see if they'd be interested in locating a tower there and we received no
31 response of interest there.

32

33 Moving onto the site plan. Again, it's located on the west end. You can kind of see there's
34 some fuzzy tree lines there. Those are the Cook Island Pines. Those range from about 30 to
35 60 feet in height and are all mature trees. They also go along the access road to the south as
36 well. The location really shields the proposed location from the view shed that you'd have from
37 the actual school itself and also from the highway and from the access road.

38

39 Here's the close up of the site plan. Again, you can see in the middle the 50-foot monopine.
40 There's a diesel backup generator. There's ground equipment located on a concrete pad within
41 the compound. There's a six-foot chainlink fence with privacy slats and barbed wire on top to
42 discourage any kids from hanging out in there. There's also a landscaping plan as you can see
43 on this next slide. It's a four-foot landscaping barrier. There'll be ground mulch along with
44 Arborvitae and Red Hibiscus. And there's also existing trees that you can kind of see depicted
45 nearby. Those trees are about the same height as the proposed tower as you can kind of see
46 in this elevation drawing. As you can see this is just for 50 feet tall, it's not the 80 feet tall that
47 we had originally applied for. We realized that 50 feet would work at this site and would be

1 easier than also applying for a variance. One of the things, in this depiction it looks like the
2 panels are, the panel antennas are really prominent but as the rest of the drawings show and as
3 we submitted the antennas would be painted green to match the fake tree branches so they will
4 really blend in color wise, be much less prominent.
5

6 Here's some photo simulations. This is looking west from Napilihau Street. You can really tell
7 that from this picture I think that the shape of the monopine really matches the Cook Island
8 Pines that are there. It actually took me a minute when I first saw this to figure out where it
9 actually was. I think the...a lot of times the monopine, kinda fake trees they look not particularly
10 convincing, but I think that when they're located amongst other mature trees that are of a similar
11 shape and density with a branch structure I think it's actually much more convincing. Here's the
12 view looking south from the highway. Again, I think the trees here provide excellent screening
13 because they're all established and there are varied heights throughout the area.
14

15 Okay, and now I'm gonna turn it over to Cory.
16

17 Mr. Cory Schaefer: Thanks I'm Cory Schaefer, network engineer with Verizon Wireless here in
18 the islands. So this is our existing coverage in the area. So basically the area has fairly good
19 coverage today. Some of the green, light green areas in between our two existing sites you will
20 have in building problems so this will improve in building coverage for some of the residents in
21 this area but the primary objective here is to offload that one cell site to the south and the other
22 cell site to the north. So we're putting the cell site, the new site essentially in the center to
23 offload those two antennas as the network grows and the usage grows it just gets slower and
24 slower. This will help improve the speed for those existing customers and then give these
25 customers in this area better speed on the new site. So you can kinda see it will take over...this
26 new Napili site will take over the coverage in this interim area and offload our existing network
27 and also improve the in building coverage for those residents.
28

29 So as far as health safety goes, every...you know, the phones are so important today for you
30 know, the majority of 911 calls are made from cell phones. A lot of the emergency services
31 folks, Maui Police, some of these folks use our services so having a robust and good coverage
32 on our network is very important.
33

34 We comply with all the relevant FCC requirements for maximum permissible exposure and
35 we're highly regulated. We have third parties come in when required any time we do a change
36 on the site we do a simulation to see if there's any MPE, Maximum Permissible Exposure
37 considerations. So any time the site is touched that analysis is redone.
38

39 And speaking about broadband, just generally you know President Obama had broadband as a
40 big priority for the United States, you know the U.S. lags most industrialized nations in
41 broadband partially because we're a much larger nation and it's expensive to build infrastructure
42 out. So one advantage to wireless is it's a more affordable way to bring broadband speeds to
43 an area without having to run fiber optics and cable all over the place. So it's a more efficient
44 way to get broadband service to the community.
45

46 And similarly we talked about emergency services. So Civil Defense in Hawaii uses our
47 network for the backup for their tsunami siren warning system so better coverage and better

1 capacity especially during events like disasters. We also supply automatic text messages for
2 flash flood and tsunamis and things like that which are instantaneously sent out to everyone's
3 phone to keep everyone up to date when things like that happen.

4
5 Mr. Burgess: And finally we have some, I don't know, some factoids here for you to consider I
6 guess about the greater role and data and coverage in our modern lives. I realize that we, Cory
7 and I also just kind of explained almost all these same points to you a mere four weeks ago, so
8 at the risk of repeating what we just said, if you guys have any questions, we'd be happy to
9 answer any of your guys thoughts or issues, we'd be happy to speak more about anything more
10 specific.

11
12 Chair Tsai: Thank you.

13
14 **a) Public Hearing**

15
16 Chair Tsai: At this point we're gonna open the floor for public testimony regarding this agenda
17 item. Anyone wish to testify please come forward? Seeing none, public testimony is now
18 closed. Questions from the Commission? Commissioner Hudson?

19
20 Mr. Hudson: Greetings. Since you were here four weeks ago, you guys should have been able
21 to anticipate my questions, yeah? You guys met with the MPD Communications Coordinator
22 regarding this?

23
24 Mr. Burgess: We have not done that yet for the last site that we're here for.

25
26 Mr. Hudson: I strongly recommend that before you guys turn it up as one of your conditions. I
27 assume that the generator, transfer switch and the ...(inaudible)... is gonna be similar to the
28 one that you had last time?

29
30 Mr. Burgess: Yes it is?

31
32 Mr. Hudson: What is the day tank on the generator, how long?

33
34 Mr. Burgess: I believe it runs for about 36 hours without it being refueled.

35
36 Mr. Hudson: The monthly generator tests how long do you guys do that?

37
38 Mr. Burgess: I believe that's every two weeks. I think it's usually done on a weekday in the
39 middle of the day and it runs for about half an hour.

40
41 Mr. Hudson: Thank you.

42
43 Chair Tsai: I have a question. How do you guys...and I know you have some type of mapping
44 if I'm using the...not the right correct wording for determine the coverage. It's in Napili. I know
45 that...I have Verizon of course and there's certain parts of not Kapalua has not so good
46 coverage. So how do you guys figure out what this is...I mean what's your base, your...I see
47 the map right there. Is that going to be enough for cover what all the way up to Kapalua or...

1
2 Mr. Burgess: This isn't intended to cover that area. So we're working on lots of cell sites all the
3 time so we're aware of other coverage issues in the area but that would be addressed by other
4 cell sites that we're working on. But for right here, this is a computer simulation which basically
5 relies on the power that comes out of the antennas and there's these cluster models that we
6 use that basically the computer knows the terrain at every spot and we can tune it. So we put
7 up these transmitters and we drive around and we do this tuning scenario where we basically
8 figure out well how does a hill or how do trees affect the signal degradation and that gets
9 plugged into the computer and then we rerun that simulation for this specific location and
10 because we have the USGS topographic data in here we get a pretty accurate simulation. So
11 these match for the most part about 90 percent of the time. Once we turn it on, we can go out
12 with our vehicles and drive test this and we match this data to this and we tune the model
13 further but essentially our computer simulations are pretty accurate when it comes to modeling
14 the coverage.

15
16 Chair Tsai: How many cell sites do you have on the west side?

17
18 Mr. Burgess: On the west side, maybe seven, I'd have to...I can count that for you.

19
20 Chair Tsai: Commissioner Robinson?

21
22 Mr. Robinson: I think what Chair was getting to is when this site comes up doesn't this take
23 some load off of the site that's Kapalua is strained with now and theoretically and some places
24 is gonna help the Kapalua because we're taking some of that load off into Napili?

25
26 Mr. Burgess: Right, yeah, so it will improve the capacity up there. So it won't necessarily
27 improve the coverage up there but it will improve the capacity so there'll be fewer users on that
28 sector particular the one pointed to the south so the speeds will improve so if you experience
29 like network slowness up there, this will take some of those users off and help relieve that.

30
31 Chair Tsai: Okay, just as a follow up on that subject matter, I don't know if it's a question for
32 you guys, determines when you guys put another site? Like for example, okay, you probably
33 know that Kapalua has bad coverage. So you're saying that's gonna help it, but it's not going to
34 increase the coverage. So when the...at which point are you guys gonna come back or you
35 guys gonna put another tower in?

36
37 Mr. Burgess: So that's being concurrently worked. So we have to deal with private landowners,
38 we have to find a willing lessor, we can't just...we don't have eminent domain, we can't just say
39 oh we want a cell site here give it to me now. So it sometimes takes us years and years to find
40 a willing landlord. So the capacity and coverage are just two different concepts on the network.
41 So this is mostly capacity exercise and the way that those are planned out is we know the
42 usage on this sector to the south and the sector to the north and we plot it and basically if you
43 look at the throughput as the users go up the throughput goes down and it happens pretty
44 reliably so we forecast it out and we know when is that throughput gonna drop below a
45 threshold which we think is not desirable for our customers and we try to anticipate that timeline
46 and two or three years ahead start the cell site process 'cause it does take us years to build
47 them. So it's a pretty complex problem. We don't always hit that target but the goal is to have

1 the capacity sector which is this new site, the capacity split on the air before the other sites
2 which are getting slower and slower with more usage go below you know, 5 megabits per
3 second or whatever the threshold is that we're targeting. Does that make sense?
4

5 Chair Tsai: Yeah, that does. Thank you. Commissioner Carnicelli?
6

7 Mr. Carnicelli: So I'm gonna kinda, I don't know if I'm gonna steal your thunder on this is my
8 concern is for the kids you know, 'cause we're putting this on their school as far as, you know,
9 we had this conversation four weeks ago about the, I'll call it radiation that's coming from there.
10 We went from 80 to 50--
11

12 Mr. Burgess: Yes.
13

14 Mr. Carnicelli: --feet. And so suddenly their exposure has just increased so what kind of
15 measurements or securities I guess do we have regarding that?
16

17 Mr. Burgess: Yeah, absolutely. So tower cell sites are really safe as far as the FCC and MPE
18 go. They are...so typically when it comes to MPE we have to do a simulation ahead of time to
19 see, you know, just like somewhat to this, similar to this simulation it's much more zoomed in
20 though. It's not we're not looking at the whole area. We're looking at close to the antennas
21 where is a safe place to be? So we do that simulation on rooftops that exclusion zone tends to
22 be, you know, 5, 10, 20 feet and it tends to be directly in front on the rooftop itself. I think the
23 last time I kind of explained the way antenna patterns work they direct the energy out so
24 every...a rule of thumb in the industry is every foot that you go vertically is equivalent to 10 feet
25 horizontally because you know 90 percent of the energy is directed in the horizontal plain. So at
26 the base of this tower...actually if you're interested in the actual measurements I have stuff in
27 my backpack that's really nerdy but you can look at the power spectral density of your phone
28 versus the tower at a certain spot and actually have an example for a 60-foot tower standing
29 right at the base of it. But essentially the FCC and MPE threshold never come into play when
30 you're 50 feet away because it's so far. So the RF energy decays exponentially. The formula is
31 one over R-squared where one is the distance to the antenna. So 50 feet is actually very far
32 when it comes to RF. The power that you're talking is you know 10 to the minus six watts, so
33 it's just extremely low power. So we have cell sites on rooftops across the state where people
34 live full-time eight to ten feet below them and those are measured by third parties and found to
35 be within compliance. So this 50 feet versus five feet not to mention that it's actually another
36 100 or so horizontal feet from the tower to the school. So yeah the levels at the school will be
37 well, well, well below the MPE levels established by the FCC.
38

39 Mr. Carnicelli: Okay that was the sentence I was waiting for. Thank you.
40

41 Mr. Burgess: Sure.
42

43 Mr. Carnicelli: Just a random follow up question, other than paying rent to the school's
44 foundation are you giving anything in addition to the foundation?
45

46 Mr. Burgess: We had offered to if they have any interest I've offered to give them a class or a
47 presentation about either wireless, about cell phones, about electrical engineering or just a

1 career in engineering. I haven't heard back. That was during the site negotiation when I offered
2 to do that. So I'm not sure if they're interested in integrating it into their curriculum but they
3 have talked about as they build the cell site kind of explain some of the concepts and there are
4 quite a few things to learn about electricity and engineering and electromagnetic spectrum and
5 you could go on and on but it's a pretty good learning opportunity. So we'd be happy to
6 accommodate them on that, but it's up to them I guess if they want to incorporate it into their
7 curriculum but we have offered.

8
9 Chair Tsai: Commissioner Canto?

10
11 Ms. Canto: I think this is for the Director, there's a concern in part of the recommendation and I
12 have a question regarding Item No. 6 regarding the images on H-12, there are four pages of
13 images over there. Do you folks foresee any changes happening as you move forward?
14 'Cause the recommendation...

15
16 Ms. Callentine: We haven't gotten to recommendation yet? Are you referring to maybe one of
17 the Exhibits in the report? You're referring to Exhibit No. 1.

18
19 Ms. Canto: There are four images.

20
21 Ms. Callentine: Which sheet? Down at the bottom right there's a sheet number.

22
23 Ms. Canto: H-12 ...(inaudible)...2, 3, and 4 because the recommendation refers to those
24 images.

25
26 Ms. Callentine: So which exhibit is it?

27
28 Ms. Canto: All of them. I'm just wondering if there are any...if they foresee any changes going
29 forward?

30
31 Mr. Burgess: I'm sorry, changes to the design of the tower or—

32
33 Ms. Canto: Changes to...yeah, anything having to do with in those locations only
34 because...well, the way that it's worded under the recommendations I was a little concerned as
35 to whether or not there could be changes to those.

36
37 Mr. Burgess: Well, I think there could be changes down the road to the actual equipment that's
38 mounted on the tower but I think that at this point we foresee the actual design of the tower to
39 be relatively as is represented in the drawings that we submitted.

40
41 Ms. Canto: Okay, okay thank you.

42
43 Chair Tsai: Director?

44
45 Mr. Spence: Thank you Mr. Chairman. This is a pretty standard substantial compliance type of
46 proposed condition. I know we're not to the recommendation yet but you'll see in virtually all of
47 the permits that are brought before this commission there's a condition about substantial

1 compliance and basically what it says is you know if they have to move this tower five feet one
2 way or another because of geology or something like that or the Police Department, I mean, you
3 can do that. That's pretty substantial compliance. What would be not substantial compliance is
4 if they decided to an even taller tower or you know they wanted to put up a chrome pole instead
5 of disguised as a tree that would not be considered substantial compliance. So when they go in
6 for building permits and stuff we'll look at that and go okay, this is roughly the same as the plans
7 that they gave us and they're in substantial compliance.

8
9 Ms. Canto: Okay, thank you.

10
11 Mr. Spence: Yeah, it's just...we check all that stuff before we sign off on building permits.

12
13 Ms. Canto: Thank you.

14
15 Chair Tsai: Commissioner Hedani?

16
17 Mr. Hedani: Hi, I'm looking at your Exhibit A3.0, and I'm wondering is there a way to fertilize the
18 pine tree so that it has more leaves on it?

19
20 Mr. Burgess: Well, yes there is actually. When we submit the drawings for the compliance
21 report we will...one of the things that we'll do is make sure that the branch density of the
22 monopine matches the adjacent, existing Cook Island Pine Trees.

23
24 Mr. Hedani: I knew engineers always come up with good solutions. The other question that I
25 had was because Cook Pines, Norfolk Pines are triangular and the pole and the antennas are
26 more like a coconut tree than a Cook Pine Tree.

27
28 Mr. Burgess: Right.

29
30 Mr. Hedani: Is there a minimum distance that the antennas have to be away from each other or
31 can that radius be shortened?

32
33 Mr. Burgess: Yeah so some of the...some of our technology relies upon what we all MIMO,
34 multiple input, multiple output where we have to have so we do get improved service, it's called
35 special diversity, separating the antennas so that when you're to the antennas these reflections
36 happen and if the antennas are too close you don't get the advantage of minimizing those
37 reflections so there are requirements. Typically it's on the order of like 10 wave lengths for
38 special diversity and 700 megahertz wave length is about, about 13 inches so we want them to
39 be at least five to ten feet apart is the goal. And we also have an antenna array. So we have
40 multiple antennas so the main, the most important limiting factor is just the physical width of
41 each antenna in the array so that yeah...so it is difficult to get around that making it...we call it
42 the top hat making it smaller. It does have a physical...it can't be arbitrarily narrow.

43
44 Mr. Schaefer: One other thing, on a related point so the monopine it always has like five feet of
45 just the fake branches that are designed to sort of form a cone at the top. So even though at
46 the top is there sort of the cylindrical formation of the antenna arrays the top is meant to be, you
47 know, conical to match the other trees.

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Mr. Hedani: Okay, cool.

Chair Tsai: Your guys time line for construction and finish?

Mr. Burgess: I can only speak in generalities. Typically when we get approvals like this as long as all the leasing everything from the real estate side is ready to go we would ask to start ordering fiber optics and the lead times on that can three or four month. So in the frame of maybe six months, something like that it would be targeting. There's budgeting concerns and all those types of things, but that would be like a rule of thumb once we have all the building permits in hand.

Chair Tsai: I have a last question. You mentioned seven towers on the west side. Just for comparison, what's... do you have on the top of your head of how many you have say for example on south side?

Mr. Burgess: I can get at it, I can show you guy a map if you're interested. On the south side there would be a comparable, a very comparable number yeah.

Chair Tsai: So it's comparable?

Mr. Burgess: Yeah, they're in the same ballpark. High single digits.

Chair Tsai: All right, thank you. All no more questions? Can we get the Department's recommendation please?

b) Action

Ms. Callentine: All right the Planning Department and our evaluation has found that this project complies with all the restrictions and standards once and if this permit is granted and they obtain building permits. So with that said, we would like to recommend approval of the subject property, of the subject project rather and there are seven standard conditions and I'll bring your attention to Conditions No. 8 through 22 which are site specific conditions and I would specifically for Commissioner Hudson I would point out that 16, 17, 18 and 19 and 20 all address some of the concerns that you were raising about coordination with the Maui Police Department. So if you want me to go through any of those conditions or have any questions about them, I'll be happy to answer them otherwise I won't.

Chair Tsai: I think we're going to be okay.

Ms. Callentine: So in consideration of the foregoing the Maui Planning Department recommends that the Maui Planning Commission adopt the Planning Department's report and recommendation which was prepared for the March 28, 2017 Maui Planning Commission meeting as its findings of fact, conclusions of law, and decision and order and authorize the Director of Planning to transmit said written decision and order on the behalf of the planning commission.

1 Chair Tsai: Thank you Livit. Do I get a motion?

2

3 Mr. Hudson: So move.

4

5 Chair Tsai: Okay, moved by Commissioner Hudson.

6

7 Ms. Canto: Second.

8

9 Chair Tsai: by Commissioner Canto. Discussion regarding the motion? Okay, Director would
10 you please repeat the motion?

11

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

13

14 Chair Tsai: Call for a vote. All in favor?

15

16 Mr. Spence: That's eight ayes.

17

18 Chair Tsai: Approved. Congratulations.

19

20 Mr. Burgess: Thank you very much

21

22 **It was moved by Mr. Hudson, seconded by Ms. Canto, then**

23

24 **VOTED: To Approve the County Special Use Permit as Recommended by the**
25 **Department.**

26 **(Assenting – L. Hudson, P. Canto, L. Carnicelli, K. Robinson,**
27 **W. Hedani, S. Duvauchelle, S. Castro, R. Higashi)**

28

29 Chair Tsai: I guess we're gonna recess till 1:15. Thank you.

30

31 A recess was called at 11:15 a.m., the meeting was reconvened at 1:23 p.m.

32

33 Chair Tsai: Okay, thank you all for waiting. We'll continue our Maui Planning Commission
34 meeting today March 28, 2017. Director?

35

36 Mr. Spence: Good afternoon Commissioners. We're on our third public hearing item. Ms. Kim
37 Hembree and Mack Hembree requesting a B&B Permit to operate the Halama Dolphin House
38 B&B in Kihei and our Staff Planner this afternoon is Evelyn Aako.

39

40 **3. G. KIM HEMBREE and H. MACK HEMBREE requesting a Bed and Breakfast**
41 **Home Permit in order to operate the Halama Dolphin House B&B, a**
42 **six (6)-bedroom bed and breakfast home located at 1676 Halama Street,**
43 **Unit A/B, TMK: 3-9-011: 009, Kihei, Island of Maui. (BBKM 2013/0003)**
44 **(E. Aako)**

45

46 **The application requires a public hearing because there is a permitted bed**
47 **and breakfast home operation located within 500 ft. of the subject property.**

1
2 Ms. Evelyn Aako: Good afternoon Commissioners. So as the Director just stated this is a...it's
3 actually a request for an amendment to an existing B&B Permit. The applicants were approved
4 by the Commission in May 2013 to operate a two-bedroom B&B from the ohana accessory
5 dwelling on their property and at this point after completing a renovation of the main house
6 they're hoping to expand the scope of the Bed and Breakfast Permit to include the main house,
7 the four bedrooms in the main house and then depending on the size of the B&B guest party
8 move between the main house and the ohana dwelling. So I've got a short power point
9 presentation I'll go over the scope of the project.

10
11 So there's the location you can see it's in Kihei at 1676 Halama Street, little red marker there
12 and here's another view of that with a satellite view. It's a little hard to see but it's again the little
13 red marker right there at 1676. I do apologize for this, sometimes the site plans don't translate
14 well to the power point but Exhibit No. 5 I believe or Exhibit No. 3 will show you the same plan.
15 ...(inaudible)...better detail. But you can see the accessory dwelling at the front part of the
16 property. Halama Street at the bottom of the slide and then the accessory dwelling. There's a
17 garage structure that's got several parking spaces as well as additional parking spaces on the
18 property and then that's the main house right there in that kind of U-shape. There is a pool area
19 and we'll see pictures of this later, a pool area in center as well as a deck area.

20
21 Here's a view of the entrance of the property from Halama Street and this is a view of the
22 driveway looking down to that gate. These are bedrooms number one and two of the proposed
23 four new bedrooms that are in the primary dwelling. And bedrooms three and four. The kitchen
24 and the living room of the primary dwelling. And then again, the existing B&B Permit already
25 covers this ohana dwelling but just to give the commission a sense of what's already existing,
26 permit on the property. This is the bedroom five and six of the accessory dwelling, the main
27 area and the kitchen of that same dwelling. And then views of the pool and the deck area.
28 They also have a fitness area that's available for guests use and a movie theatre that's also
29 available for them.

30
31 There were no noise disturbances or reports filed with Maui Police Department. There were
32 three requests for service and just to detail those for you and that's also, this is also detailed in
33 the staff report and you can see a screen shot of the request for service as Exhibit No. 7. But
34 one RFS involved the applicant's constructing a deck cover without first obtaining a Special
35 Management Assessment Permit or Assessment which is required because they are in the
36 SMA. Once they were notified by Zoning that it was something they needed a permit for they
37 took down the deck and so the RFS was closed and resolved. A second request for service
38 was a community member who mistakenly thought that they were illegally operating their B&B
39 and he called the County and complained and that was in I think in July of 2014, but again as I
40 said they were permitted since May of 2013. So the community member was know, no actually
41 they have a permit for that and that was resolved and closed. And then the final RFS was just a
42 request for all the permits associated with the property which is a common request that we'll get
43 so somebody will say I just want to know all the SMA Permits, all the building permits, all the
44 stuff that's associated with this property and those records were provided to that person and
45 that was closed.

46

1 There was three letters of opposition that was received and those are attached as Exhibit No. 9
2 in your staff report. There were also two letters of support and then after the drafting of the staff
3 report I received an additional three letters of support so a total of five letters in support and so
4 those are the ones that I handed out right before resumed the meeting, the additional three
5 letters of support.

6
7 In terms of bed and breakfasts within 500 feet there is one existing. That's the green square
8 that's four parcels south of the highlighted...(inaudible)...and then the pink square that's to the
9 edge of the 500-foot boundary is a permitted STRH. So you know, both of the neighbor
10 oppositions mentions an over saturation of B&Bs and short-term rentals in the neighborhood.
11 This area of Halama Street as you can see there's actually not many. They could be perhaps
12 talking about illegal operations and that's what they're dealing with, but in terms of permitted
13 B&Bs and STRHs there's not many within this area of Halama Street.

14
15 And as far as the larger Kihei-Makena Community Plan area as of December 31, 2016 there are
16 37 permitted B&Bs and 33 permitted short-term rentals. The community plan cap for each of
17 these is 100 so that leaves 63 available B&B Permits and again, this is already an existing
18 permit so it's really just expanding the permit.

19
20 And then briefly about the applicants who are here to answer any questions the Commission
21 may have. Kim Hembree and Mac Hembree they've been part-time residents of the island
22 since 2007 and managed to make it a full-time resident since 2011. They're either recently
23 retired or trying to transition into retirement and had careers in real estate and interior design.
24 So ...(inaudible)... life-long dream and they're hoping to be able to continue in retirement doing
25 the B&B operation. So that's it. Director, if you wouldn't mind grabbing the light?

26
27 Chair Tsai: Thank you.

28
29 **a) Public Hearing**

30
31 Chair Tsai: At this time open the floor for public testimony. Anyone wish to testify on this
32 subject matter please come forward?

33
34 Ms. Aako: Should the applicant...

35
36 Chair Tsai: Yeah, I'll allow that. Please identify yourself you have three minutes.

37
38 Ms. Kim Hembree: My name Kim Hembree and this is my husband Mac Hembree and it's been
39 our life-long dream to retire in Maui. We moved to Halama Street in 2011 and I did a million and
40 a half dollar renovation on the house without adding any bedrooms. I strictly made it a family
41 type home because we have a large extended family. We've been married for 34 years. We
42 have seven children between the two of us and 32 grandchildren. So we have a lot of visitors
43 and everyone that says they know us, of course they want to come over and visit too.

44
45 We've been running our B&B for the last three and a half years, extremely successfully. I love
46 the aloha spirit, I love getting to know everyone that comes to the island. I think we offer
47 something completely different for travelers to the island because we offer a real family oriented

1 home atmosphere vacation. It's centered around a pool which has a volleyball net. I have a
2 movie theatre room, a workout room, and it's not just a big conglomerate of bedrooms, it's truly
3 a place for a family to get together. And I've had many, many requests for families that are
4 multi-generational, the grandparents, the parents, the adult children, the grandchildren, every
5 great grandchildren that come and they may wonderful, wonderful memories here and have told
6 us many times over how they wish that our ohana was a little bit bigger.

7
8 Well, while living in the big house my husband and found ourselves in this big, huge house and
9 said well we'd like to be in a smaller house. So our general plan is to go down to move into the
10 ohana and rent out the bigger house during the vacation months of the summer and during the
11 holidays. Won't be able to do this holiday because I'm already booked for the ohana. But I love
12 being there. I love interacting with my guests, showing them the aloha spirit.

13
14 Halama Street is very much a family oriented neighborhood. As I say, I've gotten to know all my
15 neighbors. We walk our dogs together, we ride our bikes together. We've in very close
16 proximity to Kalama Park which makes it really nice for families because of the soccer fields, the
17 basketball courts, the tennis courts, the playground, the skating rink and it makes very attractive
18 for multi-generational that they know that they have something for everyone in the family and it
19 becomes into an affordable range for them versus renting five condos or four hotel rooms. It
20 becomes very affordable for these type of travelers.

21
22 B&B is the fastest growing industry in the world right now as I understand. I think our house in
23 particular is meeting the need that's not being met on Maui right now besides the condos and
24 the hotels and I'd like to maintain it that way. That's why I'm doing B&B. I'm not doing non-
25 owner occupied, I don't know what they call it, yeah, short-term rental. I want it to be a B&B
26 because I want to be there. I want to be able to greet them, I want to be able to tell them all the
27 local places to go and what to do, intermix with their families and get to know them. I appreciate
28 you giving us this opportunity to extend our B&B and then we can go on and live our dream and
29 live in the little ohana and I'll have less to clean. Thank you very much.

30
31 Chair Tsai: Thank you. Okay, seeing no one else, public testimony is now closed. Questions
32 from the Commission? Commissioner Hudson?

33
34 Mr. Hudson: You mentioned that there was no calls for service from MPD at all noise or
35 otherwise?

36
37 Ms. Aako: No.

38
39 Mr. Hudson: Thank you.

40
41 Chair Tsai: Commissioner Robinson?

42
43 Mr. Robinson: I heard there was the RFS asking for permits to get updated and I kind of
44 missed that so is that deck that we seeing here with...above the...on the house where those
45 chairs is that the permitted area that you're talking about?

46
47 Ms. Aako: Is that area that you were doing the deck on without the SMA Assessment?

1
2 Ms. Hembree: Oh no, no.
3
4 Mr. Spence: Everybody's got to talk into the microphone otherwise it's going to be inaudible,
5 inaudible, inaudible.
6
7 Ms. Aako: I'm sorry.
8
9 Chair Tsai: Yeah, we gotta get you on record.
10
11 Ms. Hembree: This is another deck that was built above the gym. It's attached to the garage
12 which in the middle of the property. The other deck that I didn't know my...which I had a
13 contractor that told me he had his license. He didn't. He told me I didn't need a permit to build
14 the patio and he went ahead and did it and it cost me about \$90,000 to have it all done and
15 redone, but no that is not the deck.
16
17 Mr. Robinson: I'm over here.
18
19 Ms. Hembree: Oh, I'm sorry.
20
21 Mr. Robinson: So the pool chairs and that deck where you have the wood with the wiring that's
22 the one that you said is permitted now?
23
24 Ms. Hembree: Yes it is.
25
26 Mr. Robinson: Okay, thank you. I have one other question while you're up. Usually when we
27 have letters of protest the owners usually write back to the people that wrote the letter to kind of
28 clarify their position.
29
30 Ms. Hembree: You know what I didn't write back to these particular people because they're
31 same three people that protested on my first B&B application and two out of the three don't
32 even live on the street.
33
34 Mr. Robinson: Were you able to see the letters of protest.
35
36 Ms. Hembree: Yes.
37
38 Mr. Robinson: So one of the letters state that you folks do not live in Maui that you live in
39 San Diego.
40
41 Ms. Hembree: That's not true. You want to see my tax returns?
42
43 Mr. Robinson: I'll probably make that as a condition that—
44
45 Ms. Hembree: I already got it notarized.

1
2 Mr. Robinson: Great. Okay, good. That's fantastic. So it's both you and husband's tax returns
3 are ...(inaudible)...

4
5 Ms. Hembree: Uhuh.

6
7 Mr. Robinson: Well that solves that. Thank you so much.

8
9 Chair Tsai: Commissioner Higashi?

10
11 Mr. Higashi: I have a question on your Page 23 and 24, the deck on the top that they're talking
12 about. According to that railing it has wires on it.

13
14 Ms. Hembree: Stainless steel.

15
16 Mr. Higashi: Yeah, is it tight enough that a child can't go through it for safety?

17
18 Ms. Hembree: Yes, it passed inspection. Yes, absolutely. I wouldn't have it any other way. I
19 have grandchildren myself.

20
21 Mr. Higashi: I was just looking at. At first I didn't see it.

22
23 Ms. Hembree: Well, that was the point of it to not obstruct the view but still give the safety of the
24 wires, so yeah.

25
26 Mr. Higashi: The other alternative I was thinking putting a plexi glass type so you can still see
27 through it, but yet—

28
29 Ms. Hembree: Yes. Yeah, but there's a lot of cleaning involved in that. So I took a lot of
30 thought. I'm an interior and exterior designer so it's all done to code.

31
32 Mr. Higashi: But it already passed inspection.

33
34 Ms. Hembree: Oh, yes absolutely.

35
36 Mr. Higashi: Thank you.

37
38 Ms. Hembree: Thank you. Any other questions?

39
40 Chair Tsai: Okay, well can we have the Department's recommendation please?

41
42 **b) Action**

43
44 Ms. Aako: So the application does comply with the applicable standards for a bed and
45 breakfast permit and as such the Department recommend approval. Recommendation of
46 approval is based upon the 16 standard conditions the commission sees for bed and breakfast.
47 The Department recommends that the Maui Planning Commission adopt the Planning

1 Department's report and recommendation prepared for the March 28, 2017 meeting as its
2 finding of fact, conclusion of law and decision and order and to authorize the Director of
3 Planning to transmit said written decision and order on behalf of the Planning Commission.

4
5 Mr. Carnicelli: So moved.

6
7 Chair Tsai: Moved by Commissioner Carnicelli.

8
9 Mr. Hudson: Second.

10
11 Chair Tsai: Second by Commissioner Hudson. Discussion? Commissioner Robinson?

12
13 Mr. Robinson: I believe we had an application similar to this maybe last year on Halama Street
14 where they wanted to move in between the two homes. Nice lot. Nice people. I think same
15 thing. I was against it then and I'm sort of against now. My concern is when there's three
16 protest letters and there's nothing to address it from the Planning Department or from the
17 applicant itself. I think that if they want to...if you guys want to rent out your home and four
18 bedrooms and do the ohana then I think it should be that. I don't think you should be able to go
19 back and forth that's just my personal opinion. Thank you.

20
21 Chair Tsai: Anything else? Oh, Commissioner Hedani?

22
23 Mr. Hedani: Evelyn, is there a seawall on the ocean side of the property?

24
25 Ms. Aako: No there's not.

26
27 Mr. Hedani: Am I looking at the wrong picture?

28
29 Ms. Aako: What picture are you looking at?

30
31 Chair Tsai: Exhibit 2.

32
33 Mr. Hedani: Basically I'm looking at Exhibit 2 and where the red dot is it looks like it's pointing to
34 a street actually. So I'm a little confused as to whether or not it's on the right-hand side or the
35 left-hand side of that.

36
37 Ms. Aako: Oh, yeah. I apologize for that. So it's...the property is on the left-hand side. It's the
38 property right to the left of the red dot. So it's...for some reason the Google Maps places it in
39 the street as opposed to on the subject property but that's the subject property to the left. So
40 that's actually Halama Street right there.

41
42 Mr. Hedani: Okay. Thank you.

43
44 Chair Tsai: You said to the left. So upper left or lower left of where it's pointing?

45
46 Ms. Aako: Oh actually, yeah I'm sorry, slightly slower 'cause that's the pool right there, yeah.

47

1 Chair Tsai: Below. Okay, so the property has the pool and it's below. Yeah, because what's
2 pointing if you're going makai it looks like a beach access or something like that?

3
4 Ms. Aako: Right, right. No, I apologize, slightly lower to the left.

5
6 Chair Tsai: Okay, thank you. Any other questions from the Commission? Okay, Director, can
7 you please repeat the motion?

8
9 Mr. Spence: The motion is to approve as recommended by Staff.

10
11 Chair Tsai: Call for a vote. All in favor?

12
13 Mr. Spence: That's seven ayes.

14
15 Chair Tsai: Opposed?

16
17 Mr. Spence: One opposed. Motion carries.

18
19 Chair Tsai: Motion carries. Congratulations.

20
21 Ms. Hembree: Thank you very much.

22
23 **It was moved by Mr. Carnicelli, seconded by Mr. Hudson, then**

24
25 **VOTED: To Approve the Bed and Breakfast Home Permit as Recommended**
26 **by the Department.**
27 **(Assenting – L. Carnicelli, L. Hudson, P. Canto, W. Hedani,**
28 **S. Duvauchelle, S. Castro, R. Higashi)**
29 **(Dissenting – K. Robinson)**
30

31 Mr. Spence: So Commissioners we are on forth public hearing item this morning. Mr. Karl
32 Jacobs and Rosa Paz-Jacobs requesting a Land Use Commission Special Use Permit and a
33 Bed and Breakfast Home Permit in order to operate the Hookipa Rose Bed and Breakfast on
34 Pauwela Road in Haiku and again we have Ms. Evelyn Aako.

35
36 **4. KARL JACOBS and ROSA PAZ-JACOBS requesting a State Land Use**
37 **Commission Special Permit and a Bed and Breakfast Home Permit in order**
38 **to operate the Hookipa Rose Bed and Breakfast, a four (4)-bedroom bed**
39 **and breakfast home located in the State Agricultural District at 285 Pauwela**
40 **Road, TMK: 2-7-008: 139, Haiku, Island of Maui. (SUP2 2016/0015)**
41 **(BBPH T2016/0007) (E. Aako)**
42

43 **The Bed and Breakfast Home Permit application requires a public hearing**
44 **because there is at least one (1) permitted bed and breakfast home**
45 **operation located within 500 ft. of the subject property.**
46

1 Ms. Evelyn Aako: Okay, so another B&B for the Commission to review. This time it is in Haiku
2 and on agricultural land and therefore requires an SUP2 to operate. The Commission is also
3 the responsible body to review and approve the B&B Permit because there is an existing B&B
4 within 500 feet of the subject property. Once again, the applicants are here so I'll go through a
5 brief power point presentation and then they're here to answer any questions that the
6 Commission may have.

7
8 You can see the red dot in the Haiku area at 285 Pauwela Road. And here is the satellite view.
9 This one is a little better of being on the actual subject property so you can see where the red
10 dot is the actual subject property. The site and parking plan. So Pauwela Road on the eastern
11 edge of the subject property and then you can see the driveway that goes in. The first structure
12 is the accessory farm dwelling and the second structure is the main house dwelling and this is
13 attached to the staff report as Exhibit 2 so you can see it a bit closer.

14
15 So next series of slides are all photos. This is a photo of the entrance and the mailbox that is off
16 of Pauwela. And then this is the driveway going into the subject property and to the right on the
17 second slide you can see the accessory dwelling and several shots of the exterior of the primary
18 farm dwelling.

19
20 The total number of bedrooms for the B&B is four, two in the primary dwelling and two in the
21 accessory. So here is bedrooms one and two in the primary dwelling as well as the dining area,
22 kitchen and living room. Here are the exterior shots of the accessory farm dwelling. And then
23 the kitchen and dining area and the living room area and bedrooms three and four. And
24 apology the applicants are currently using this space to store art and various cultural artifacts
25 from their travels but obviously if they were approved they would remove all the stuff and it
26 would be appropriately furnished or B&B guests.

27
28 So the subject property has a verified implemented farm plan that was verified by the Planning
29 Department Zoning Division and the farm plan involves a total farming area of approximately 65
30 percent of the total 2.18 acres of the property. The applicants state that they typically produce
31 800 pounds of mango, 600 pounds of avocado, 150 pounds of star fruit and enough garden
32 vegetables to feed their own family and to give some away. Some of the crops so far has been
33 sold to the Haiku Store, some crop has been sold at the Makawao farmer's market, but the bulk
34 of it is donated to the Harvest Abundance Program. So there's quite a few slides here just so
35 you can see the agriculture on the property. So here's mango, and avocado, coconuts, orange
36 and starfruits, macadamia nut and lilikoi, their vegetable and herb garden and some tropical
37 flowers which are part of the implemented farm plan.

38
39 This application was transmitted to the State Office of Planning and the State Land Use
40 Commission and no comments were received from either. No noise disturbances or police
41 reports filed with Maui Police Department. No complaints or requests for service and no
42 neighbor opposition was received. And the applicants did forward a letter of support from a
43 neighbor directly across the street I believe this morning and I'm sorry I didn't hand that out. I
44 was transitioning so quickly I didn't hand that out but I can hand that out afterwards. So one
45 letter of support was received after the power point presentation was completed and the staff
46 report was completed.

1 So as I mentioned there are two existing permitted B&Bs within 500 feet. If you look within the
2 green circle there's one directly adjacent to the west of the property and then one that looks like
3 it's about across the street in Pauwela...across the street on Pauwela. And then the larger this
4 kinda shows maybe about two miles around the subject property and it's still a relatively
5 sparsely populated area in terms of permitted B&Bs. So Paia-Haiku Community Plan area as of
6 December 31st there are 40 permitted B&Bs and 42 permitted short-term rentals. The
7 community plan cap for this is 88 so that leaves 48 available permits available.

8
9 And little biographical information about the applicants, Dr. Carl Jacobs and Ms. Rosa Paz
10 Jacobs both have been residents of Maui for over 20 years. Dr. Jacobs maintains a private
11 psychotherapy practice although I believe he is planning to retire soon and the B&B is part of
12 their plan for their retirement. And Ms. Paz Jacobs has worked extensively in the visitor industry
13 in hotels and that would be it.

14
15 Chair Tsai: Okay, thank you.

16
17 **a) Public Hearing**

18
19 Chair Tsai: We're gonna open the floor for public testimony. Anyone wish to testify on this
20 agenda item please come forward? Seeing none, public testimony is now closed. Questions
21 from the Commission. Commissioner Hedani?

22
23 Mr. Hedani: This is just a comment on the exhibits that were provided.

24
25 Ms. Aako: Sure.

26
27 Mr. Hedani: Exhibit No. 9, actually they're both listed as Exhibit No. 9, one shows an orange
28 tree fronting the cottage. That's a guava tree.

29
30 Ms. Aako: Oh, thank you. Okay.

31
32 Mr. Hedani: And Exhibit 9 that shows a lilikoi tree that's a guava tree, too.

33
34 Ms. Aako: Okay. Thank you.

35
36 Mr. Hedani: And Exhibit No. 9, the third page next to the coconut tree that's identified as
37 coconut tree I think it's the same guava tree.

38
39 Ms. Aako: Okay. Thank you. Thanks for noticing them.

40
41 Chair Tsai: Commission Carnicelli?

42
43 Mr. Carnicelli: So Evelyn I just have...it might be for the applicant actually but there was either
44 an STRH or a B&B next door?

45
46 Ms. Aako: B&B.

47

1 Mr. Carnicelli: A B&B next door. Okay, if it's a B&B I guess it doesn't really matter 'cause I
2 guess my question is just does the applicant hold any interest in that property?

3
4 Mr. Karl Jacobs: I'm Karl Jacobs and no we don't.

5
6 Mr. Carnicelli: Okay, thank you.

7
8 Chair Tsai: Okay, can I get the Department's recommendation please?

9

10 **b) Action**

11

12 Ms. Aako: The application complies with the applicable standards for a State Special Use
13 Permit as well as a B&B Permit and as such the Department does recommend approval.
14 Recommendation approval would be based upon the seven standard conditions for a B&B
15 related SUP and upon the 16 standard conditions for a B&B. The Department recommends that
16 the Maui Planning Commission adopt the Planning Department's report and recommendation
17 prepared for the March 28, 2017 meeting as its finding of fact, conclusion of law and decision
18 and order and to authorize the Director of Planning to transmit said written decision and order
19 on behalf of the Planning Commission.

20

21 Chair Tsai: Thank you.

22

23 Mr. Carnicelli: So move.

24

25 Mr. Castro: Second.

26

27 Chair Tsai: Okay, Moved by Commissioner Carnicelli, second by Commission Castro.
28 Discussion? Commissioner Robinson?

29

30 Mr. Robinson: I am not in support of this. Have nothing to do with the applicants. You guys
31 seem like very nice people. I think it's just part of our rules and our problems. I look at this
32 page and see 23 bed and breakfasts in the area which are rentals. I see just last year us going
33 through all of these auxiliary dwellings trying to get a reason for people to have a place to live
34 and fixing the rules and all we're doing for the last year is finding more and more places for
35 tourism. You know couple years ago we were granting B&Bs to people to help support their
36 farms but I don't think this two-acre farm is going to be enough to support it ever. I think their
37 retirement is gonna be a B&B which means we are granting an auxiliary dwelling for secondary
38 income and vacation purposes. It's the people are within the law, they're falling the law, they're
39 applying. They have this avenue to go ahead and get some income. I'm not against that. You
40 know, it's just unfortunate that what we're trying to accomplish in the County and what we're
41 trying to do to get housing it doesn't seem that it's working because we're allowing another use
42 for properties that could be used for rentals and for that reason I'm not gonna support this.
43 Thank you.

44

45 Chair Tsai: Commissioner Higashi?

46

47 Mr. Higashi: I'd like to propose an amendment to the motion. Normally any application that

1 comes in should be complete. The bedrooms, the two bedrooms are not complete. They got
2 storage area instead and I would recommend that they have it complete and that the staff does
3 a final inspection before approval is given. That's a motion.

4
5 Chair Tsai: So there's a motion to amend the original motion. Do I hear a second?

6
7 Mr. Robinson: Second.

8
9 Chair Tsai: Second by Commissioner Robinson. Discussion regarding the amendment?
10 Seeing...we have a comment, so do we want to vote on the amendment first then you want to
11 speak?

12
13 Unidentified Speaker: I don't have a comment on the amendment.

14
15 Chair Tsai: You don't. Okay, so let's vote on the amendment first. Director, can you repeat the
16 amendment?

17
18 Mr. Spence: I'm not entirely clear on the amendment, but they finish two of the bedrooms, oh
19 the ones with all...in the pictures they show that there is a bunch of stuff in them. Okay, so just
20 for the record, Commissioner Higashi is nodding his head yes that the two rooms that have all
21 the stuff in it. And you would like an inspection to make sure it's all empty and ready to go. The
22 amendment is that the applicants finish those two bedrooms before they start renting them out.

23
24 Mr. Hudson: I have a couple questions.

25
26 Chair Tsai: Yes.

27
28 Mr. Hudson: For clarification, the bedrooms are completed they're just being used for storage
29 right now?

30
31 Ms. Aako: Yeah, that's what I wanted to step in and clarify. So the entire property has passed
32 all the inspections. Everything is built to code and safe, they just have art in it. So I actually
33 when I went out for the site visit saw the furniture they're planning to furnish the bedrooms with
34 and once they got that approval they're gonna swap them out. But I can, we can condition it
35 that way as well. Can do another site visit just to confirm that, but it is, everything is up to code
36 and ready in that regard.

37
38 Mr. Higashi: So in essence they can do it. It's not that they can't do it. It's just it's not ready for
39 whatever they're gonna put in?

40
41 Ms. Aako: Yeah, I mean I don't want to speak...I believe the impression I got is they were
42 waiting to get the approval before they swapped everything out.

43
44 Chair Tsai: Commissioner Hedani?

45

1 Mr. Hedani: Just a clarification. So the motion that we're voting on right now is not to defer
2 approval of the project but to defer operation until the bedrooms are finished off and inspected
3 by staff?
4

5 Chair Tsai: Correct. Is that correct? The amendment?
6

7 Mr. Higashi: Yeah, it's what Commissioner Hedani said.
8

9 Chair Tsai: Your amendment to the motion is to require inspection before final operation.
10

11 Mr. Higashi: It's more completion. This is an application.
12

13 Mr. Spence: That those two rooms are emptied out and staff goes and takes a look before they
14 start operating.
15

16 Chair Tsai: That's your amendment, right, condition?
17

18 Mr. Higashi: Yeah.
19

20 Chair Tsai: Okay, Commissioner Carnicelli?
21

22 Mr. Carnicelli: While I understand and respect where the amendment to the motion is coming
23 from, I think really if they're gonna rent it out as a B&B I think they're gonna take their out and so
24 really all we're doing is the amendment does nothing more than create an additional step for
25 staff to have to go out and verify it. So respectfully I won't support the amendment.
26

27 Chair Tsai: Okay, any more discussion on this amendment? Okay let's call for a vote again.
28 Director could you please repeat, sorry, the amendment again?
29

30 Mr. Spence: The amendment is that the applicant empty out and prepare those two rooms for
31 occupation prior to operating those rooms as rental rooms and that staff go out and take a look
32 and verify that they're ready.
33

34 Chair Tsai: Call for a vote. All in favor of the amendment?
35

36 Mr. Spence: Two, two ayes, three ayes.
37

38 Chair Tsai: Opposed?
39

40 Mr. Spence: That's four opposed. Motion fails.
41

42 Chair Tsai: Well, I don't see the need to put in a condition like that. I seem them reputable
43 people. They're gonna run their B&B as in nice shape as possible. So I think the condition is
44 unnecessary. So my vote will be no and will be not carried.
45

46 **It was moved by Mr. Higashi, seconded by Mr. Robinson, then**
47

1 **VOTED: To Approve the State Land Use Commission Special Permit and Bed**
2 **and Breakfast Home Permit as Recommended by the Department.**
3 **(Assenting – R. Higashi, K. Robinson, W. Hedani,**
4 **L. Hudson-Abstain)**
5 **(Dissenting – L. Carnicelli, P. Canto, S. Duvauchelle, S. Castro,**
6 **M. Tsai)**

7
8 Chair Tsai: Okay, back to the original motion. Commissioner Hedani?

9
10 Mr. Hedani: I guess this is a question for Staff. I noticed that the State Land Use Commission
11 and the Office of State Planning both have stopped sending us comments. Have they given up
12 on trying to preserve agriculture or what's the plan?

13
14 Ms. Aako: You know and actually that was actually discussed at our last Current Division staff
15 meeting and I don't know the answer to that. We don't receive comments any more when we
16 transmit to them. So...

17
18 Mr. Hedani: So I take it they're saying well, Maui's gonna do what they do anyway, so there's
19 no sense in barking up the tree again.

20
21 Ms. Aako: Yeah, I can't speak to that.

22
23 Mr. Hedani: The other question that I had was at one time we had I thought an income
24 threshold for farm plans. I think it was like \$35,000 per year or something like that that kind of
25 required implementation of an active farm plan for approved plans. Is that still in play?

26
27 Ms. Aako: I believe, I'm sorry if I can grab the—

28
29 Mr. Spence: I can answer that.

30
31 Ms. Aako: Can you? Okay...

32
33 Chair Tsai: Director?

34
35 Mr. Spence: The requirement for \$35,000 worth of income for...that's contained in County
36 Code that's if you want your...a third farm dwelling. So you get your first farm dwelling then with
37 the approval of a farm plan, and then in order to get your second farm dwelling which is
38 supposed to be for, you know, your farm workers you have to implement that farm plan. So if
39 you're running cattle or raising goats or you have fruit trees or crops or whatever, that has to all
40 be in place and we will go out and check. So when Evelyn says that the Planning Department
41 has verified that the farm plan has been implemented that means everything is in the ground as
42 the property owner has represented it would be. So then if you want another farm dwelling then
43 you have to provide income documentation of income of \$35,000, that you're getting agricultural
44 water rate, two of the three, 35,000, agricultural water rates, and there's something else. Sorry,
45 I forget, but that is where the 35,000 comes from.

46
47 Mr. Hedani: I see. Okay, thank you.

1
2 Chair Tsai: Okay, I actually have a quick question. The numbers you have here, I know we're
3 in a discussion regarding a motion, the 800 pounds of produce is that net or is that per year?

4
5 Ms. Aako: Let me have the applicant answer that because those are the numbers they stated.

6
7 Chair Tsai: Yeah, I was just curious that's a lot of produce, 800 pounds.

8
9 Mr. Jacobs: Karl Jacobs. And we at various times of the year we have an embarrassing
10 number of mangos and avocados which is why we are involved in other farming various
11 organizations that distributes them to people that need them. So it's kind of like a
12 ...(inaudible)...but yeah we...like some times of the year I'm out there every morning harvesting
13 buckets full of mangoes or avocados and I'm not sure about the exact numbers.

14
15 Chair Tsai: Well, no I'm just looking at your Exhibit 8, and you know, kind of a time line it says
16 you guy typically produce 800 pounds of mangoes, 600 pounds of avocado, 150 pounds of
17 starfruit. It doesn't say is that per year or is that just...

18
19 Mr. Jacobs: Per year.

20
21 Chair Tsai: Wow, good job.

22
23 Mr. Jacobs: Well, we didn't plant most of things, we just took over the property two years ago.

24
25 Chair Tsai: All right.

26
27 Mr. Jacobs: And we do...I don't know if this is appropriate our neighbor Judy just arrive...could
28 give testimony to our being community members in the neighborhood. Maybe we're done with
29 that, I just wanted to mention that.

30
31 Chair Tsai: Yeah, we're done with public testimony.

32
33 Mr. Jacobs: Thank you.

34
35 Chair Tsai: All right, no more discussion, questions? Let's call for a vote. Director, can you
36 please repeat the motion?

37
38 Mr. Spence: The motion is to approve as recommended by Staff.

39
40 Chair Tsai: All in favor?

41
42 Mr. Spence: That's six ayes.

43
44 Chair Tsai: Opposed?

45
46 Mr. Spence: One opposed.

47

1 Chair Tsai: Commissioner Higashi are you abstaining or are you opposing?

2

3 Mr. Higashi: I'm basically neutral.

4

5 Mr. Spence: So that would be...

6

7 Chair Tsai: That's automatic affirmative.

8

9 Mr. Spence: Yeah, so that would be seven ayes.

10

11 Chair Tsai: Seven ayes, motion carries. You're approved. Congratulations.

12

13 **It was moved by Mr. Carnicelli, seconded by Mr. Castro, then**

14

15 **VOTED: To Approve the State Land Use Commission Special Permit and Bed**
16 **and Breakfast Home Permit as Recommended by the Department.**
17 **(Assenting – L. Carnicelli, S. Castro, L. Hudson, P. Canto, W. Hedani,**
18 **S. Duvauchelle, R. Higashi- abstained)**
19 **(Dissenting – K. Robinson)**

20

21 Chair Tsai: We're gonna take a five minute recess, please. Thank you.

22

23 A recess was called at approximately 2:02 p.m., and the meeting was reconvened at 2:10 p.m.

24

25 Chair Tsai: Okay, Maui Planning is called back to order. Director?

26

27 Mr. Spence: Okay, Commissioners we are on Item E-1. This is...well, in E these are adoption
28 of written decisions and orders. You have a number of them on your agenda. The first one is
29 Mr. Michael Baskin of Seashore Properties, LLC requesting county Special Use Permit to
30 operate a nine-bedroom transient vacation rental and that was Paia Inn. So you have two
31 decisions and orders in front of you, one for the denial of the Special Use Permit and one for the
32 denial of the Petition to Intervene.

33

34 **E. ADOPTION OF WRITTEN DECISION AND ORDERS**

35

36 **1. MR. MICHAEL BASKIN of SEASHORE PROPERTIES LLC requesting a**
37 **County Special Use Permit to operate a nine (9) bedroom transient vacation**
38 **rental (Paia Inn) with 1st floor lobby on property situated at 93 Hana**
39 **Highway, TMK: 2-6-002: 027, Paia, Island of Maui. (CUP 2015/0006) (K.**
40 **Wollenhaupt)**

41

42 **a. Having voted on December 13, 2016 to Deny the Petition to Intervene**
43 **submitted by ISAAC HALL, attorney for FRANCINE AARONA on**
44 **November 29, 2016 regarding the County Special Use Permit**
45 **application submitted by MR. MICHAEL BASKIN of SEASHORE**
46 **PROPERTIES LLC to operate a nine (9)-bedroom transient vacation**
47 **rental (Paia Inn) with 1st floor lobby on property situated at 93 Hana**

1 Highway, TMK: 2-6-002: 027, Paia, Island of Maui. (CUP 2015/0006)
2 (K. Wollenhaupt)

3
4 The draft Decision and Order was prepared by Planning Department
5 staff and reviewed by the Department of the Corporation Counsel.

6
7 AN EXECUTIVE SESSION MAY BE CALLED IN ORDER FOR THE
8 COMMISSION TO CONSULT WITH THEIR ATTORNEY ON QUESTIONS AND
9 ISSUES PERTAINING TO THE COMMISSION'S POWERS, DUTIES,
10 PRIVILEGES, IMMUNITIES AND LIABILITIES PURSUANT TO SEC. 92-
11 5(a)(4), HRS.

12
13 The Commission may take action to adopt, adopt with modifications,
14 or take some other action regarding the proposed Findings of Fact,
15 Conclusions of Law, and Decision and Order.

- 16
17 b. Having voted on December 13, 2016 to deny the subject County
18 Special Use Permit application submitted by MR. MICHAEL BASKIN
19 of SEASHORE PROPERTIES LLC to operate the Paia Inn with 1st
20 floor lobby at 93 Hana Highway, TMK: 2-6-002: 027, Paia, Island of
21 Maui. (CUP 2015/0006) (K. Wollenhaupt)

22
23 The draft Decision and Order was prepared by Planning Department
24 staff and reviewed by the Department of the Corporation Counsel.

25
26 AN EXECUTIVE SESSION MAY BE CALLED IN ORDER FOR THE
27 COMMISSION TO CONSULT WITH THEIR ATTORNEY ON QUESTIONS AND
28 ISSUES PERTAINING TO THE COMMISSION'S POWERS, DUTIES,
29 PRIVILEGES, IMMUNITIES AND LIABILITIES PURSUANT TO SEC. 92-
30 5(a)(4), HRS.

31
32 The Commission may take action to adopt, adopt with modifications,
33 or take some other action regarding the proposed Findings of Fact,
34 Conclusions of Law, and Decision and Order.

35
36 Mr. Spence: You have a letter before you that we handed out just at...just after lunch. It's
37 dated March 24th, but we did not receive it until 11:19 last night, and I did not see it until 8:43...it
38 went to the general Planning Department inbox and so it didn't reach me or Carolyn till about
39 time that I left for the Planning Commission meeting so...but we're providing it for you now.

40
41 Chair Tsai: Okay for the record, I'm also gonna make a disclosure here, at 11:20 p.m. last night
42 I did receive email in my personal email box from Michael. I guess he's
43 baskindesign@gmail.com. I was bcc'd on that...on this email with this letter right here. And
44 first I want to disclose this. Second of all, I definitely don't believe that's appropriate Michael.
45 All matters should be directed to the Planning Department and they will forward it to all the
46 commissioners. For me to be the only person that get bcc'd on this email, I don't feel that's
47 acceptable, so...

1 Mr. Spence: So Commissioners as an agenda item I think, I believe with the receipt of the letter
2 Mr. Baskin or one of his representatives would like to probably provide testimony as this is an
3 agenda item or these are agenda items you know at the discretion you should open it up for
4 testimony.
5

6 Chair Tsai: Okay, so at this time, I'm gonna open the floor for public testimony regarding this
7 agenda item. Anyone wish to testify please come forward? You have three minutes. Please
8 identify yourself first.
9

10 Mr. Eric Molina: Good afternoon, I'm Eric Molina. I'm Assistant General Manager of the Paia
11 Inn, and again, good afternoon Mr. Chair, Committee Members and staff. I'm here in support of
12 Michael Baskin and the Special Permit, Use Permit application for the Paia Inn and I'd like to
13 take this moment to read a letter from Neil Abercrombie in support of this Special Permit
14 application.
15

16 I won't be speaking in his voice, but let me read...and this letter has been submitted to the
17 committee prior to the December meeting. He says I am writing to you and request for the
18 memo to be forwarded to the Maui Planning Commission in support of the Special Use Permit
19 application for Paia Inn. And by way of disclosure I want to inform you that I am a partner, and
20 this is Mr. Abercrombie, with Mr. Baskin for the use of his property located at 65 Hana Highway
21 and their intention is to offer wedding events to the general public but this business is separate
22 and apart from any issues before the commission with respect to the CUP 2015/0006.
23

24 I am in support of the CUP request as a result of personally walking and observing every venue
25 embodied in this description of the project submitted to the commission it its report the CUP
26 2015. Included in the areas the activities cited in the exhibits I note the Maui County Planning
27 Department does not oppose the project. The report lists its exhibits responses which
28 ostensibly establishes objection and/or opposing interpretations of the point enumerated in the
29 application in favor of the Paia Inn request.
30

31 It is not my intent to analyze every observation on every page although I found that I disagree
32 with much it is not a great majority of the negative comments. Suffice to say, in summary the
33 response constitutes a vast overstatement of suppose adverse consequences if the applicant is
34 granted. One is encouraged to believe that by converting four small rooms into bedrooms Paia
35 as a historical town will be devastated, its character unalterably ruined and dire consequence
36 for its future survival in any recognizable form.
37

38 It stains creditability for example to characterize the Paia Inn in the same category as hotels or
39 resort developments as it is commonly observed anywhere on Maui or in the State of Hawaii for
40 that matter. The present uses of the property for rentals are permitted. Whatever arguments
41 may be at issue concerning whether the applicant has met all the conditions associated with the
42 permits do not alter the fact that the use of the property for its rentals is in itself acceptable
43 under all the Codes and rules in effect on Maui.
44

45 So whatever challenges exist concerning parking or signage or tortured definitions of lodging
46 versus vacation rentals or transient accommodations. People of goodwill and intentions can
47 work them out. Paia is not in 2016 what is observed on Page 10 of the report, a relatively rural

1 local hamlet at least where the Hana Highway portion is concerned and where the Paia Inn is
2 located. A tourist filled destination. It is absurd to think that the fact is going to change that or
3 granting the application duly noting the reasonable conditions needs to be honored.

4
5 So he's trusts the commission will separate its decision making, the personalities involved and
6 deal with the possible benefits having small business success in Paia Town.

7
8 Again, that was from Mr. Neil Abercrombie. My name is Eric Molina and thank you for your
9 time.

10
11 Mr. Spence: We need a copy of that.

12
13 Chair Tsai: Eric, can we get a copy of that please?

14
15 Mr. Molina: Yes, I believe it was submitted. I do have a rough copy. Can I submit a copy via
16 email?

17
18 Mr. Spence: Yeah, if...what's the date on that? If we already have it.

19
20 Mr. Molina: He said it was for the December meeting.

21
22 Mr. Spence: That was from the December meeting?

23
24 Mr. Molina: It had been submitted before the December meeting.

25
26 Mr. Spence: Okay, we have that already, so it's from that meeting.

27
28 Mr. Molina: If you do, we can submit another copy.

29
30 Mr. Spence: Okay, thank you.

31
32 Chair Tsai: That's fine. Thank you. Anyone else wish to testify? Please come forward. You
33 have three minutes.

34
35 Mr. Michael Baskin: Thank you. My name is Michael Baskin. I'm the owner of the Paia Inn and
36 the last time I was here was on December 13th and I'm back to ask that you reconsider and that
37 you today request the Commission to postpone the adoption of your decision and order against
38 our application for a Special Use Permit as we are currently preparing a new submittal based on
39 the current status since our December 13th presentation.

40
41 There had been some testimony to this Commission. A few individuals in our community had
42 come out about my intentions as a small business owner and our renovations to the historic
43 Paia Inn.

44
45 I grew up here. I was raised here and my family is here and my kids are here, parents live in
46 Paia and I just think that I want to...anybody that thinks I wanna change the nature of the town

1 hurts me dearly. We all have the same desire which is to keep Paia, Paia and continue to make
2 this a town that visitors enjoy and locals are proud to call home.

3
4 If you all got a copy of my letter that was distributed did you all have a chance to read it? Okay,
5 the main thing in the letter that I'm reaching out for you to consider is to come out and take a
6 look at the Paia Inn. I think it's very difficult for me that you all are gonna make a decision here
7 today on an operation that we have had for the last nine years with staff and employees and not
8 have actually come out and taken a look at it. I think if you do, you're gonna find it's not a hotel
9 resort development and I would be the first to ask either the new Chair or all of you or any of
10 you to come out and take a look before you make this final decision.

11
12 And what I would ask is you give us 60 days to respond, update and respond to the people that
13 came out here, the neighbors, and some of the Planning Department's questions. We have
14 made some changes since the December 13th. We've addressed some of the issues. The fine
15 that was not yet due has been paid. We've addressed the violations. The RFS that were
16 apparently numerous were mostly for inquiries have been addressed and so we feel that if you
17 give us 60 days, if you come out and take a look, we'll have a chance to actually show you the
18 property and you'd be making an informed decision rather than a not informed decision.

19
20 Keeping in mind that, you know, this is only a 1,000 square foot addition. It's four rooms,
21 they're 150 square feet each. This is a 600 square foot property that we're talking about that
22 was built two years ago. It's not any new development. This is something already constructed.
23 We are using it as offices and to change the use from offices to accommodations is far less
24 intensification. It's a great thing in the town. Most of our neighbors, most of the town has
25 written in letters of support. Over 2,000 people have written in support and only a few people
26 came out and I understand the complexities of the neighbors, but you already found that the
27 neighbor who was mainly up here talking was...I'll go ahead and conclude and then I'm
28 available if you wanna any questions. Thank you so much for your time.

29
30 Chair Tsai: Thank you. Anyone else wish to testify?

31
32 Mr. Spence: Are there any questions?

33
34 Chair Tsai: I don't see any. Hold on just a second. I don't see anybody. Any questions of the
35 Commission? Oh, okay. Yeah please. Commissioner Castro?

36
37 Mr. Castro: Mr. Baskin, if we were to go to, to the Inn right now is the sign still out there, hotel
38 entrance?

39
40 Mr. Baskin: There is a sign. It's a directional sign. That sign sir, has been approved per our
41 permit for our comprehensive sign. It was as part of our signage and it has been approved by
42 the County of Maui. The sign is still up as a directional entrance sign, but it has been approved
43 by the County.

44
45 Mr. Castro: But it hasn't changed...the wording on it, hotel to inn? Inn entrance or hotel
46 entrance?

47

1 Mr. Baskin: I believe it's the same sign that we have up there.

2

3 Mr. Castro: Hotel entrance. I believe last time you were up here before us I had a concern
4 because there was a picture that was circulated about way back when the fire, you know it
5 devastated that area. Are you in compliance with the Fire Code, the sprinkler system, smoke
6 detectors?

7

8 Mr. Baskin: Yes, absolutely. We've received all of our inspections. The property, the four
9 rooms that were added it has a current Certificate of Occupancy. So there is...everything was
10 inspected, everything is up to Code and we do have fire sprinkler systems throughout the
11 property, yes.

12

13 Mr. Castro: And I think I also asked you if there was a enunciator panel so that your front desk
14 can, they could see where the fire is at. Do you have a system like that?

15

16 Mr. Baskin: As far as I know everything related to the fire issues, Fire Codes, safety is all up to
17 Code has been inspected and approved. We've had numerous inspections. County has come
18 through. There is nothing on the building that is not to Code or has not been approved.
19 Everything's been approved.

20

21 Mr. Castro: Thank you.

22

23 Chair Tsai: Commissioner Canto?

24

25 Ms. Canto: Mr. Baskin, the contents of this letter has the community been apprised of what
26 you've written us today?

27

28 Mr. Baskin: As the community been apprised?

29

30 Ms. Canto: Have the community been advised of your intent going forward?

31

32 Mr. Baskin: We are continuously reaching out to the community, to the people around us. The
33 people to the right of us that own Maui Oil, Terry McBarnett has given us a letter of support.
34 The people to the left of us Flat Bread have given us support. The people behind us have given
35 us letters of support. The people across the street from us, the Nagata Family has given us
36 letters of support. Pretty much most of the people around us, the Paia Youth and Cultural
37 Center have given us letters of support. There's strong community support for the Paia Inn. It
38 obviously came as a big surprise to us to have a few people come out and who were opposed
39 to us and they were, you know, strong in their conviction but we would like to work with those
40 people going forward and think we can.

41

42 Ms. Canto: Okay, thank you.

43

44 Chair Tsai: Commissioner Hedani?

45

46 Mr. Hedani: Mr. Chair, I believe the discussion that we're having at this point is, is not
47 agendaed for this meeting. The meeting agenda talks about acceptance of written decisions

1 and orders relative to the decision that we've already rendered on this case. So a motion for
2 reconsideration of the decision itself is not up for consideration at this point I don't believe.

3
4 Chair Tsai: Director?

5
6 Mr. Spence: I concur with Commissioner Hedani so far as that's the decision that's before this
7 body. You could decide not to sign the decision and order today. That's, you know, that's up to
8 the Commission. Yes, it's either a yes or no decision to be made.

9
10 Chair Tsai: Okay, any other questions for the testifier? Thank you Michael.

11
12 Mr. Baskin: Thank you so much for your time. Aloha.

13
14 Chair Tsai: Please identify yourself you have three minutes.

15
16 Mr. Isaac Hall: Good afternoon Chair Tsai and Member Hedani. Thank you for your service
17 and for the other members of Maui Planning Commission. My name is Isaac Hall. I represent
18 Francine Mopsy Aarona. The Maui Planning Commission conducted a lengthy public on
19 December 13th where many, many people came out in opposition to this project. The Maui
20 Planning Commission voted to deny the SUP and individual members stated their reasons for
21 doing so.

22
23 We're here today not to conduct a further public hearing but to adopt findings of fact,
24 conclusions of law. After 1 o'clock today I obtained a copy of Mr. Baskin's request for deferral
25 and I object to any deferral. In answer to Ms. Canto's ...(inaudible)...the community has no
26 idea that Mr. Basking submitted this letter.

27
28 There's been no change. I wanna note on Page 3, Mr. Baskin says he's modified his marketing
29 material to remove the word, "hotel" and use only the word, "inn" and that the commission will
30 discover the property is not a resort hotel. But fortunately because you go so slowly...I got this
31 at 1 o'clock I went back to my Paia Inn website and downloaded what's currently on Mr.
32 Baskin's website and you can find all the references to hotels and...(inaudible not speaking into
33 mic)...before.

34
35 Mr. Spence: Isaac why don't you--

36
37 Mr. Hall: ...(inaudible)...

38
39 Mr. Spence: Give it to staff and we'll—

40
41 Chair Tsai: Isaac just please give it back there.

42
43 Ms. Thackerson: Also, if you could speak into the mic so it gets recorded if you're gonna walk
44 around.

45
46 Mr. Hall: You'll see in the front page here and I drove by it this morning the hotel entrance sign
47 is still there. You think somebody that had a vote against him on an SUP would decide they're

1 gonna make some changes, but he didn't. Then you'll see a picture Page 2, sheek boutique
2 hotel showing a reservation desk. Page 2, you'll see the pictures of the rooms that he's renting
3 and the short-term rentals still doing that. Page 3, you'll see another room sheek lushness of
4 the hotel. Page 4, trendy new boutique hotel showing one of the rooms. Page 5, hip boutique
5 hotel, stunning beach. Page 6, are the advertisements that he's showing in here, Travel and
6 Leisure, America's most romantic hotel, Honolulu Weekly, charming boutique hotel,
7 ...(inaudible)...perfect boutique, Honolulu Hotel, on and on and on. So Mr. Baskin's...I know
8 some people noted that he had creditability problem. He still has a creditability problem. He's
9 still running the same hotel resort development that he was running before. There's no change
10 in circumstances and I would ask that you folks simply adopt the proposed findings of fact,
11 conclusions of law that you intended to adopt before.
12

13 Lastly, it's best that the Commissioners who heard the actual testimony be the ones that adopt
14 the findings of fact, conclusion of law because if you two go off the Commission and some new
15 Commissioners come on they're gonna have to read the whole transcript and go through the
16 whole thing all over again which probably no one wants to do. So it's better that all the
17 Commissioners that are present here today who heard the testimony are the one's that—
18

19 Chair Tsai: Thank you. Thank you Isaac. Appreciate it.
20

21 Mr. Hall: Thank you. Thank you very much.
22

23 Chair Tsai: Any questions from the Commission for the testifier? Seeing none, any other
24 testifier wish to testify at this time?
25

26 Mr. Baskin: Can I comment?
27

28 Chair Tsai: No, you had three minutes. Public testimony is now closed.
29

30 Ms. Amy Stokes: Good afternoon. Is it on?
31

32 Chair Tsai: Are you—
33

34 Ms. Stokes: I'm gonna testify.
35

36 Chair Tsai: Okay.
37

38 Ms. Stokes: Yeah. My name is Amy Stokes. I'm Executive Legal Assistant for Mr. Baskin. I
39 wasn't going to speak today but in light of Mr. Hall's accusations I would like to comment on the
40 claims that were just put forward before you. Primarily the fact that those words that were read
41 that include boutique hotel, hip, sheek, are not Mr. Baskin's words. If you look, they are
42 reviews. Mr. Baskin in no way controls the reviews that come out about his establishment. So,
43 that's something that I think needs to be taken into careful consideration when looking at these
44 pictures and these words. If Mr. Baskin were to remove any five-star reviews that he had how is
45 that going to benefit him in any way? I just wanted to say that much.
46

1 As far as the signage goes, if the word "hotel entrance" which is a directional sign, it's not
2 saying...it doesn't say Paia Hotel if you drive, our sign says, "Paia Inn". I'm sure, I'm speaking
3 for Mr. Baskin but I'm sure knowing his intentions he will repaint the sign if that is deemed one
4 of the qualifications to receive his SUP. Mr. Baskin has gone above and beyond to try and work
5 with and for the betterment of Paia Town. I've known him in essence I used to work at Flat
6 Bread when I was very young back in 2007 and so I know Mr. Baskin's intentions are not to
7 destroy Paia Town, they're to preserve Paia Town. And if anything, what he has done has
8 uplifted the face of Paia Town. And his request today was not to rediscuss or make another
9 decision. He respects your decision that you made on December 13th. This body spent ample
10 time discussing your decision. However what he is asking is perhaps that you could defer the
11 adoption of the decision and allow him time to submit another application for an SUP. An
12 appeal process would cost the taxpayer's money would be lengthy. This is another avenue that
13 we are seeking. And I just ask you consideration that's all and that, yeah, Mr. Baskin's
14 character stop being so ...(inaudible)...yeah, drug it through the grounds. He's a good man
15 with good intentions. Thank you.

16
17 Chair Tsai: Thank you. Okay, now I'm gonna close the floor for public testimony.
18 Commissioner we have two items here for adoption. We can have discussion first, I think,
19 right?

20
21 Mr. Spence: Sure you can, Commissioners you can...options before you you can just discuss
22 openly on the floor and to adopt, whatever questions you have so long as they're pertaining to
23 this adoption or rejection whatever. You may also go into an executive session to discuss, you
24 know, as it's noted on the agenda to consult with your attorney regarding questions, issues
25 pertaining to the commissioner's powers, duties, privileges, immunities, et cetera.

26
27 Ms. Duvauchelle: I'd like to move that we go to executive session please.

28
29 Ms. Canto: Second.

30
31 Mr. Spence: Before we do, can I make a comment?

32
33 Chair Tsai: Yes, Director?

34
35 Mr. Spence: Actually there's a motion on the floor. I shouldn't.

36
37 Chair Tsai: Actually technically yes we have a motion on the floor to go to executive session by
38 Vice-Chair Duvauchelle and second by Commissioner Canto. Discussion regarding the
39 motion? Okay, call for a vote. All in favor of going into executive session?

40
41 Mr. Spence: One, two, three ayes.

42
43 Chair Tsai: Three ayes. Opposed?

44
45 Mr. Spence: Three opposed, four opposed.

46
47 Mr. Giroux: Just for the record I'd like to—

1
2 Chair Tsai: Corp. Counsel?

3
4 Mr. Giroux: I'd just like to put that the board is going into executive session in light of its
5 adjudicatory function under Chapter 91 just so it's clear that you're at a stage of reviewing the
6 legal ramifications of your decision as far as memorializing it.

7
8 Chair Tsai: Well, the motion fails. So we have to continue. You only have three votes for it.

9
10 Mr. Robinson: I abstained. So it's four.

11
12 Mr. Spence: Okay, so that's four, four.

13
14 **It was moved by Ms. Duvauchelle, seconded by Ms. Canto, and**

15
16 **The Motion to Go Into Executive Session, FAILED.**
17 **(Assenting – S. Duvauchelle, P. Canto, S. Castro, K. Robinson-abstained)**
18 **(Dissenting – L. Carnicelli, L. Hudson, W. Hedani, R. Higashi)**

19
20 Mr. Carnicelli: Can I change my vote?

21
22 Mr. Spence: Okay, it's be cleaner if we did that, this whole thing over.

23
24 Chair Tsai: Yeah, let's...

25
26 Mr. Spence: Okay so there was a motion by Commissioner Duvauchelle to go into executive
27 session. Commissioner Canto seconded it.

28
29 Chair Tsai: Any more discussion before we vote again?

30
31 Mr. Carnicelli: Okay, now that I've got clarity from Corp. Counsel as to why it is that we're going
32 into executive session I will go ahead and support the motion.

33
34 Chair Tsai: Okay, anymore discussion regarding to the motion to go into executive session?
35 None. Okay, call for a vote. All in favor of going to executive session say aye, raise your hand.
36 Six ayes, seven ayes. Opposed? One.

37
38 Mr. Spence: One opposed.

39
40 Chair Tsai: Motion carries. We're going to executive session.

41
42 **It was moved by Ms. Duvauchelle, seconded by Ms. Canto, then**

43
44 **VOTED: To Go into Executive Session.**
45 **(Assenting – S. Duvauchelle, P. Canto, L. Carnicelli, K. Robinson,**
46 **W. Hedani, S. Castro, R. Higashi)**
47 **(Dissenting – L. Hudson)**

1
2 The Commission went into Executive Session at approximately 2:37 p.m., and the Commission
3 reconvened the Regular meeting at 2:48 p.m.

4
5 Chair Tsai: We're back to Agenda Item E-1 a and b. So can I get a motion Commissioners?
6 So let's do E-1a first. We're gonna address a and b separately.

7
8 Mr. Spence: So a—

9
10 Chair Tsai: Yes Director?

11
12 Mr. Spence: a is the decision and order on the petition...on the denial of the petition to
13 intervene.

14
15 Chair Tsai: Commissioner Hedani?

16
17 Mr. Hedani: Move to accept as presented.

18
19 Mr. Carnicelli: Second.

20
21 Chair Tsai: Moved by Commissioner Hedani, second by Commissioner Carnicelli. Discussion?
22 None. Director?

23
24 Mr. Spence: Commissioners you have a motion to approve the Decision and Order on the
25 denial of the Petition to Intervene.

26
27 Chair Tsai: Call for a vote. All in favor?

28
29 Mr. Spence: That's eight ayes.

30
31 Chair Tsai: Motion carries.

32
33 **It was moved by Mr. Hedani, seconded by Mr. Carnicelli, then**

34
35 **VOTED: To Adopt Decision and Order.**
36 **(Assenting – W. Hedani, L. Carnicelli, L. Hudson, K. Robinson,**
37 **P. Canto, L. Hudson, S. Duvauchelle, S. Castro,**
38 **R. Higashi)**

39
40 Chair Tsai: E-1b.

41
42 Mr. Spence: So Commissioners this Decision and order is pertaining directly to the denial of the
43 County Special Use Permit application submitted by Mr. Michael Baskin to operate the Paia Inn.

44
45 Chair Tsai: Commissioner Hedani?

46
47 Mr. Hedani: Move to accept as presented.

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Ms. Canto: Second.

Chair Tsai: Okay, moved by Commissioner Hedani. I heard Commissioner Canto second. Discussion? Commissioner Hedani?

Mr. Hedani: I believe it's an accurate representation of what happened at the meeting and the decisions and the conclusions that we reached as a result of that discussion.

Chair Tsai: Commissioner Carnicelli?

Mr. Carnicelli: I also feel that that is a fair and accurate representation of the meeting and our decision.

Ms. Canto: I agree.

Chair Tsai: Okay, any other discussion? None. Director do you want to repeat the motion?

Mr. Spence: The motion is to accept the Decision and Order as it is written.

Chair Tsai: Okay, call for a vote. All in favor?

Mr. Spence: That's eight ayes.

Chair Tsai: Motion carries.

Chair Tsai: Thank you.

It was moved by Mr. Hedani, seconded by Ms. Canto, then

**VOTED: To Adopt the Decision and Order.
(Assenting – W. Hedani, P. Canto, L. Carnicelli, K. Robinson,
L. Hudson, S. Duvauchelle, S. Castro, R. Higashi)**

Chair Tsai: Moving on.

Mr. Spence: Commissioners we are on Item E-2 for decision and order for Mr. James Walkus, Short-Term Rental Home...Okay, again this is Findings of Fact, Conclusions of Law, Decision and Order for the denial of a Short-Term Rental Home Permit. That's for the applicant is Mr. James Walkus and the title is Maui Home Short-Term Rental.

2. MR. JAMES WALKUS requesting a Short-Term Rental Home (STRH) Permit to operate a five (5) bedroom STRH, Maui Home STRH, in the County R-2 Residential Zoning District located at 1143 Front Street, TMK: 4-5-004: 058, Lahaina, Island of Maui. (STWM T2015/0012) (L. Callentine)

1 **The application is being brought before the Commission as there is**
2 **another permitted STRH located within 500 feet of the subject property.**

- 3
4 **a. Having voted on October 13, 2015 to deny the subject Short-Term**
5 **Rental Home Permit application by MR. JAMES WALKUS to operate**
6 **the Maui Home short-term rental home at 1143 Front Street,**
7 **TMK: 4-5-004: 058, Lahaina, Island of Maui. (STWM T2015/0012)**
8 **(L. Callentine)**

9
10 **The draft Decision and Order was prepared by Planning Department**
11 **staff and reviewed by the Department of the Corporation Counsel.**

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

17
18 **The Commission may take action to adopt, adopt with modifications,**
19 **or take some other action regarding the proposed Findings of Fact,**
20 **Conclusions of Law, and Decision and Order.**

- 21
22
23 **b. Having failed to vote for lack of a motion on November 10, 2015 on a**
24 **Petition for Reconsideration filed by MR. PAUL PETERS, attorney for**
25 **JAMES WALKUS to obtain a Short-Term Rental Home Permit in**
26 **order to operate the Maui Home short-term rental at 1143 Front**
27 **Street, TMK: 4-5-004: 058, Lahaina, Island of Maui. (STWM**
28 **T2015/0002) (L. Callentine)**

29
30 **The draft Decision and Order was prepared by Planning Department**
31 **staff and reviewed by the Department of the Corporation Counsel.**

32 **AN EXECUTIVE SESSION MAY BE CALLED IN ORDER FOR THE**
33 **COMMISSION TO CONSULT WITH THEIR ATTORNEY ON QUESTIONS AND**
34 **ISSUES PERTAINING TO THE COMMISSION'S POWERS, DUTIES,**
35 **PRIVILEGES, IMMUNITIES AND LIABILITIES PURSUANT TO SEC. 92-**
36 **5(a)(4), HRS.**

37
38 **The Commission may take action to adopt, adopt with modifications,**
39 **or take some other action regarding the proposed Findings of Fact,**
40 **Conclusions of Law, and Decision and Order.**

41
42
43
44 **Chair Tsai: Okay, I'm going to open the floor for public testimony. Anyone wish to testify at this**
45 **point, please come forward. Seeing none, public testimony is now closed.**

46
47 **Mr. Robinson: Move to approve.**
48

1 Mr. Hudson: Second.

2

3 Chair Tsai: Moved by Commissioner Robinson, second by Commissioner Hudson. Discussion
4 regarding the motion to approve? None.

5

6 Mr. Spence: Commissioners before we take a vote you should...there is a petition...just for the
7 record, there is a petition for reconsideration of the denial and that was...submitted by Mr. Paul
8 Howard Peters, attorney for the applicant.

9

10 Chair Tsai: So we have two things. Are we voting to approve both of them? Can we do that?

11

12 Mr. Giroux: Probably separate it.

13

14 Chair Tsai: Okay, so yeah we have actually A and B, so is the motion to...we just handle the
15 first one.

16

17 Mr. Robinson: Findings of Fact.

18

19 Chair Tsai: Yes. So you guys want—

20

21 Mr. Robinson: We did a motion.

22

23 Chair Tsai: Yeah that's for A. So we're going to do a separate. We already have a motion.
24 Any other discussion?

25

26 Mr. Carnicelli: So this is just for 2a?

27

28 Chair Tsai: Correct.

29

30 Mr. Carnicelli: Okay.

31

32 Chair Tsai: None. Director you want to repeat the motion?

33

34 Mr. Spence: The motion is to adopt this Findings of Fact, Conclusions of Law, Decision and
35 Order as it's written.

36

37 Chair Tsai: Okay, all in favor?

38

39 Mr. Spence: That's eight ayes.

40

41 Chair Tsai: Motion carries.

42

43 Item: 2a

44

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

46

47 **VOTED: To Adopt the Decision and Order.**

1 **(Assenting – K. Robinson, L. Hudson, L. Carnicelli, P. Canto,**
2 **W. Hedani, S. Duvauchelle, S. Castro, R. Higashi)**
3

4 Chair Tsai: Let's look at 2b.

5
6 Mr. Castro: Question?

7
8 Chair Tsai: Commissioner Castro?

9
10 Mr. Castro: This was back in 2015. I wasn't here yet.

11
12 Chair Tsai: Yeah you wouldn't.

13
14 Mr. Castro: Should I abstain?

15
16 Mr. Spence: Yeah.

17
18 Ms. Canto: ...(inaudible)...

19
20 Mr. Spence: Actually...

21
22 Mr. Robinson: Everybody's here.

23
24 Mr. Carnicelli: I wasn't here either.

25
26 Mr. Spence: Point of order.

27
28 Chair Tsai: Point of order Director?

29
30 Mr. Spence: I know that we might have to redo this and this is why I'm asking is because we
31 had an application remanded because an application...there was an application I believe it's for
32 a special use permit. Heard evidence and testimony at one meeting, not all the commissioners
33 were there, these other commissioners were there for the second meeting when the vote was
34 taken. So that was appealed to court and then sent back to the commission. Would this be a
35 similar case where can commissioners who were not at the meeting can they vote on this D&O?

36
37 Mr. Giroux: At the minimum there should have been some review of the record.

38
39 Mr. Spence: Okay.

40
41 Mr. Giroux: And that...put on the record that that's been done.

42
43 Mr. Spence: And that's ultimately would have to happen was the commissioners who were not
44 there they were given the opportunity to review the entire record including testimony and they
45 voted again based on that denial.

46
47 Mr. Giroux: It's kind of a strange procedure. And basically again, you're doing the findings of

1 fact, conclusions of law. And what you're doing is, the people here today are voting to adopt the
2 Findings of Fact, Conclusions of Law but the people who have to sign the Findings of Facts,
3 Conclusions of Law if they're detrimental to the body, to the person asking for the action
4 meaning that the people who voted to deny the permit are the ones who have to sign the
5 Findings of Facts, Conclusions of Law. So I know there's some ...(inaudible)... and quiddities
6 there, but it's just that again, it's trying to preserve a record that is continuous from action to
7 action, hearing to hearing in order that when it gets to court the judge is confident that he can
8 look at the four corners of the document and rule on that.

9
10 Chair Tsai: At the same time Corp. Counsel those who were including myself not here can we
11 just be recused or abstain from the vote because we have five people who are here from that
12 time?

13
14 Mr. Giroux: So at the hearing when there was a denial, those people are going to sign it, but
15 today this body can vote that that document reflects what happened at that meeting.

16
17 Chair Tsai: And the ones who weren't here can abstain and that would not—

18
19 Mr. Giroux: Well, a better scenario would be that those members reviewed the record and can
20 vote.

21
22 Chair Tsai: But that means you got to push...defer the whole thing, right? That's what I'm
23 saying.

24
25 Mr. Giroux: Did everybody review the record?

26
27 Chair Tsai: We can't review it right, so...(inaudible)...would it be better procedurally just say
28 hey, those ones who weren't here because we have enough people who are here that were
29 here.

30
31 Mr. Giroux: Okay.

32
33 Chair Tsai: So the ones who were not here we can tell them you know, they're okay to abstain
34 from it.

35
36 Mr. Giroux: Yeah, just to clarify I mean if you have enough votes to pass it with the people who
37 actually were there then that's the cleanest way.

38
39 Chair Tsai: And the one who were not there not just abstain from it. I think that will be the
40 cleanest way. That will protect ourselves knowing that...so I need to put my name on there I
41 guess.

42
43 Mr. Carnicelli: Chair?

44
45 Chair Tsai: Yes, Commissioner Carnicelli?

46
47 Mr. Carnicelli: Since I was not here for it and I have not reviewed the records, I will be

1 abstaining from the vote.

2

3 Chair Tsai: Sounds good. And then we have Commissioner Hedani?

4

5 Mr. Hedani: Chair, because this is in a format that's different from most findings of fact,
6 conclusions of law that I've seen are you comfortable with this?

7

8 Mr. Giroux: Good question Mr. Hedani. You know me so well. I did not write this one. I came
9 in after the horse left the barn and basically it landed on my desk drafted and I just carried it
10 forward. So I didn't really review the whole record to reinvent the wheel. I just allowed the prior
11 attorney and prior planner to do the draft.

12

13 Chair Tsai: So we may have a issue because the first one we approved there's only...even
14 though all eight of—pardon me, we may have to do the first one because the first one all eight of
15 you guys voted but not all eight of you guys were there. You wasn't there so how do we handle
16 this?

17

18 Mr. Robinson: Chair, can I recommend that skip and take care of b, the ones that we were here
19 and then that way we can just finish up with the a.

20

21 Chair Tsai: Yeah, let's do that. I'm okay with it. You guys okay with it? Okay, so those who
22 were there before any other comments? We're doing b right now.

23

24 Mr. Giroux: You know I was just notified by Carolyn that the handout that you guys got, the
25 order, what's attached to it is the report and the minutes. So you actually do have the record
26 and it's been reviewed. So all of you who got given the order have the whole record.

27

28 Mr. Carnicelli: Oh this is whole the whole record?

29

30 Mr. Robinson: Findings of fact.

31

32 Mr. Carnicelli: Okay, then I can.

33

34 Chair Tsai: So is that sufficient? Okay, all right. Even though you weren't here?

35

36 Mr. Giroux: Yes.

37

38 Chair Tsai: 'Cause I was not here on October 13th with Larry and Keaka.

39

40 Mr. Robinson: We already voted for that and we had the Findings of Fact so we just got to b
41 now.

42

43 Chair Tsai: Okay. All right. All right call for a vote. All in favor of passing 2b?

44

45 Mr. Carnicelli: I just want to say is...now that I've had time to review the record, I won't be
46 abstaining and I will be participating for the record since I'd already put on the record that I
47 wouldn't but now I will be.

1
2 Chair Tsai: Thanks for the clarification. All right, Commissioner Robinson you got another
3 comment? Nope? Okay, call for a vote. All in favor? Eight ayes.

4
5 Mr. Spence: That's eight ayes.

6
7 Chair Tsai: Carries.

8
9 **It was moved by Mr. Robinson, seconded by Mr. Hudson, then**

10
11 **VOTED: To Adopt the Decision and Order.**
12 **(Assenting – K. Robinson, L. Hudson, L. Carnicelli, P. Canto,**
13 **W. Hedani, S. Duvauchelle, S. Castro, R. Higashi)**
14

15 Mr. Spence: Okay, just 2a, we should probably have something on the record just for the
16 minutes so everybody got a chance to review that full record? You reviewed the minutes, you
17 rereviewed the staff report.

18
19 Commission Members: Aye.

20
21 Mr. Spence: So we don't have to revisit that.

22
23 Chair Tsai: Awesome. Moving on.

24
25 **F. COMMUNICATIONS**

26
27 **1. Discussion on Rule Making as it relates to filing and digital copies,**
28 **Chapter 91, HRS. (Maui Planning Commission Chair Max Tsai) (Deferred**
29 **from the February 14th, February 28th, March 14th meetings.)**
30

31 Mr. Spence: Item F, Communications, Number one is discussion on rulemaking as it relates to
32 filing and digital copies. So this is something that Max wanted to discuss and couldn't be here I
33 think it was the last time.

34
35 Chair Tsai: I couldn't be here in February, my apologies. I just wanted to bring up as I kind of
36 briefly touched on last meeting the possibility of trying to save some trees and just throwing out
37 there to the Commission members how they feel about going paperless as much as we can?
38 There are ideas of perhaps we do digital copies and you know we see what the cost it is, but
39 maybe even assign a you know an iPad to all the commissioners. Have it available in that form.
40 There's another idea that perhaps what we get sent to us mailing wise stays but any additional
41 new testimonies like all these, I mean this is a lot of printout just from this morning and it's fairly
42 typical so if we can maybe put those on soft copy that's available somehow at the meeting or
43 combinations of whichever 'cause I know that not just the cost of copying, paper I assume I'm
44 pretty sure well, it says \$7.00 to mail one of these to us and there's nine of us every two weeks
45 at least so a huge amount of postage and this is a small size. So what happens when we get
46 the big suckers? So just wanted to put it out there and see how the rest of the commission
47 feels? Commissioner Hudson?

1
2 Mr. Hudson: I agree. And lugging it around especially those big ones and especially with
3 parking being the way it is and lugging it to and from, but I think the Director might be able to
4 give us some insight as to what he thinks of the situation. Do you think it's possible for tablets?
5 Do you see this as the way to go or do you see...what's your opinion on this?
6

7 Chair Tsai: Director?
8

9 Mr. Spence: Certainly it would be the...I think the preference of the Commission. We already
10 put agendas and the materials, we put an agenda with hyperlinks online and so it's more of a
11 convenience for the public. I mean, we could do pretty much the same thing for the
12 commissioners as well. Even some of the really big documents like the Makena EA, we can't
13 email those 'cause they're just too large. And the OEQC is waiting for you decision to post the
14 final so it's hard to do some of those other documents. I know the State Land Use Commission
15 if you ever attend one of those meetings all the commissioners are sitting there with their you
16 know iPads and they're thumbing through documents as people are testifying and whatnot. So
17 they have all their stuff digitally. I don't know how the...LUC does it whether they load all the
18 documents or the commissioners or whatever. I'm sure those iPads could do Dropbox?
19

20 Chair Tsai: That's what I would suggest. Dropbox, maybe where all the commissioners can
21 access directly. The only concern I have and maybe Corp. Counsel is that do we need to have
22 a way or somehow a verification that the commissioners have received, indeed received the
23 documents? And I think I already know the answer, perhaps you know if you make available
24 online I saw those docu sign things where perhaps if you wanted for legal reasons review it, so
25 if all the Commissioners actually reviewed it we just, you know, there's a date thing you can just
26 electronically sign say reviewed it and then we'll also have available in front of us when we get
27 to it and so we nothing to carry around. So have a chance to review at your own leisure online
28 at a special site, you know.
29

30 Unidentified Speaker: Can we link to those sites?
31

32 Mr. Spence: Just for a second. I'm not sure we need to do a doc sign because I mean we don't
33 send your materials to you return receipt now.
34

35 Chair Tsai: Right. So I'm just—
36

37 Mr. Spence: I mean, if we need to prove something or if you don't...I'm thinking if this is the
38 direction that the Commission wanted to go Carolyn could just put all the documents in Dropbox
39 and send you an email saying this is available.
40

41 Chair Tsai: I think that would save you quite a bit of time, copying and all that stuff.
42

43 Mr. Spence: I know, but then you have old people like me who they like to hold the piece of
44 paper in their hand, so...
45

46 Chair Tsai: Well, my other idea, sorry you guys give me one second here is that we do a hybrid
47 version where we'll make a couple sets whatever number is available to people who wants to

1 actually have...but we don't need to make nine or more copies of the same thing. So that would
2 be a huge reduction. Like make a couple actual hard copies for people who really wants to
3 have hard copies, but you acknowledge that to Carolyn ahead of times so she knows only
4 couple people or hopefully I don't know I'm throwing a number out that needs a hard copy.
5 Commissioner Robinson?
6

7 Mr. Robinson: Personally I read this at home and I don't take a computer home. When I'm at
8 work I'm on my computer. If there's tablets available to us I think that's an option instead of a
9 Dropbox I rather have a hard drive so I can take the hard drive with me and I don't have to take
10 my tablet and that way I could read it anywhere I go sort of deal or I could bring, you know I
11 could bring that and hook it up in here. I don't like the big packets but I do think the visualization
12 of the plans on a tablet compared to the foldouts is going to be different. I think there's certain
13 things that we're gonna need to see plans for the size of it 'cause it's too small or we're going to
14 print it out. I think a tablet is a good idea, but then we should be able to request you know, but
15 we get things at Monday and we have it for Tuesday or even for the following Monday
16 sometimes it makes it difficult. You know, usually when we have these projects they're giving it
17 to us if we can, if we can get at least a month prior instead of two weeks prior I think that would
18 help us be able to get through it if we don't have the hard copies. 'Cause hard copies you can
19 check pages instead of trying to go back in and you're gonna need two pieces. You're gonna
20 need the tablet plus some place to write and put your tabs on.
21

22 Chair Tsai: Well, I can say that based on experience that I've had five years now that you know
23 all the major developments, the ones with the really big files they give us very timely I mean
24 substantially ahead the actual time that this things come on. My I think going on what you're
25 saying is these last minute printouts that we have laying out on our tables where Carolyn has to
26 basically make copies of them the night before, the morning of and say it's going to be available
27 for you the next morning and the last minute stuff where I think there's definitely need to
28 address those last minute material to not have to, you know, huge amount of work for her,
29 Carolyn and also the amount of paper that's, and all of sudden we come here and we got all this
30 new paperwork to go through. Commissioner Carnicelli?
31

32 Mr. Carnicelli: So I think part of the discussion right now is we may be going down the rabbit
33 hole of trying to figure out what will work and what won't work and as far as like that's the IT
34 guys 'cause whatever we want to do the technology is there. Everything we're talking about the
35 technology is there. I would have to agree with Commissioner Robinson that there's certain
36 things that I think for me personally I would like to stay with hard copies. You know, obviously
37 plans, things like that. Text, you know, like testimony, things like that, I don't need the printout.
38 That I could be on the tablet and just you know, read and go through and that...the other thing
39 too that I would like to have is the ability to mark up whatever I'm doing 'cause right now I do.
40 And so if I had to like have separate notes for things that are on my tablet rather than being able
41 to mark it up that would be important for me. So maybe I think ultimately there's gonna have to
42 be a ...(inaudible)... of you know, printed and then non. But the digitalization that you're
43 proposing I think would be great for you know, killing a lot less trees. So I mean I'd be all in
44 favor of that. Yeah, so I mean...plus the other thing too is I don't want it to necessarily have to
45 be tied to Wi-Fi because like Commissioner Robinson was saying is you know if you're going to
46 take this different places what if I don't have Wi-Fi? What if the Wi-Fi goes down in here and
47 now suddenly we can't access anything that we're doing. So to have it be on a hard drive of

1 some sort might be...

2

3 Unidentified Speaker: Zip drive.

4

5 Mr. Carnicelli: Or zip drive, whatever, I mean sometimes tablets don't have USB ports so it be a
6 little bit tricky. We'll have to figure out the technology. But that's again, the technology part. I
7 think for the sake of this discussion is to say that yes, I'm in favor of whatever digitization we
8 can do to help, you know, and not have to carry around eight inches worth of paper every single
9 time.

10

11 Chair Tsai: Commissioner Hedani?

12

13 Mr. Hedani: I think for the commissioners we're all familiar with technology and we all have
14 access to computers but I think the one thing we shouldn't forget is that when the material
15 comes out members of the general public that are not comfortable with technology should not
16 be...they should still have access to all of the materials that's relative to the case so that if they
17 choose to come, show up and want the hard copies of whatever they want to testify on they
18 should have access to that.

19

20 Mr. Carnicelli: The County Council does that now. You know same thing where you can go
21 onto the Legistar and you can find everything on the agenda item, you know all the materials
22 everything like that. But if you walk into Council Services you can still get copies as well. So I
23 think that's possible.

24

25 Chair Tsai: Wait a minute. I just want clarification. None of this stuff that we've been getting
26 that's not available to the public?

27

28 Mr. Spence: Yes it is.

29

30 Chair Tsai: How is it...(inaudible)...but I don't see...

31

32 Mr. Spence: On the Planning Commission's own little space in cyber space.

33

34 Chair Tsai: But not hard copies?

35

36 Mr. Spence: No, not hard copies...well, let me finish. We post an agenda that has hyperlinks in
37 it to the staff report, to the documents so we have that. And the members of the general public
38 can go there and pull down that hyperlinked agenda, click on it and get whatever has been
39 submitted thus far. We also have in the Planning Department we have project folders and they
40 can be...they're just as big as you know the stuff you get actually larger 'cause you usually get
41 an application that's quite large with all the exhibits and whatnot. So the general public can
42 come in and look at that. It's hard sometimes, like we had one testifier for the Makena thing say
43 hey, I want a digital copy of this and that would have meant hours of staff time, you know
44 scanning and you know a thousand pages or fifteen hundred pages whatever it was. So that's a
45 little bit different. But we have paper copies within the Planning Department that people can
46 come see.

47

1 Chair Tsai: But I'm saying as far as what we're in the topic of discussion right now is the actual
2 copies that are being sent to the commission members, these guys or even I think Corp.
3 Counsel. I mean, how many complete copy sets do we make Carolyn?
4

5 Ms. Takayama-Corden: Seventeen.
6

7 Chair Tsai: Commissioner Hudson?
8

9 Mr. Hudson: It looks like we're gonna be going down this conversation for a while but what
10 Lawrence touched on is absolutely true. If we're gonna use technology we gotta get IT
11 involved. So the best way to get IT involved is to involve them from the beginning. Ask IT,
12 Mr. Verkerke, what he recommends knowing all the problems. This should be something that
13 the Director and the IT Director should get together and discuss and maybe they come back to
14 us because we're gonna sit here, we're gonna have nine different opinions and we're going
15 discuss this ad nauseam. So if we were ever to make a motion I would move that we move this
16 towards the Director to confer with IT to get back to the Commission that way the Director is
17 going to be able to input public access, he's going to be able to input cost and the cost actually
18 should be almost negligible. You'll probably save money in the long run because if you assume
19 a tablet is \$200, you got \$1,800 investment, you'll pay that back within a year considering
20 overtime and paper...postage, overtime and paper. So my suggestion is that we put this in the
21 hands of the people that are going to make it happen if the Commission is willing to go with this,
22 but it in the Director's hand and the Director of IT and then we can move on.
23

24 Chair Tsai: Well yeah, I agree with you Commissioner Hudson. Sorry, took so long to
25 acknowledge your questioning. I feel the same way. I don't think we're going to resolve this
26 right now, but what I did want to of course put this on this on the agenda on my personal behalf
27 is to at least get this thing started. Maybe we take baby steps and knowing that you guys are
28 gonna you know have an opportunity to make changes as we go along also. You know this is
29 not a maybe one-time thing, but also I think it's also important for us to have this discussion
30 because so of course for the Director to go back as he is meeting with the IT folks, it sounds like
31 some of you guys do actually need hard copies which reaffirms the whole idea is that we cannot
32 probably go completely paperless. We need to go some type of hybrid version with some hard
33 copies ...(inaudible)...so that's something for the Director to look into. So you guys have the
34 wonderful job of taking the baton from this point on and work from there. Commissioner Canto?
35

36 Ms. Canto: Chair Tsai, we'll carry your legacy I promise you.
37

38 Chair Tsai: Oh, there's no legacy.
39

40 Mr. Carnicelli: You did make a motion or not?
41

42 Mr. Spence: I do know we need a motion.
43

44 Chair Tsai: No, I don't think we need. It's just a...no there's no need for make a motion. This is
45 for discussion. Commissioner Higashi?
46

47 Mr. Higashi: I think one more thing if the Director's gonna go get some finances and whatever

1 is there anyway of having a deadline where we don't get all this paper the day of the meeting
2 itself. Is there like 10 days prior to so that...'cause otherwise it gets ridiculous people keep
3 bringing in papers that you're reading while you're starting a meeting. I mean, it doesn't make
4 any sense.

5
6 Chair Tsai: Well, I think all you guys...sorry, Director, I get this a week before.
7 ...(inaudible)...unfortunately and this is what I was trying to address with this whole thing is that
8 the last minute stuff we're getting, the printouts is what really we can ...(inaudible)...because
9 that's the stuff apparently everybody getting pretty upset about last minute printouts and last
10 minute stuff, I mean that's something for you guys to figure out how you want to just handle it.
11 Commissioner Hedani?

12
13 Mr. Hedani: I would suggest you know if we wanted to continue the discussion that we take it
14 up again 'cause we still have members of the public and applicants that are waiting to be heard.

15
16 Chair Tsai: Absolutely.

17
18 Mr. Spence: Okay, so if it pleases the Commission we can just leave this on the agenda and
19 when we have something to report I'll report to you and this is in the context of rulemaking so at
20 some point we would have to come back to you with proposed rule amendments after we just
21 decide what works best for the Commission. But I'll talk to Jacob for sure.

22
23 **2. Discussion on when public testimony should be.**

24
25 Mr. Spence: So the next item was Communications No. F2, discussion when public testimony
26 should be allowed and I know this was something that Max wanted to discuss.

27
28 Chair Tsai: Right. As I probably said a few times that it seems like within the past year we have
29 a lot more testimonials that has come before us, a lot more than the years prior when I was
30 sitting in those seats. And I want to see if, I guess this will be something for Commission
31 members to decide future is how to handle the public testimony part because right now by
32 default what the legacy from previous meetings is that we have to...we don't have to...but we
33 have to do public testimony. We gotta hold that. Right now it's being done in the beginning and
34 as you guys know when the agenda item comes up. So I was looking at the possibility of
35 shrinking that down or reduce that a couple ways. One is maybe having public testimony only
36 be done when the agenda item comes up and not before. Because I checked with Corp.
37 Counsel that is in our purview we can do that. You guys can change that. We can change that.

38
39 And also too, is limiting...throwing out there reducing or cutting down the three minutes time
40 allowed perhaps to smaller number, two minutes. Well, two minutes perhaps I don't know, you
41 guys can...and obviously because I don't think number one, all of us should be subjected after
42 all this testimonies to this kind of lengthy, repeated a lot of times same message that we heard
43 over and over again and I'm just looking out for you guys to see for future how you wanted to
44 handle that. Because we can't—

45
46 Mr. Giroux: Can I—
47

1 Chair Tsai: Yes please. I was hoping you would chime in.

2

3 Mr. Giroux: This is just to add because Max...well, whoever's the chair is going to be in charge
4 of the orderly functioning of the meeting and then under Chapter 92, you know, it's not set in
5 stone when you have to take testimony. There's another level that's gonna hit us and we saw
6 that when we had a contested case that the attorney showed up afterwards saying oh, by the
7 way did I get my contested case. What's happening is that the way that the case law is coming
8 down from the Supreme Court telling us that, you know certain cases are contested cases. The
9 problem is is that contested cases that have a mandatory either statutory or by rule public
10 hearing start to get garbled as far as what is the evidence that we're as the body taking into
11 evidence to decide that issue. So there's gonna be an issue and Corp. Counsel we want to do
12 like a contested case training with you guys but just so you kinda get a foreshadowing is is that
13 what we're probably gonna have to do is separate public testimony from contested case
14 procedures. We also will probably looking at your rules and seeing how we can conform your
15 rules more closely to help you process these cases so that we don't get into issues of applicants
16 saying hey, why did you guys listen to the public testimony they're all liars and they didn't even
17 get cross-examined and then you're going well, that's why we could have had a formal
18 contested case. You guys came in and said you didn't want intervention. You said this. You
19 said that and so we're trying to process a case in a orderly and efficient process and then we're
20 getting second guessed as to how we're doing it. So we're gonna have to start getting very
21 clear on how we process the public testimony versus a contested case hearing. And we may
22 need in the future to actually separate it out and say we're taking public testimony on this case
23 pursuant to you know, our requirement to take public hearing, separate that out and then have a
24 separate hearing as a contested case. Whether or not there's an intervention or not that person
25 can then determine how formal of a contested case that they want. And again, when I say
26 formal I mean are there attorneys present? Is there an opening statement? Is there cross-
27 examination? Is there rebuttal witnesses? Now it looks more like a court case. The Supreme
28 Court says it doesn't matter. It's either a contested case or it's not. It doesn't matter how you
29 treat it, it's what are the rights that are at stake? So that's gonna come into play with Max's idea
30 of how do we separate the public testimony in your agenda.

31

32 Chair Tsai: Go ahead. Commissioner Duvauchelle?

33

34 Ms. Duvauchelle: I think the discussion on when to take public testimony is not really referring
35 to a contested case. My thoughts on it were during...I'll use Makena as an example. We had a
36 lot of public testimony that was just called in by social media and there was no...they truly...it
37 was obvious that the testifiers had no real knowledge of the project.

38

39 Chair Tsai: Right.

40

41 Ms. Duvauchelle: So...and there's two schools of thought. I like the idea of the...all the public
42 testimony after the presentation by the applicant. I don't know if that will answer some of their
43 questions. I don't know...but I'm kinda leaning towards thinking that is a good idea. The other
44 school of thought is that if we hear public testimony before then that gives the applicant an
45 opportunity to possibly address some of the concerns he's heard in the public testimony when
46 he gives his presentation. So you know, I'm on the fence both ways, but I do think, I do think it
47 would be a good idea to hold the public testimony after the presentation by the applicant.

1
2 Chair Tsai: Director?

3
4 Mr. Spence: And just a comment on that. If you were to hold the presentations first we did
5 have...I guess it doesn't really matter first for when the agenda item comes up we had concerns
6 from people who were here to testify on Makena there was no room within this room and so
7 they were outside in the hallway and they could not hear...one lady missed her opportunity to
8 testify because she could not hear her name being called. So if she can't hear her name being
9 called then she certainly not be able to witness the presentation either. So kind of a...and I'll
10 just say when we anticipate large crowds we do try to get other venues and sometimes we're
11 successful and sometimes not.

12
13 Chair Tsai: Commissioner...just respond to Commissioner Duvauchelle's second school of
14 thought regarding taking concerns about having the applicant ability to respond. I think because
15 the way if we set it up where we do the presentation and then public testimony I'm pretty certain
16 all of us are very diligent in taking down notes. If there's some issues that's brought up by a
17 testifier I think all of us, each one of us would go and ask the applicant to address it anyway. So
18 there's a question...Q and A answer anyway that comes after. So I don't believe that's going to
19 be an issue having that. Yeah, Commissioner Canto?

20
21 Ms. Canto: Sorry, and I just want to piggyback off the Director. So might it be possible to do a
22 remote video out there like a small T.V. monitor with it piped out there. I mean, doesn't have to
23 be huge and can County...(inaudible)...

24
25 Mr. Spence: We've discussed that somewhat internally and you know, there's people's offices
26 next door. I mean if we put like a speaker outside so people can hear and also is going to
27 potentially disturb the people within Public Works that are trying to work. We can discuss it a
28 little bit more.

29
30 Ms. Canto: Thank you.

31
32 Chair Tsai: Commissioner Carnicelli?

33
34 Mr. Carnicelli: So I guess I look at it a couple of different ways but first is you know I think that
35 the genesis of two testimonies was okay we'll take testimony at the beginning for people that
36 can't wait, right? But really the majority of the people should testify after hearing the
37 presentation you know as Commissioner Duvauchelle said, it's just like okay, 'cause more and
38 more people are showing up to testify that are less and less informed. So I think that it's really
39 also important I like that the Department has kinda taken on you know, I guess the role of
40 explaining this is why we're here and this is the decision we're making today. You know we
41 weren't making a decision on whether we thought Makena was a good project or not. We were
42 making a decision on whether or not we approved an EA and I think that that got lost in the
43 testimony. So if people only testify after there's gonna be a certain number of people that you
44 know they can't sit around for two to three hours and wait to testify and that's unfortunate, but if
45 what we get is better quality testimony that can really help inform us then I think that that's really
46 kind of what I would be shooting for is then people could say like okay listen I heard the
47 presentation, I see what they're about, I get why I'm here, I get why the Commission is here and

1 what they're making a decision on, now I can speak to just that. So that's my first point.

2
3 My second point without going on too far is I think that whoever the chair is next year, three
4 minutes is three minutes, you know and that's just it. It's just like listen you get three minutes
5 and if somebody wants to get obnoxious then you just call the whole thing into recess and you
6 just cut it from there. You know, you just move on. So that would be the other part for me is
7 you know, three minutes and you're done.

8
9 The other part being the Chair can also call to order if somebody is not speaking to the topic.
10 You know if they're not speaking to the topic and if they want to ramble on and on about
11 something else and I know that's kind of questioning, you know, Corp. Counsel is probably
12 squirming in his seat by me saying that, I mean, it can be...but I think those are sort of the items
13 when I comes to public testimony.

14
15 Chair Tsai: Well, that's and just on record I definitely I think looking back this past year or even
16 year before that standing in as the Vice-Chair chairing some of the meetings I definitely feel that
17 I've been a lot more tolerant, nice as a chair. A lot of people don't see the three-minute rule as
18 compared to my predecessors. My whole gist for doing or putting this on the agenda is looking
19 at one way is to see, you know, whoever chair next year will be is to look at possibly looking at
20 only allowing testimonies in the very beginning to be pertinent to that particular agenda items.
21 And when we're doing that at the end of the presentation then we can say that unless you have
22 testimony regarding that agenda item, please don't...you please only testify pertinent
23 information. And again, of course the three minutes is definitely a big issue. So I
24 guess...Commissioner Robinson?

25
26 Mr. Robinson: I'm always afraid of limiting testimony and the public in speaking and culling. But
27 I do think we would...you know trying to navigate him to kind of do what we want. And I
28 personally would like a one-minute prior to presentation or a three-minute post presentation.
29 The one-minute is the people I'm for it, I gotta go to work, I wanna let you know I'm for this
30 project, I came here, I saw and I'm gone. The people that really care about something I think
31 we can kinda get through it and hopefully those people will clear. It can be even 30 seconds
32 and they can have an option, 30 seconds before presentation, everybody else three minutes.
33 Most of the guys for it like the construction workers they don't want to talk for three minutes and
34 they get embarrassed after about 45 seconds. You know what I'm saying? So I mean, and
35 that's all something later, but you know, it's like I say, to make everybody wait till 4:30 because
36 you don't know when it's call, you don't know how fast it's gonna go and I think if we can do a 30
37 to a minute prior and give them that option and say or you wait until after presentation. Hopefully
38 those people will be more educated like you said and we won't waste our time people talking
39 about something that they were totally wrong on the presentation. Thank you.

40
41 Chair Tsai: So I guess planting the seed in all you guys heads next chair can according to
42 Corp. Counsel can make a decision on how you want to proceed.

43
44 Mr. Giroux: As long as that decision is made earlier enough and it's clear enough and it's
45 consistent enough that's the parameter.

46
47 Chair Tsai: And then I've done my job.

1
2 Mr. Spence: Okay, Commissioners Item G on your agenda is acceptance of Action Minutes of
3 March 14, 2017, the Regular Minutes of October 11, 2016 and February 14, 2017.
4

5 **G. ACCEPTANCE OF THE ACTION MINUTES OF MARCH 14, 2017 MEETING AND**
6 **REGULAR MINUTES OF THE OCTOBER 11, 2016 AND FEBRUARY 14, 2017**
7 **MEETINGS**
8

9 Mr. Hedani: Move to approve.

10
11 Mr. Robinson: Second.

12
13 Chair Tsai: Moved by Commissioner Hedani, seconded by Commissioner Robinson.
14 Questions? None? All in favor?

15
16 Commission Members: Aye.

17
18 Chair Tsai: Opposed? Motion carries.

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

21
22 **VOTED: To Accept the Action Minutes of March 14, 2017, and Regular**
23 **Minutes of the October 11, 2016 and February 14, 2017 Meetings.**
24 **(Assenting – W. Hedani, K. Robinson, L. Carnicelli, L. Hudson,**
25 **P. Canto, S. Duvauchelle, S. Castro, R. Higashi)**
26

27 **H. DIRECTOR'S REPORT**
28

29 **1. MR. WILLIAM SPENCE, Planning Director, notifying the Maui Planning**
30 **Commission pursuant to Section 12-202-17(e) of the Maui Planning**
31 **Commission's SMA Rules of his intent to process the following time**
32 **extension requests administratively:**
33

34 **a. HONUULA PARTNERS, LLC requesting a 2-year time extension on**
35 **the Special Management Area Use Permit condition to initiate**
36 **construction of the modifications to the Wailea Ike and Wailea Alanui**
37 **intersection to provide two (2) left-turn lanes for traffic turning**
38 **southbound into Wailea–Alanui Drive and to add a signalized**
39 **double right-turn lane for traffic turning eastbound onto Wailea Ike**
40 **Drive at TMK: 2-1-008, 2-1-008: 118, 2-1-008: 131, and 2-1-008: 134,**
41 **Wailea, Island of Maui. (SM1 2009/0012) (C. Thackerson)**
42

43 **The Commission shall acknowledge receipt of the request. The**
44 **Commission may decide whether to waive its review or review the**
45 **time extension request at a future meeting.**
46

1 Mr. Spence: Commissioners we're on Item H-1a. This is a request from Honuaula Partners
2 requesting a two-year time extension on an SMA Permit to initiate construction of modifications
3 to Wailea Ike and Wailea Alanui intersection. This one you shall acknowledge receipt but you
4 can decide whether you want to waive your review and just let me go ahead and extend it or
5 whether you want to see it back here at commission.
6

7 Chair Tsai: Director so...

8
9 Mr. Spence: And it's not a reevaluation of the SMA Permit. It's whether to give it a time
10 extension or not.
11

12 Chair Tsai: Candace?
13

14 Ms. Candace Thackerson: Hi. I just wanted to clarify something that Chair Tsai had actually
15 called me about regarding one of the last time extension requests that the commission had
16 granted. I'm not sure which project it was for but the commission had said why don't we give
17 them five, why are we only limited to two and I had stated at the time that if the board wanted to
18 vote on it you could. And I was mistaken. If you would like to grant longer than two years that
19 means that you are not waiving review because the rules state that this body can only grant two
20 years under the waiver of review. If you would like to grant longer then that means that we have
21 to, the Staff has to take the project back and do a staff report and technically then reopen it and
22 have a full review process and then you can grant a longer extension. If you'd like to change
23 your rules to allow us to grant a longer time that's up to you guys on another day. But I just
24 wanted to say that because when I went to draft the letter I was informed by the Director
25 to...(inaudible)...for two years and I believe when it came time for the chair to sign the letter he
26 was wondering why I didn't follow through with what the body had voted. So I just wanted to
27 clarify that we were not ignoring your request. That's just how the rules work.
28

29 Chair Tsai: Commissioner Hedani?
30

31 Mr. Hedani: Move to waive review.
32

33 Mr. Hudson: Second.
34

35 Chair Tsai: Okay, so we have a motion and a second. Discussion? Commissioner
36 Duvauchelle?
37

38 Ms. Duvauchelle: I'll make this quick but this original SMA was approved back in 2010, none of
39 us were even on the commission at that point. I'll support to go ahead and waive the review but
40 I think when it gets past a certain age we should possibly do some review. So I just wanted to
41 point out 2010 is quite a while.
42

43 Chair Tsai: I agree and I'm actually seeing the owner representative in the audience, Charlie,
44 yes, that's you. Since I'm leaving and it's the last day I'm going to put you to work. I have a
45 question for you, please come forward. So I just wanna make sure and I kinda piggyback on
46 what Commissioner Duvauchelle mentioned to, this was originally approved back in 2010 and a
47 lot of time has passed.

1
2 Mr. Charles Jencks: Can I address that?

3
4 Chair Tsai: yes.

5
6 Mr. Jencks: Would you like me to address that?

7
8 Chair Tsai: Yes, I would very much like.

9
10 Mr. Jencks: Your very last meeting?

11
12 Chair Tsai: My last meeting.

13
14 Mr. Jencks: Mr. ...(inaudible)...it's great to see you. I'm glad you're here. Commissioners, I'll
15 make this really short 'cause I know you've had a long day. I've been watching my watch.

16
17 Mr. Spence: Sir, could you identify yourself for the record please.

18
19 Mr. Jencks: So I'll make this really short and sweet, I don't like to come to you folks for time
20 extensions.

21
22 Chair Tsai: Please identify yourself for the record.

23
24 Mr. Jencks: Charlie Jencks, owners representative, Honuaula Partners, LLC, for like the 16th
25 year. The project as a Project District in South Maui has a variety of conditions assigned to it. I
26 received the zoning approval in 2008. It only took me eight years to get the Phase 1 Approval.
27 And one of the conditions was for the improvement of this intersection that wouldn't necessarily
28 be triggered by Honuaula but by Makena Resort and other things happening in the community.
29 But after eight years I said fine, I'll take care of it just let me...get me out of here.

30
31 So we accepted the condition and it requires some road widening and a left-turn additional left-
32 turn lane on Wailea Ike Drive that we've designed. I've done the subdivision and I have the land
33 from Golf BC for the widening. Everything's done, it's ready to go. It's about a million dollar
34 project. The first estimate was issued in 2010. I got my zoning approval in 2008. 2010 the
35 SMA was issued. I had to do an EIS for the project for a couple of triggers, one, use of state
36 highway, and one, wastewater treatment plant. You folks, the planning commission at the time
37 in 2012 accepted my EIS in 2012. I was then sued by Sierra Club and Maui Unite and four
38 years later in October 2016 got settlement. So here I am four more years. If I could have seen
39 those kinds of issues I would have delayed the SMA. I didn't expect those kinds of issues to
40 come up. It did. We resolved the issues with the Sierra Club and Maui Unite. I no longer have
41 a 18-hole golf course, I now have a golf amenity. I've got a 134 acres of native plant
42 preservation area for endangered species. I mean, it was a very complicated process.
43 Needless to say we're done with that. Two years is fine because with the settlement and with
44 Phase 2 hopefully this year with the Commission I have some certainty and I get people to loan
45 me money to do improvements but without certainty it's really difficult to get people to loan you
46 tens of millions of dollars. So two years would probably do it for me and I can get this thing
47 done.

1
2 Chair Tsai: Thank you Charlie for clarification.
3
4 Ms. Duvauchelle: Can I ask a question?
5
6 Chair Tsai: Yes.
7
8 Ms. Duvauchelle: So Charlie, so the trigger for this is the Honuaula development or—
9
10 Mr. Jencks: It's a condition of approval for Honuaula.
11
12 Ms. Duvauchelle: Thank you.
13
14 Mr. Jencks: It has to be done prior to any occupancy in the project.
15
16 Chair Tsai: And how much time do you need to start and finish this particular intersection
17 improvement, estimate?
18
19 Mr. Jencks: This is probably nine months' worth of work. It's designed, it's done.
20
21 Chair Tsai: Yeah, I've seen the design.
22
23 Mr. Jencks: So it's ready to go. I just need the money and I can't get the money until I have
24 some certainty from you.
25
26 Chair Tsai: And two years is okay for you?
27
28 Mr. Jencks: Two years is fine.
29
30 Chair Tsai: Okay, thank you. Thank you Charlie.
31
32 Mr. Jencks: You're welcome. Any other questions?
33
34 Chair Tsai: No. Thanks for the clarification. Okay, any other questions from the Commission?
35
36 Mr. Spence: So the motion is to waive review.
37
38 Chair Tsai: All in favor?
39
40 Mr. Spence: That's eight ayes.
41
42 **It was moved by Mr. Hedani, seconded by Mr. Hudson, then**

43
44 **VOTED: To Waive Review of the Time Extension Request.**
45 **(Assenting – W. Hedani, L. Hudson, L. Carnicelli, K. Robinson,**
46 **P. Canto, S. Duvauchelle, S. Castro, R. Higashi)**
47

1 Chair Tsai: Go get your money Charlie.

2

3 **b. SAM and JON GARCIA requesting a 2-year time extension on the**
4 **Special Management Area Use Permit to initiate construction of the**
5 **Garcia Family Subdivision, a 10-lot subdivision on approximately**
6 **5.49 acres of land at TMK: 2-1-008, 2-1-008: 118, 007: 067, Makena,**
7 **Island of Maui. (SM1 2002/0016) (C. Thackerson)**

8 **The Commission shall acknowledge receipt of the request. The**
9 **Commission may decide whether to waive its review or review the**
10 **time extension request at a future meeting.**

11

12 Mr. Spence: Commissioners we have another request for a two-year time extension on SMA
13 Permit by Sam and Jon Garcia for the Garcia Family Subdivision. You can again, you shall
14 acknowledge receipt of the request but also may decide to waive review or you could review the
15 time extension at a future meeting. And Candace is waving frantically.

16

17 Ms. Candace Thackerson: I just wanted to reiterate on the record that I have placed before you
18 an updated site plan, the most current one. I just wanted that to go on the minutes that during
19 the break I had distributed that and the applicant is here as well as their representative if you
20 have any questions for them. They would like two years to initiate construction. Once projects
21 initiate construction then they have a new timeline for finishing, completion of the project.

22

23 Chair Tsai: Thank you, Candace. Can we have the applicant come forward? Rory, I'm going to
24 make you work also. So same question, is two years enough?

25

26 Mr. Rory Frampton: We certainly hope for. Again, I'm Rory Frampton on behalf of Sam and
27 Jon Garcia who are here in the room today and they have had a number of delays to the project
28 not quite as extensive as Charlie's that you just heard before you, but there were some things
29 outside of their control like getting an easement over an abutting property that took a while
30 because of change in ownership of Makena Resort. And then when they were getting close,
31 they did an archaeological survey and found arc site near that roadway, it had to be amended.
32 So that actually was one of the major reasons it got delayed. There are a handful of other
33 smaller reasons that won't bore you with but we respectfully ask for a two-year period to initiate
34 construction.

35

36 Chair Tsai: Commissioner Robinson?

37

38 Mr. Robinson: Rory would the development of Makena hamper their plans at all as far as
39 phasing in what they want to do?

40

41 Mr. Frampton: It should not. It's been designed to be independent and shouldn't have any
42 effect.

43

44 Mr. Robinson: Autonomous. Okay, thank you.

45

1 Chair Tsai: Okay, so I'm looking at the subject property on the map. I notice there's a change
2 obviously with the—

3
4 Mr. Frampton: So I'm sorry for interrupting, the maps that you got that were attached that
5 Candace attached to the report that was from a neighboring project. So the ones that you have
6 now is the original site plan. Don't look at the ones in your packet that was the neighboring
7 project.

8
9 Chair Tsai: Okay, so I know Commissioner Robinson already brought this up. This looks
10 awfully close to where the Makena project would just kinda move forward on the EA last
11 session. Where is this exactly relative to...because it looks awfully close it looks immediate to
12 the...

13
14 Mr. Frampton: It is. I will pass out some location maps. ...(inaudible)...context. So it's
15 surrounded on two sides. So it's actually surrounded on three sides by Makena Resort part of it
16 being the hotel property as well as the center that's mauka. And there's an easement that runs
17 along...if you look at the site plan that we gave you there's an easement that runs along that
18 provides access to the subdivision that's actually on Makena's property and that was the
19 easement that took a little while to finalize. So it's my understanding the Garcias have worked
20 closely, they have worked closely with the owners of the resort and they're both aware of what's
21 going on in terms of both projects.

22
23 And sorry, one more point, I just wanted to clarify that Sam Garcia was here and did testify in
24 support of the project when it was before you guys.

25
26 Chair Tsai: So if I'm clear since I'm very familiar with that area is Lot 5 or to the right if I'm
27 looking at that's where those three or is that four brand new properties just been built or built
28 recently?

29
30 Mr. Frampton: The four condo units are kind of like in the hole fronting Makena Road.

31
32 Chair Tsai: Right, that's where...

33
34 Mr. Frampton: Right, and that's...actually those were the plans that were attached to your
35 agenda. So the four-unit condo was right in front of the project. Those are the plans you got in
36 your agenda.

37
38 Chair Tsai: Oh. That's in Lot 5? Am I understanding that correctly? Right there?

39
40 Mr. Frampton: Yes.

41
42 Chair Tsai: Okay. Any other questions?

43
44 Vice-Chair Duvauchelle: I want to make a motion to waive review.

45
46 Mr. Hedani: Second.

47

1 Chair Tsai: Motion by Commissioner Duvauchelle, second by Commissioner Hedani.
2 Discussion regarding the motion? Okay, we have a motion to waive review. All in favor say
3 ayes, raise your hand?

4
5 Commission Members: Aye.

6
7 Mr. Spence: That's eight ayes.

8
9 Chair Tsai: Motion carries. Congratulations.

10

11 **It was moved by Ms. Duvauchelle, seconded by Mr. Hedani, then**

12

13 **VOTED: To Waive Review of the Time Extension Request.**
14 **(Assenting – S. Duvauchelle, W. Hedani, L. Hudson, L. Carnicelli,**
15 **K. Robinson, P. Canto, S. Castro, R. Higashi)**

16

17 Mr. Spence: Commissioners, we're coming down the home stretch. Number 2, on the
18 Director's Report before you, you have a approval of an SMA Emergency Permit for the
19 Scheibel Family. I see Mr. Jim Buika in the audience if you have any questions on it.

20

21 **2. MR. WILLIAM SPENCE, Planning Director, notifying the Maui Planning**
22 **Commission pursuant to Commission's SMA Rules of the following Special**
23 **Management Area (SMA) Emergency Permit:**

24

25 **a. Approval letter dated March 15, 2017 to MS. LAURIE LOWSON,**
26 **President of the POHAILANI AOA and JACQUELINE SCHEIBEL**
27 **requesting an SMA Emergency Permit to implement temporary**
28 **measures as a ten foot by ten foot cavity sinkhole depression has**
29 **developed within seven feet of the residential structure mauka of the**
30 **existing seawall at 4435 Lower Honoapiilani Road, TMK: 4-3-005:**
31 **008, Lahaina, Island of Maui. (SM3 2017/0004) (J. Buika)**

32

33 Mr. Spence: This is just for your notification. You have questions?

34

35 Chair Tsai: Questions?

36

37 Mr. Carnicelli: One question.

38

39 Mr. Spence: Jim we got one.

40

41 Mr. Carnicelli: You didn't sit here for nothing.

42

43 Chair Tsai: You're not on vacation today, right?

44

45 Mr. Jim Buika: No, I'm not. I'm here to discuss Pohailani Emergency Seawall Permit here.

46

47 Mr. Carnicelli: Are you okay with this?

1
2 Mr. Buika: Yes, it's an emergency situation, yes.

3
4 Mr. Carnicelli: Okay.

5
6 Mr. Buika: Thank you.

7
8 Mr. Spence: Okay, Items Number 3 and 4, you have your SMA Minor Permit Report as well as
9 a SMA Exemptions Report.

10
11 **3. SMA Minor Permit Report**

12
13 **4. SMA Exemptions Report**

14
15 Mr. Carnicelli: I have a question.

16
17 Chair Tsai: Yes?

18
19 Mr. Carnicelli: For Mr. Buika on the Exemptions. There's one that you're the planner on here
20 that's an exemption for project 3.2359 and it looks like it's a subdivision.

21
22 Mr. Buika: Does it have a description?

23
24 Mr. Carnicelli: Spreckelsville Beach ROW Subdivision by A&B

25
26 Mr. Buika: Yes.

27
28 Mr. Carnicelli: If it's a subdivision I guess why are we in the exempt?

29
30 Mr. Buika: For subdivisions with no development for under four lots are an exempted class for
31 SMA Permits. So they are doing no development at this point. What they are doing is they
32 consolidated. It's a large parcel by the Maui Country Club, Spreckelsville. What they did is they
33 just...they subdivided out one parcel off of the shoreline that is contiguous with the last roadway
34 over there so that they would be able to develop that in the future. So all of the continuous
35 shoreline area remains intact. Basically it's baby beach. The baby beach end of Baldwin which
36 is A&B property. And so there is one parcel that they are able to...that they were able to
37 subdivide. So when they come in the future if they have any development it will be evaluated as
38 a...most likely a single family home. So it would be residential single family home that would be
39 developed on that one parcel. So subdivisions under four lots or under are exempted where
40 there is no utility or development. Basically it's just a paper deal.

41
42 Mr. Carnicelli: Right.

43
44 Mr. Buika: So that is a exempted class.

45
46 Mr. Carnicelli: Consolidation and resubdivision is what this is?

47

1 Mr. Buika: Yes. Just one parcel. It's two parcels. That's all.

2

3 Mr. Carnicelli: Okay, thank you.

4

5 Chair Tsai: Okay. Director?

6

7 **5. Discussion of Future Maui Planning Commission Agendas**

8

9 **a. April 11, 2017 agenda items**

10

11 Mr. Spence: Number 5 under Director's Report, discussion of future Maui Planning Commission
12 agendas. We have a memo dated March 24th from Clayton Yoshida. We'll be introducing new
13 members Tina Gomes and Christian Tackett. Election of Officers for Chair and Vice-Chair.
14 Orientation Workshop where we're going over by opening remarks by me, the Planning
15 Framework, Zoning, Chapter 343 to do with EAs, Bed and Breakfast Home Permits, Short-Term
16 Rental Home Permits, Sunshine Law, Ethics, Contested cases. Everything you need to know is
17 going to be coverer at the next meeting in about an hour and half. Property rights, rational
18 nexus and(inaudible)...We'll also have a public hearing for four short-term rental homes
19 within the Colony Club, International Colony Club. We have some Unfinished Business with
20 Rory Frampton and Makila Ranches dealing with that one conditions about improvements to the
21 roadway lot or at least adjacent to the roadway lot. And then there will also be a request for a
22 waiver of an SMA time extension.

23

24 Chair Tsai: Thank you, Director. Commissioner Robinson?

25

26 Mr. Robinson: Chair Tsai, thank you for your leadership. Chair Hedani, thank you for your
27 guidance. It's been great you guys. Mahalo.

28

29 Chair Tsai: Commissioner Hudson?

30

31 Mr. Hudson: You will enjoy the Police Commission. Your days are about half as long as this.
32 There's not that much reading and it's going to be way better. Thank you very much. And Mr.
33 Hedani, my utmost respect to you.

34

35 Chair Tsai: Commissioner Carnicelli?

36

37 Mr. Carnicelli: Yeah, I also wanted to express my gratitude to both of you. Being my first year
38 here learned a lot from you guys about just how to go about this and how to be professional and
39 what's important and what's not and I appreciated the words that both of you shared earlier and
40 thank you. You'll be missed.

41

42 Chair Tsai: Thank you. Commissioner Canto?

43

44 Ms. Canto: I wish I had spent more time with you both. I've watched Chair Hedani all the time
45 in prior planning commission. I appreciate your wisdom, but I wish I had more time spent you
46 both. So thank you for all you do and we'll see you on another commission.

47

1 Chair Tsai: Commissioner Castro?
2

3 Mr. Castro: It's been a pleasure working with you, both of you and little do they know that we've
4 actually worked together before. Max was the Chair for the Maui United Way I think six years,
5 five or six years.
6

7 Chair Tsai: Yeah. That was some time ago wasn't it?
8

9 Mr. Castro: Yeah. But I still continue to work with Wayne across the table. But I hope you
10 enjoy your fishing taking that one-year break and get back and into it. And just because you get
11 a badge don't think you're Dick Tracy now. But it's been a real pleasure. I commend you both.
12

13 Chair Tsai: Commissioner Hedani? Everybody all waiving their—
14

15 Vice-Chair Duvauchelle: I wanted to tell both of you thank you very much. I have to tell you
16 being on the planning commission and not have watched a lot of them in the past it's been a
17 definite learning curve. I mean I truly think just about the time you figure out what you're doing
18 your five years is up, you blink your eyes. You know, but I appreciate both of you very much.
19 I've learned a lot and have enjoyed being on the commission. Thank you.
20

21 Chair Tsai: Commissioner Higashi?
22

23 Mr. Higashi: Mr. Chairman, I give you a purple heart for having so much battles and I'll give
24 Wayne a shotgun for all the people that testified against him.
25

26 Chair Tsai: Think he might need it...(inaudible)... Commissioner Hedani?
27

28 Mr. Hedani: Just wanted to tell the Commission thank you again for your service to the
29 community. And if I could offer any further words it's try to remember that we're all public
30 servants, that we serve at the will of the public and that you know when we have our
31 discussions like on limiting public testimony I think it's interesting to keep in mind that if we
32 make decisions in a vacuum without taking in as much public testimony as we can it's really
33 easy to come up with the wrong conclusions sometimes. Don't be afraid of information. Take
34 as much information as you can. Search for the truth. Don't let...there are times that you're
35 going to win decisions, there are times that you're gonna lose decisions don't let that get in your
36 way and just do your best. Thank you.
37

38 Chair Tsai: Well, thank you all. It was truly a pleasure and honor to serve with you guys. Wow,
39 five years seems like a long time but also seemed to also flew by real fast....Commissioner
40 Hedani?
41

42 Mr. Hedani: One other thing that Max under your leadership I was happy that the next
43 generation from us old guys did a great job.
44

45 Chair Tsai: I take that as a compliment.
46

47 Mr. Hedani: And so the Police Commission should be in good hands.

1
2 Chair Tsai: Oh, I am looking forward to supposedly one hour a month meeting, once a month.
3
4 Unidentified Speaker: It's about three.
5
6 Chair Tsai: Really? They told me only one hour.
7
8 Mr. Hudson: They'll probably give you a presentation, got public testimony like this. One or two
9 that's unusual.
10
11 Mr. Carnicelli: I'm gonna start posting them on Facebook for you.
12
13 Chair Tsai: I'm sure. I'm looking forward to it. And it's also for me I think echoing some of you
14 guys said, when I remember coming on first time it was pretty overwhelming and I'm glad you
15 know I was able to learn and to contribute to the best of my capacity and I think you guys have
16 done tremendous job especially all you guys and with that I have total confidence you guys
17 going to do the best job you can as capacity and serve the community as best you can. I, wow I
18 will not be here the next meeting. I am not going to Disneyland just yet, so you all have a great,
19 great next year, you know electing next Chair, and again, you guys have some challenges
20 ahead of you so good luck, best wishes and may the force be with you. Meeting adjourned.

21
22 **I. NEXT REGULAR MEETING DATE: APRIL 11, 2017**

23
24 **J. ADJOURNMENT**

25
26 The meeting was adjourned at 4:03 p.m.

27
28 Submitted by,

29
30
31
32 Carolyn Takayama-Corden
33 Secretary to Boards & Commissions II
34

35 **RECORD OF ATTENDANCE**

36
37 **Present**

38 Pua Canto
39 Lawrence Carnicelli
40 Stephen Castro
41 Sandy Duvauchelle, Vice-Chairperson
42 Wayne Hedani
43 Richard Higashi
44 Larry Hudson
45 Keaka Robinson
46 Max Tsai, Chairperson
47

1 **Others**

2 Will Spence, Director, Planning Department

3 James Giroux, Deputy Corporation Counsel, Department of the Corporation Counsel

4 Rowena Dagdag-Andaya, Deputy Director, Department of Public Works (on-call)

5

6