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**MAUI PLANNING COMMISSION
REGULAR MINUTES
FEBRUARY 13, 2018**

A. CALL TO ORDER

The regular meeting of the Maui Planning Commission was called to order by Chairperson Sandy Duvauchelle at approximately 9:05 a.m., Tuesday, February 13, 2018, Planning Conference Room, First Floor, Kalana Pakui Building, 250 South High Street, Wailuku, Maui.

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

Chair Duvauchelle:Thank you for being here. It's February 13, 2018 and the Maui County Planning Commission is now in session. Director our first agenda item?

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

Mr. Spence: Okay, good morning Commissioners. We have one public hearing item on today. Mr. James Walkus requesting a Short-Term Rental Home Permit to operate a five-bedroom STRH at 1143 Front Street and our Staff Planner this morning is Livit Callentine.

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

1. **MR. JAMES WALKUS requesting a Short-Term Rental Home (STRH) Permit to operate a five (5)-bedroom STRH, the "Maui Home," in the County R-2 Residential Zoning District located at 1143 Front Street, TMK: 4-5-004: 058, Lahaina, Island of Maui. (STWM T2017/0013) (L. Callentine)**

The application is being brought before the Commission as there are at least two (2) permitted STRHs located within 500 feet of the subject property.

Ms. Livit Callentine: Good morning Commissioners. This request is before and is under your review because there are two or more existing short-term rental homes operating within 500 feet of the subject property making the Maui Planning Commission the approving authority. The permit request is for five bedrooms in one single-family dwelling. The 3,191 square foot two-story dwelling consists of a great room, kitchen, a dining room and a office, one bedroom, one bathroom and a lanai on the first floor. And the second floor is comprised of a family room, four bedrooms, two bathrooms and a lanai. There's a two-car garage providing two parking stalls within the garage and three parking stalls in the driveway accessible off of Front Street. Mr. Walkus also owns...just by way of history, Mr. Walkus also owns the parcel adjacent to the proposed STRH at 1153 Front Street on this parcel is one single-family dwelling. The home is used solely by Mr. Walkus and his family for several months every year. The home is empty when he's not here. Mr. Walkus has indicated he has no intention to propose or carry on short-term rental use in this dwelling. The real property tax classification on this parcel next door to the proposed short-term rental home is residential. There also, there is an approved bed and breakfast permit on the parcel, the subject parcel at 1143 Front Street. The permit holder is Regina Tammy ...(inaudible)..., she is here today. She obtained a Type 1 Bed and Breakfast Permit for two bedrooms on June 7, 2007 as a recorded leaseholder which was allowed when the ordinance was enacted in 1998. They Type 1 B&B Permit has been renewed yearly since it

1 was granted and it expires on June 30, 2018. There are no recorded complaints. The B&B
2 Permit will be closed if the Short-Term Rental Permit is granted. Mr. Walkus would like to be
3 able to use the home at 1143 Front Street to accommodate his growing extended family as it no
4 longer fits entirely into the home next door at 1153 Front Street. Just for clarification we're
5 looking at Lahaina and we're looking at the red mark is 1143 Front Street.
6

7 An earlier short-term rental application at 1143 Front Street was denied by the Commission on
8 October 13, 2015 due to the number and distance from the subject parcel to the other permitted
9 short-term rentals. An examination of the record regarding short-term rental operations within
10 500 feet of the property reveals that there have been no complaints.
11

12 So I did a look at the...and I also gave you a copy Commissioners of this slide because I
13 realized and recognize like this is not readable the table part portion. But what's in the table are
14 each of these short-term rentals that are shown in the map and I went through and checked all
15 of their complaint history and they have no history of complaints at any of the existing short-term
16 rentals.
17

18 And the last item in the table No. 8 is the existing bed and breakfast permit on the subject
19 parcel. Again, there's been no history of complaints. There are no open RFSs on any of those
20 parcels. There are no police reports on this property regarding excessive noise or other
21 complaints. There were two requests for service filed on the parcel. One was filed in 2010 and
22 it was closed after it determined that the complaint was actually about a different property. The
23 second RFS was filed by the applicant's attorney as a request for information and has also been
24 closed.
25

26 This slide shows you the location of the source of the testimony that has been received by the
27 Department and three letters were included with our staff report to you and an additional letter
28 was sent to you I believe was sent to you by email and a hard copy provided to you this
29 morning. One letter of support came from a homeowner two doors south of the property. One
30 letter of opposition came from an owner operating his own vacation rental. One letter of
31 opposition came from a homeowner just behind the subject property that's shown on the map as
32 No. 4.
33

34 Concerns expressed by the letter writers focused on fears that traffic would be impacted and
35 that tourists would jeopardize the character of the neighborhood. If you'd like refer to Exhibit 9
36 in our report for copies of the testimony. The applicant responded to testimony and these
37 responses were provided in our report as Exhibit 11. The applicant, James Walkus along with
38 his representative Mikal Torgerson are here today to discuss the request. That concludes my
39 opening remarks. Thank you.
40

41 Chair Duvauchelle: Thank you. We have a presentation by the applicant and after we will open
42 the floor for public testimony.
43

44 Mr. Mikal Torgerson: While she's setting that up, good morning Chair and Board Members. I
45 appreciate your time and consideration today. My name is Mikal Torgerson, architect here on
46 Maui. The home before you as you can see is at 1142 Front Street. I'm gonna take you
47 through a few photos of the home. I think Livit pretty well established where it's at but I have

1 these aerial photos if anybody would like to refer back to them.

2
3 This is the entry to the home. It's well acoustically isolated by the garage and the rest of the
4 house. In the entry foyer there's a stair that leads upstairs to most of the bedrooms. There's a
5 single bedroom downstairs. The great room, dining room, kitchen and bedroom. A little dark in
6 that photo. This is an adjacent office and the pool in the backyard. There's a stone wall along
7 the back of the pool as you can see and I'll get to this in a moment when I talk about the letter of
8 opposition, but there's no wall between the adjacent neighbor that had concerns about pool
9 noise and my client is proposing another stone wall there to help acoustically isolate the home
10 better from the neighbor. This is the upstairs and the bedrooms, the bath.

11
12 And as Livit mentioned James Walkus lives in the home adjacent. He built that home quite
13 some time ago and has lived in that home and he has a very large extended family. He has
14 grandchildren and children and great grandchildren all come for a few months of the year and
15 use both this house and the subject property which is what he originally got the property for.
16 But it's his desire to be able to short rent it on a short-term basis when they're not using the
17 home. As Livit mentioned we've got an excess of the required parking off street for the home.
18 We've got a main floor plan and second floor plan if you'd like to refer to any of those.

19
20 And then I'd like to briefly go through the nine criteria that the Code indicates should be
21 considered when approving or denying a short-term rental permit and I'll just go through quickly.
22 The first one is regarding HOA boards or architectural control committees and that sort of thing.
23 There are none in this area so it doesn't apply to this property. The existing land use
24 entitlements the neighborhood is a mix of luxury beach homes and there are some worker
25 housing to the north. There's also as Livit mentioned a number of short-term rentals in the area.
26 The applicable community plan this is consistent with...the proposal is consistent with the
27 single-family community plan designation. And the Code says that we should examine potential
28 impacts, excessive noise, traffic and garbage. The garbage refuge and everything is stored on
29 the side of the house out of the view of the public. This short-term rental we don't believe would
30 generate any more garbage than any other residential use of the property. The pool noise was
31 raised as a concern by one neighbor and I think that's legitimate. It's a legitimate concern and
32 so we're proposing a stone wall between the two property continuation of that existing stone
33 wall to help alleviate that noise and take care of it. And in addition under the management of
34 the short-term rental there would be a person on-call of course 24-hours a day and we were
35 also proposing to put additional rules in the house rules regarding notifying potential users of the
36 fact that pool noise can transfer at accentuating these quiet hours and letting them to be
37 respectfully of the neighborhood that they're in.

38
39 The number of short-term rentals and their distance. So there are several well-managed short-
40 term rentals in the neighborhood. You saw that there were no complaints on any of them and
41 some of them are going back quite some time. There's also a lot of single...or second homes in
42 the area. In fact, in the next exhibit I'll go ahead and... I did an analysis from the tax records on
43 what were second homes...owner-occupied property which are the dark colored ones. The
44 ones that are just white are properties that are held in trust and I couldn't say whether or not
45 they're owner-occupied. But the number of properties with off-island tax addresses so second
46 homes or non-owner-occupied properties amounts to about 66.8 percent of properties in the
47 neighborhood. And the reason I bring that up...and that's assuming that

1 all...(inaudible)...properties are owner-occupied. So that's a pretty conservative estimate. The
2 reason I bring it up is I think second homes function quite similarly to vacation rentals. The
3 users tend to keep similar hours. In other words, they're not waking up you know to get to work
4 by and get home by 5. So they tend to keep similar hours that generate off peak demand traffic.
5 Statistically that's the case, going to you know go out on the day trips, snorkel boats, Haleakala
6 and that kind of thing and most typically have professional landscapers, housekeepers and
7 property managers. And so for that reason I feel that given the nature of this community as a
8 neighborhood of primarily second homes that short-term rentals are appropriate to cluster in
9 such a neighborhood in the same way that we've clustered the hotels in Kaanapali and Wailea
10 and Makena.

11
12 So there were three letters of concern about the property and one in support. They mentioned
13 parking on the street was a big concern and of course, our proposal has five parking spaces for
14 a five-bedroom house so if every bedroom had their own car which would be very unlikely
15 because we would be renting to a single party they still wouldn't have a need to spill out into the
16 road. Additionally, presently as a bed and breakfast it is somewhat common to rent to multiple
17 parties a bedroom at a time and in that instance there tends to be more cars just in its current
18 use as a bed and breakfast.

19
20 There was also a concern about increased traffic and pool noise and the density of short-term
21 rental. So this is a map of the letter writer in opposition. The one that was in support is right
22 here. So this gentleman wrote a letter that was in your packet I believe. He's included this
23 letter in all of the short-term rentals proposed in this area and after researching it a little bit I'm
24 rather convinced that maybe he's just concerned about competition because he in fact renting
25 his place on a short-term basis. But even if he was concerned about traffic his property Puanoa
26 Estates which is a gated community and takes access off of Kai Pali Street to Front Street and
27 so it would be difficult to conceive of how the change from this property from bed and breakfast
28 to short-term rental would really impact the traffic for his property. The same concern was
29 expressed from this property owner was concerned about traffic noise and it is difficult to
30 conceive again how that would really carry across four homes almost 300 feet away. The
31 property owner adjacent has been in contact with James Walkus and expressed the concern
32 about the pool noise. Apparently in December and January they had a problem with excessive
33 pool noise. Ironically it was actually the owner of the home's children, grandchildren and
34 extended family that was making the noise which kind of goes to my point which is whether the
35 home is occupied on a short-term basis or by the homeowner kids make noise around pools
36 and it does need to be monitored. And so it seems like the first logical step would be to build
37 this stone wall across here to extend the stone wall so it continues across between the
38 properties and would help with that pool noise. And then secondly, close management of the
39 property, explicit house rules that we would have guests sign off on regarding noise around the
40 pool and whatnot seems to be the solution to that concern either in its currently configuration as
41 a bed and breakfast or with his extended family there or as a short-term rental. So we
42 mentioned Mr. Cook's letter. This was the letter writer that was over off of that separate
43 roadway and this is an email that we received just right before our hearing. I think Livit did you
44 include that in their packet as well?

45
46 Ms. Callentine: That went out by email on Friday I believe and also a hard copy was provided to
47 the Commissioners this morning.

1
2 Mr. Torgerson: So you have that and we're working to address their concerns independent of
3 the outcome.

4
5 The Code also says that they should look at existing and past complaints on the rental property.
6 And as Livit mentioned there have been none and there are no open RFSs on the property.
7 And compliance or noncompliance with governmental regulations and a degree of cooperation
8 with the applicant to become compliant and there are no known noncompliance issues with the
9 property.

10
11 So with that, I would just like to express my sincere thanks for you folks having to look at this
12 project again. When it was presented previously I had been called away for a medical
13 emergency to Oahu. It was actually life threatening. So I felt that my client was at a
14 disadvantage a result of that and I do, I appreciate your consideration. I'm available for any
15 questions which you may have and I'd be happy to go through any of those in more detail if
16 you'd like. But first, before I close I'd like to introduce my client, James Walkus. Just have him
17 say hi and let you know that he's here and available for questions. Mahalo.

18
19 Mr. James Walkus: Good morning Chair and Board. I thank you for—

20
21 Chair Duvauchelle: Will you please state your name?

22
23 Mr. Walkus: My name is James Walkus.

24
25 Chair Duvauchelle: Thank you.

26
27 Mr. Walkus: And thank you for allowing me to attend here. I'm the owner and I'd like to see the
28 house being used rather than being empty when my family isn't around. So I appreciate the
29 being here and living in a beautiful island. Thank you.

30
31 Chair Duvauchelle: That ends the presentation. We'll now open the floor for public testimony.

32
33 **a) Public Hearing**

34
35 Chair Duvauchelle: Anyone wishing testify on this particular agenda please come forward, you'll
36 have three minutes and state your name?

37
38 Mr. Tom Croly: Aloha Chair, I'm Tom Croly. I have nothing to do with this application
39 whatsoever, but just as a matter of history with respect to this bed and breakfast and short-term
40 rental I thought that I might be able to give you some context on it. In 2008, the Council revised
41 the Bed and Breakfast. Up to that point only about 20 bed and breakfast permits have been
42 issued. But the old Bed and Breakfast Ordinance allowed for there to be a lessee on the
43 property. It didn't have to be the owner of the property. But in 2008, the Council considered
44 very carefully whether they wanted to include lessees in the bed and breakfast side of things
45 and said no, that's a different situation. Bed and breakfast should be owner-occupied. This
46 permit had already been issued at that time and has continued as a lessee. There was no
47 reason to change the conditions that it was operating under. But later, the Council came up with

1 the Short-Term Rental Ordinance. And as I look at this application, this looks more like a short-
2 term rental than it does a bed and breakfast like the one that I operate is the owner of the
3 property lives on the property and rents rooms where they are. A short-term rental is the owner
4 of the property lives somewhere else. Maybe they live somewhere else on Maui, maybe they
5 don't live on Maui but they rent the whole house out to someone. This functions as a short-term
6 rental even though its functioning under a Bed and Breakfast Permit that came about prior to the
7 current Bed and Breakfast Ordinance. So I look at this particular application and say, if it's a
8 duck make it a duck right? So this is a short-term rental, it should be functioning under a short-
9 term rental permit rather than a bed and breakfast. And I look at your task today not one of
10 should we have another short-term rental in this area but should we properly be classifying this
11 for what it is. What properly classifying it will do is it will raise the applicant's property taxes
12 significantly because bed and breakfast operators live on their property the Council gave
13 consideration to they are homeowners and because in Maui County we get a very low
14 homeowner tax rate, the tax rate for a bed and breakfast is one that is lower than the tax rate for
15 short-term rentals. So this property where the owner doesn't live there should be paying short-
16 term rental taxes and by you know changing this permit from a bed and breakfast to short-term
17 rental he will see that. It's a significant change. It's about doubling of the property taxes that he
18 would otherwise pay under a bed and breakfast. So again, I have nothing to do with the
19 applicant. I have no true knowledge of this particular operation other than to review this file and
20 say, the only reason this is a bed and breakfast is because that bed and breakfast permit was
21 granted before the current bed and breakfast rules were adopted by the Council. Thank you.

22
23 Chair Duvauchelle: Thank you. Anyone else wishing to testify on this agenda item? Good
24 morning, please state your name, you'll have three minutes.

25
26 Ms. Tanna Swanson: Hello, my name is Tanna Swanson and I'm the current president and
27 have been the president for the last 16, 18 years of the Maui Bed and Breakfast Association.
28 My own B&B goes back...(inaudible)...back into the 80's and we were blessed and have been
29 fortunate for this County to tackle the new short-term rental industry as you know many of the
30 other counties in Hawaii have looked to Maui for guidance in that area. So appreciate
31 everything that the Council and this board has done and their efforts over the extended years on
32 trying to straighten out the convolutedness and the individualness of the bed and breakfast and
33 the short-term rental bills and so I commend you on that.

34
35 With this, I want to speak in behalf of James. James was a unique situation. I think to date he
36 is the only that holds a B&B Permit with a lessee and he was for lack of a better word,
37 grandfathered in because he was issued that permit an operator for that, but he has been one
38 foremost in trying to do things right. He has never hid the fact that he's trying to rent and he has
39 been on board from the beginning. It took him two years, two and a half years to get his original
40 permit because back that ...(inaudible)...you went through the hoops. And as they evolved he's
41 tried to ...(inaudible)... and that's what he's trying to do now. We have an antiquated permit
42 with a lessee on and it's time now to clean up the old permit and get them on board. We're not
43 adding a short-term rental to this neighborhood. It's been an existing short-term rental since
44 2007 and with no complaints. So I would think...I commend Mr. Walkus for the efforts he's
45 done and the goodwill he has passed in leading the bed and breakfast industry as a whole and
46 the short-term rentals to come out and get real permits because right now that is our biggest
47 complaint is the illegals are still out there operating blatantly and we would like to see more

1 people like Mr. Walkus that have come forward and have paid their dues and respect the law as
2 given and want to make things right. So I want to commend Mr. Walkus as well as he has tried
3 to abide by everything that has come before him and ...(inaudible)...level. Thank you.

4
5 Chair Duvauchelle: Thank you. Any questions. Thank you. Anyone else wishing to testify on
6 this agenda item? Okay, seeing none, we will close public testimony and we will take questions
7 from the Commissioners. Commissioner Kahu Hill.

8
9 Kahu Hill: I see the record reflects the original application was denied by the commission due to
10 the density of the STRH in the neighborhood on 10/14/15 and then I see in that absence
11 ...(inaudible)... but from the absence of the support of the commission at the time that the
12 petition for reconsideration was also denied on 11/10/15. I'm just wondering what has changed
13 since the original application? Are the circumstances different? If you can enlighten me,
14 enlighten us?

15
16 Mr. Torgerson: Certainly. Again, Mikal Torgerson. The I guess first of all there was in watching
17 the recording of the previous hearing I think there was some confusion about whether or not we
18 were introducing a new short-term rental use in the neighborhood. It seemed apparent that it
19 wasn't entirely clear that we were really just switching from a bed and breakfast to a short-term
20 rental home use. Additionally since that time there have been several in the neighborhood
21 approved. So if density was in fact the primary concern it was apparently not a concern
22 anymore because just across the fence actually behind this application a few months ago there
23 was one approved.

24
25 Kahu Hill: Also in the...it's looks like most of them in the area the other ones were
26 grandfathered in before so that's...is that the first new one that's been approved in that same
27 second street?

28
29 Mr. Torgerson: No. In fact I have firsthand knowledge of a lot of the other ones on Kai Pali. I
30 don't have a map of the...all the ones that are approved, but I worked on this one, this one, that
31 one and a few down here so I know for a fact all those were new. I'm not aware of any that
32 were grandfathered other than I guess if you could say grandfathered this Type 1 Bed and
33 Breakfast Permit was grandfathered.

34
35 Kahu Hill: Those are all along with his there was the other five on the street weren't they also
36 right in the same period of time about for a bed and breakfast?

37
38 Mr. Torgerson: Those are all short-term rentals I believe. There's one bed and breakfast in the
39 area, right and that's ours.

40
41 Kahu Hill: Okay, and one other thing I wanted to see, I didn't quite understand about the
42 parking 'cause you can allow up to 10 people and other people could have cars, let alone
43 visitors. It seems like the parking some of it is in front of the garage is that correct?

44
45 Mr. Torgerson: Yes, its tandem parking which is specifically allowed under the Code.

46
47 Kahu Hill: And how do they expect to use that with that many cars being able to get in and out

1 of the garage with parking facility behind it?

2

3 Ms. Callentine: If I may answer that?

4

5 Kahu Hill: Yeah.

6

7 Ms. Callentine: Thank you. Livit Callentine, Staff at the Planning Department. The short-
8 term...the bed and breakfast can have multiple groups and each one of those groups
9 presumably would have their own car so there would be...there is more of a problem when
10 there's a B&B because the requirements are stricter for B&Bs than they are for short-term
11 rentals. For the short-term rental they must rent to one group only. So it's feasible that a family
12 might actually come with two cars. I've done that myself on occasion with my family but it's not
13 likely that it's gonna be as extensive as the parking would be for a B&B. So we would think of
14 maybe one or two or possibly even three cars for that size home being a regular amount for a
15 short-term rental.

16

17 Kahu Hill: Okay, mahalo.

18

19 Chair Duvauchelle: Commissioner Robinson?

20

21 Mr. Robinson: There's a lot of exhibits and pictures of the home and the backyard and front
22 yard. You have any pictures of the garage?

23

24 Mr. Torgerson: Just the front of the garage not the interior of the garage.

25

26 Mr. Robinson: To show that the garage isn't being used as storage. I can tell you Livit visited
27 the site recently.

28

29 Ms. Callentine: Excuse me, Livit again. I did do a site visit and I did require Mikal to open the
30 garage for me to inspect and it is indeed being used for storage and vehicles. So there's no
31 habitation going on in the garage. I'm always on the lookout for that. So that checked out just
32 fine.

33

34 Mr. Robinson: I have a follow up. If it's being used for storage how can it be used for a parking
35 spot?

36

37 Ms. Callentine: Okay, my recollection was the storage was along the walls, but I would then
38 defer to Mikal to explain that.

39

40 Mr. Torgerson: There is some beach items stored along this side. But you can absolutely park
41 two cars in the garage and they do.

42

43 Mr. Spence: Madam Chair?

44

45 Chair Duvauchelle: Director?

46

47 Mr. Spence: Commissioners, I'm looking at the Parking Code under 19.36A and the short-term

1 rental home requires one additional parking space if there are more than four bedrooms for
2 short-term rental home use in addition to the other parking requirements under this chapter. So
3 when we have...whether the garage is usable or not, there are three parking stalls there. Two
4 are required for the single-family residence just any single-family residence and because he's
5 doing more than four, four rooms, one additional is required. So they have three. I mean it
6 would be nice to have a picture of what's inside of the garage, but regardless the three stalls
7 that they have meet the requirements of the Code.

8
9 Chair Duvauchelle: Commissioner Robinson?

10
11 Mr. Robinson: I'm not gonna get too deep on this but it's not marked stalls like we have on
12 other ones. It's a big driveway to the garage and they're saying three cars can fit. It's not stalls.
13 So I understand, I mean it's semantics but I guess it's we could add a condition theoretically that
14 the garage has to be used as part...as one or two parking stalls instead of trying to say that
15 we're guaranteed that three's gonna fit on that driveway 'cause he showed us the picture of two
16 cars on that driveway. You know, if we had a picture of three that would be more actual. And
17 again, this is Front Street so this is a concern.

18
19 Chair, if I could ask the Director a question? Director can we go back to this grandfather clause
20 and this automatic renewal of this bed and breakfast that's been grandfathered in because this
21 is a lessee this is not a owner. Things have changed and I'll explain my...to my situation. My
22 situation is Planning Commission twice before us have denied this applicant and there's been
23 very senior people on this commission that did deny this. And when I read it I didn't see any
24 discussion about it being a nonowned B&B. The discussion I read is they were under the
25 assumption that it was a regular B&B where the owner was there and when I read it even back
26 then, you know, when I first came on I read this case and I read it today and it jumps out at me
27 that it's a lessee. So how does...the question is when we changed Code from the County
28 Council how does the Code not follow through the years. How does somebody get
29 grandfathered in without coming here for an exemption or how is an exemption granted because
30 this person is operating as a B&B. So are we saying this B&B is going to expire and he has the
31 only option to either go to a STRH or what's that? Thank you.

32
33 Ms. Callentine: Let's see, thank you, I'm gonna try to hit everything, every point you asked.
34 Please forgive me if I miss something and please feel free to ask it again if I miss it. I'm, let's
35 see as far as the stalls if you were to get closer here or if you look at the exhibit in your report,
36 the dimensions are shown on the map and that's what is required by Code so they do meet the
37 requirements of the Parking Code. Let's see the next thing I heard was you were gonna ask
38 something about the grandfathering clause. Yeah, okay, right about the B&B. The Director has
39 approved annual renewals. They are not automatic. There is a review of the...whether the
40 applicant is in compliance with all the conditions of approval. There's a review of police reports
41 being filed on the property and there's a review of any history of complaints filed with the County
42 of Maui's Request for Service System. So the renewal of the bed and breakfast along with the
43 fees that are required each time there's a renewal is carried out in a thorough way for renewal.
44 Okay, so you must have some lingering questions, please help me to answer them for you.

45
46 Chair Duvauchelle: Commissioner Robinson?

47

1 Mr. Robinson: Director, you want to try. That doesn't answer anything.

2

3 Chair Duvauchelle: Corp. Counsel please?

4

5 Mr. Galazin: Thank you Commissioner. So generally speaking and I don't know about the
6 particular history of this B&B Permit but when you're talking about existing nonconforming uses
7 in the land use context once somebody has a permit to conduct a certain use and then that by
8 ordinance something is changed so long as that use is not discontinued for any period of time
9 usually it's about six months then it's allowed to remain. It can be amortized out but that would
10 have to be done specifically by Code and what I believe and I'll let the Director go to this part of
11 it but when it comes up for annual renewal it's more akin to a request for a time extension rather
12 than a full review of the permit as if it were a new application. So once you have an existing use
13 you're entitled to that use if the Code changes to make that use no longer lawful as long as you
14 keep up that use with what you were lawfully entitled to do in the first place then you can keep
15 doing it unless and until the Council decides to like I said amortize that out over a period of time.

16

17 Chair Duvauchelle: Commissioner Robinson. But permits expire correct? So I'm not asking
18 that we pull the permit but I'm saying is do they get...they still get a automatic renewal. And the
19 reason why I'm saying this and again, this is not even personable to this case you know we've
20 been in the process for the last two years of trying to conform everything, bring everything up to
21 date, bring all the archaic things that we have wrong and try to make everything streamline
22 where everybody's on the same page. And this to me is a perfect example of we have an old
23 rule of B&B, we have a new rule of B&B and we have permits that expire and when it comes to
24 this commission, we're asking the commission do you want to approve something and then go
25 ahead and leave it for the Planning Director to go ahead and approve as long as nothing's
26 wrong. I'm speaking for myself, I'm always under the assumption that if the Council is going to
27 change the law or something that we're going to follow with and not, you know, once you say
28 this is okay this person could have something you know the law changed for 20 years. I'm not
29 giving 20-year approvals, I'm giving one-year approvals, three-year approvals. So when this
30 thing continues in perpetuity and our Code changes that's my concern not pulling the permit
31 because they're grandfathered in is when the permit expires they should have the ability to
32 reapply for the new Code and that's where my question is at right now.

33

34 Mr. Galazin: Okay, and again, I would just answer that sort of in the same way that any kind of
35 permit for any activity whether you're talking about B&B, whether you're talking about any kind
36 of other permit that you may doing a storm water permit they all have expiration dates and
37 typically they all have time extensions built into the permit processes. So in this case and I'll let
38 Will talk about the exact specifications of this particular type of permit but the general rule of
39 thumb is that when you have this permit when it comes up for renewal of a time extension so
40 long as the circumstances haven't changed then that use gets to be continued. Now if there is a
41 change in circumstances then you would be able to relook at it and that's really...I think that's
42 the...(inaudible)...we consider yes, we put time limits on them but when you're talking about
43 renewal it's really, it's really more of a time extension and somebody has a vested right to
44 continue that activity as long as they remain in compliance.

45

46 Mr. Robinson: So what I hear is that we should if we're interested as a Commission of not
47 having a automatic time extension for perpetuity that we should just give a flat limit and have it

1 come back to the commission for an approval?

2

3 Chair Duvauchelle: Director?

4

5 Mr. Spence: You could, I mean, the Commission has the discretion to do that. But I would urge
6 against that otherwise you know you get some very full agendas. If every single permit has to
7 come back to you for reapproval and from your question I didn't hear renewal I heard you say
8 something about new permits, the burden on staff for that kind of thing would be extraordinary.
9 The burden on this Commission would be extraordinary to have to conduct additional public
10 hearings and all that. That's what I heard from your question. As administratively I hesitate to
11 say easier this permitting process is for short-term rental homes the burden is still extraordinary.
12 It's harder than other places that I've had opportunity to inquire about and I mean, there are
13 some cities where it's just basically a registration. You come in and you register your home and
14 you're done. Make sure you're paying your taxes. This particular municipality with the permit
15 processing is extensive, the notification processes where we notify the neighbor twice, once
16 with an application, once with if there's a public hearing, those things are more extensive. And
17 then once you're...actually once you're...if the permit is approved you have to notify them again
18 with the permit conditions. So we have a quite onerous permitting process here. If every single
19 one has to come back to this commission we'll just be reinforcing the underground vacation
20 rental economy that we currently have.

21

22 Chair Duvauchelle: Commissioner Robinson?

23

24 Mr. Robinson: And Director I'm not trying to add burden onto the staff. I guess what I'm trying
25 to get a clarification on is when our Council changes a Code or a law but yet we allow it to keep
26 on continuing because they had a special permit before the law was changed. So we, if the
27 Council decides next year to change the law we could still have...these people who have these
28 permits and it's not even B&B, it's any type of permit. I mean there has to a way of having some
29 type of clause if Code changes or is exhausted that this permit cannot be renewed. Now I'm not
30 trying to penalize, I'm not trying to do it but when Code changes that's my concern 'cause the
31 Code has changed right? We have dozens of B&B owners that have to live on the premise and
32 also go ahead and run their B&B while this one is a lessee even though the new Code has
33 changed. Now we're gonna have new Codes every year from the Council. It's always going to
34 change, it's always gonna improve and I understand grandfathering in for the term of the permit
35 but for perpetuity for 10 years, 15 years, that's where you guys can keep on renewing just
36 because they haven't changed their use. And to go forth with that, and I still haven't...you
37 know, if the use is you say six months do we have proof that they've had rentals in the past six
38 months? You know, you say there is three parking stalls, well whose map is that? Did
39 somebody from the County go and measure the driveway. It's we just have to make sure
40 everybody is on the same field. Everybody has a equal opportunity to the Code and it's
41 not...I'm sorry that at this B&B this brings up a perfect point I'm saying we want to be consistent
42 and we want to improve things and I'm with you on that Director, but this is a perfect example of
43 us not improving this.

44

45 Mr. Spence: Okay, so I think I understand the question. I'm trying to find the section of the
46 Code where I know specifically the Code says that short-term rental homes that had conditional
47 permits--

1
2 Mr. Robinson: This is a B&B.

3
4 Mr. Spence: I know, I understand, I'm gonna get to that. The short-term rental homes with a
5 conditional permit could continue as conditional permits. I'm trying to find that language
6 because it...I believe it also says with bed and breakfast permits. I'm not 100 percent sure. So
7 but it is as Corporation Counsel says, I mean once you have a permit there needs...the Council
8 could I think as Corp. Counsel was saying the County Council could amortize them, they could
9 put in a provision that says okay, you must at the expiration of this certain type of permit you
10 must convert to a new permit. I know that...I'm not sure if B&Bs are covered under that but I
11 know there is no language requiring that they convert. So without that language they would be
12 able to continue with the B&B Permit. I know we do need at some point probably with the next
13 administration I hope there's a new look at this particular ordinance so it's simplified and that
14 could very well be one of the things that needs to take place.

15
16 Chair Duvauchelle: All right, thank you. Good discussion. Any other questions for the
17 applicant? Commissioner Higashi?

18
19 Vice-Chair Higashi: I tend to agree with Commissioner Robinson about you know when you
20 have an ordinance and you're saying now that the applicant is grandfathered in which is fine I
21 don't have any problem with that. The problem I have is when that particular applicant no
22 longer lives on that property which changes the criteria for bed and breakfast the way the new
23 ordinance sits is that if you're going to have a bed and breakfast you have to live on that
24 residence. And to me, once that changes then automatically on a renewal we have to follow the
25 ordinance of the County Council. I totally agree with the Director saying that when we change
26 the ordinance we're gonna create new problems. But that's something the County Council
27 should have known ahead of time that you're gonna do that, you're gonna create more
28 problems for renewal or more personnel to be able to monitoring. That's the same problem we
29 have with the permit process now is that we have so many illegal ones occurring because
30 there's not enough enforcement to take care of

31
32 Have Council change and make new ordinance but yet we're gonna just let it slip by and I have
33 a problem with that.

34
35 Chair Duvauchelle: Noted. Yes, Corp. Counsel?

36
37 Mr. Galazin: And thank you Commissioner Higashi for that. While this is a useful discussion
38 just generally speaking if the County Council next week decided to pass an ordinance that said
39 no short-term rental permits are allowed anywhere in the entire County there would still be a lot
40 of people who had permits who can continue to operate as long as they didn't discontinue that
41 use they would be able to continue to operate unless the County Council said and everybody
42 who is operating right now has five years to wrap it up after which time you know nobody will be
43 allowed to do it. So we can have this kind of discussion. I think we really kind of focus on the
44 application we have right now recognizing there is an existing B&B Permit on the property, now
45 there's an application to make it an STRH. I would just point out if the commission is so inclined
46 to grant that sort of permit I believe the applicant has mentioned they would be willing to give up
47 the B&B Permit but I don't know if it's written as a condition right now so I would suggest that's

1 something to think about too is make sure that's conditioned. But it sounds like I don't know if
2 it's a change in use so much as the way it's described, but you know we could go on and on
3 about grandfathering nonconforming uses for hours if we wanted to, but I think we should sort of
4 refocus where we are.

5
6 Chair Duvauchelle: Yeah, thank you. So do we have any questions regarding the application or
7 for the applicant please? Commissioner Kahu Hill?

8
9 Kahu Hill: Just one thing you did mention about a wall which sounds good for that when would
10 you propose in creating this wall if this is approved?

11
12 Mr. Torgerson: We've already, I as his architect have already talked to him about doing it and
13 he's talking to contractors about doing it. But if you would like to make that a condition of
14 approval that would be welcome. Also to Commissioner Robinson's comment about the garage
15 stalls we would also be open to a condition that those be available for parking.

16
17 Kahu Hill: Could we also see that one image that you had the two cars parked in the garage, I
18 didn't even see a third space? That one?

19
20 Mr. Torgerson: So you can see that there's paving full to the right as well as to the left of that
21 car. So it's in excess of the required dimensions by Maui County Code.

22
23 Kahu Hill: Okay, and just one last thing on...just kinda concerned about the density on that
24 street, I don't know if you're going to have events there or anything, what about guest parking?
25 I know it's just after Baby Beach not that far so it's where there's a lot of parking problems.

26
27 Mr. Torgerson: Right. No, events are specifically prohibited by the house rules. But we're
28 providing two parking stalls in excess of the Code requirement. So I guess we feel like there's
29 adequate parking for guests as well.

30
31 Kahu Hill: Mahalo.

32
33 Mr. Torgerson: Certainly.

34
35 Chair Duvauchelle: Okay, any other questions Commissioners? Thank you. Seeing none, can
36 we have the Department's recommendation?

37
38 **b) Action**

39
40 Ms. Callentine: The applicant has demonstrated that the proposed short-term rental meets the
41 criteria for a short-term rental home permit. The short-term rental home is not anticipated to be
42 contrary to the goals and objectives of the short-term rental ordinance. The short-term rental
43 home will occur in a permitted dwelling that existed prior to the application and without conflict
44 with the residential uses on the property or the surrounding area. The desired use will not
45 adversely affect surrounding properties. The residential neighborhood is characterized by
46 single-family residences of medium sized lots. The number of guests is limited to one group at
47 a time and up to two guests per bedroom. There are no records of disturbance reported with

1 the Maui Police Department. There were four letters received by the Department discussed
2 earlier. There will be a licensed realtor managing the property and STRH operation. The
3 applicant does not hold an STRH Permit on another property. There are five STRs approved
4 within 500 feet. As of December 31, 2017 there were 65 permitted...actually that's not right,
5 there were 77 permitted STRs in the West Maui Community Plan region with the cap for that
6 area being 88. As of September 30th...yeah right, okay, sorry got a wrong thing here, there
7 were no complaints on the bed and breakfast since permitted. Neighbor notice was provided
8 twice, once when the short-term rental application went out and more recently for the short-term
9 rental application public hearing. Potential adverse impacts including traffic, noise and trash
10 were considered. However, the permit will be limited to one group at a time so the impacts
11 should be comparable to those of a homeowner occupant or a long-term rental tenant.

12
13 The Department is recommending that the Maui Planning Commission approve the short-term
14 rental permit subject to 22 conditions and then I heard a possible two new conditions being
15 floated which I've drafted some language for. The Department is...so perhaps I should go
16 through those? Should I add those? Should I give you wording for those conditions right now
17 or should I wait?

18
19 Chair Duvauchelle: Let's wait. Let's wait till...
20

21 Ms. Callentine: Okay, sure. Thank you. The Department is recommending that the Maui
22 Planning Commission approve the short-term rental subject to 22 conditions. The Department
23 is also recommending that the Planning Commission adopt the Planning Department's report
24 and recommendation prepared for the February 13, 2018 meeting as its findings of fact,
25 conclusion of law, and decision and order and to authorize the Director of Planning to transmit
26 said written decision and order on behalf of the Planning Commission.

27
28 Chair Duvauchelle: Thank you. Commissioners? Commissioner Robinson?
29

30 Mr. Robinson: Chair maybe you can help me, you were here and I'm missing this procedurally,
31 this was denied twice and it's coming back a third time and I didn't hear anything that was
32 different. Did I...was I not paying attention?
33

34 Chair Duvauchelle: You know I think was...I'm not sure I was here for the two previous. I do
35 remember the last time that it was in front of us. I'm going to let the Director answer that
36 question specifically, the different. I mean I do recall, I mean, I think the opposition amount is
37 about the same as it was last time for the neighborhood as far as letters received. I don't see
38 any additional support. Director?
39

40 Mr. Spence: Certainly and maybe the applicant wants to say what's different this time as well
41 but certainly the offer to put up the wall as a sound barrier that's different. That seems to be the
42 primary objection that I heard. Same amount of parking. Essentially the same operation as
43 under the B&B except there's not a lessee present.
44

45 Chair Duvauchelle: Commissioner Robinson?
46

47 Mr. Robinson: I move to deny.

1
2 Vice-Chair Higashi: I second that motion.

3
4 Chair Duvauchelle: Move to deny by Commissioner Robinson, seconded by Commissioner
5 Higashi? Discussion on the motion? Commissioner Robinson?

6
7 Mr. Robinson: Going through the transcripts of the prior meetings it was...I saw was opposition
8 in cluster. I didn't see anything about the wall. The first thing of us hearing about the wall was
9 when the neighbor today talked about it and it's great that they're gonna offer it. But from the
10 prior two Planning Commissions and you know I take what we do seriously and I take the time
11 that our Commission puts in and if twice a Commission doesn't and something substantially
12 doesn't change like the coding, you know, I am sort of remiss that we couldn't let this expire and
13 let these people apply for STRH at the expiration I understand that. It behooves the County if
14 this thing was STRH because we get more tax money, right 'cause they're getting billed
15 anomaly, but you know two wrongs don't make a right and I guess you know, try to be
16 consistent. You know, I'm just gonna follow with my two prior commissions. I don't see
17 anything different. I don't see what sticks them out. Personally I feel Front Street is not a good
18 place to have people showing up for the first time. It's a B&B already which I think is...you know
19 it's grandfathered in but I still think that's a bad idea. I think having a main thoroughfare with
20 people you know checking in like it's a hotel, it's not made properly, there's porte cochere,
21 there's no security, there's no guidance. You know that's always the challenge I've had with
22 these short-term rentals and nobody's there. And so for that I will not be supporting this.

23
24 Chair Duvauchelle: Thank you. Further discussion on the motion? Director?

25
26 Mr. Spence: I think the other thing that I head differently than last time is just the evaluation of
27 the transient nature. I shouldn't say transient, I should say the character of the neighborhood
28 there are some full-time residents in the area but as I saw a lot of the homes in this particular
29 area are second homes. Most of the homes are...you know have mainland or otherwise off
30 island addresses to send the Real Property Tax bill. And that...this is one of the main thrust of
31 the short-term rental home bill is to protect the character of the neighborhood. The character of
32 the neighborhood is off island residents that's...and I heard that different this time than when I
33 remembered this application came before the commission. And I'll just leave it at that.

34
35 Chair Duvauchelle: Thank you. Commissioner Higashi?

36
37 Vice-Chair Higashi: I seconded the motion based upon a couple of things. One is I think I was
38 kinda concerned about when I read the application that it seemed like the applicant said well, if I
39 get the short-term rental I'll go away with the bed and breakfast. And to me, it's not an either or
40 situation it's a situation where we're talking about you're gonna apply for one thing and stay with
41 it or you're gonna change. The other thing I think I still get back to one of the concerns and if I
42 recall correctly they were talking about the swimming pool and at 10 o'clock at night they
43 couldn't sleep to me that becomes a major problem for people who are not living in that
44 particular area unless their house rules strict enough that they don't need neighbors to complain
45 what's happening on that property. It's the homeowner's responsibility to make sure that quiet
46 hours are done. That's typical respect of the neighbors around the area. And I have a problem
47 with that consequently I'm seconding the motion to deny.

1
2 Chair Duvauchelle: Thank you. Any further discussion on the motion? Corp. Counsel?

3
4 Mr. Galazin: Thank you Chair. And I would just sort of a general reminder to the all members if
5 you are so inclined to vote in favor of denial of the permit, but as Commissioner Robinson and
6 Higashi have done please articulate your records based on the nine criteria for consideration. I
7 believe they both pointed out two probably criteria on No. 5, but I would just look at again at
8 those and if you are going to vote no, I would ask for the record that you articulate that for
9 purposes of the D&O.

10
11 Chair Duvauchelle: Thank you. Commissioner Kahu Hill.

12
13 Kahu Hill: Mahalo. One last thing is I noticed that what I had come in this last letter of
14 opposition and she had made a complaint and was able to talk to James before but nobody
15 would be on the property at 12 midnight or one in the morning who would you call, who could
16 you call and there's so much going on in the area. So I'm just wondering what they would do
17 about that to make sure that they...if there was a complaint that the neighbors could complaint
18 them?

19
20 Ms. Callentine: What happens if a permit is granted the applicant is required to erect a sign at
21 the front of the property which has the 24-hour cell phone number of the manager who is a
22 licensed real estate agent or broker? In this case I believe that she's an agent. Also, the
23 neighbors would get a letter. They would get a copy of the approval letter which and they will
24 also get a copy of the house rules which will give them the phone number of the manager who
25 has to be able to be present within one hour of a phone call.

26
27 Chair Duvauchelle: Thank you. Any further discussion? Commissioner Castro?

28
29 Mr. Castro: What is the height of the current wall right now, the stone wall?

30
31 Ms. Callentine: That is a very good question. I did not measure the height. I'm going to defer
32 to either the owner or the owner's representative.

33
34 Mr. Torgerson: So the present wall, I'll get to the picture really quickly I believe it's around four
35 and a half or five feet. I haven't measured it either but it's going between a vacant lot at the
36 back of the property so the lot behind is completely vacant the one that really adjoins the pool
37 for the most part. We were proposing a six-foot wall.

38
39 Chair Duvauchelle: Thank you. Any other discussion on the motion? Commissioner Tackett?

40
41 Mr. Tackett: My stance on it is similar to the stance on the wall itself. I believe if it's gonna be a
42 for-profit thing the neighbors should have a barrier between the pool and between their property
43 so I think...and I think six feet is a good number because if you do anything under six feet when
44 somebody standing up talking it's just gonna carry anyway. You know if you go above six feet
45 you got a good chance of buffering the sound pretty well. So I think that the wall would be
46 appropriate before something like this would be approved in my opinion.

47

1 Chair Duvauchelle: Thank you. Any other comments, discussion on the motion?
2 Commissioner Castro?

3
4 Mr. Castro: If this was approved when would they commence on building the wall?

5
6 Mr. Torgerson: I can commit to pursuing a permit to build the wall as quickly as possible. So
7 we would build the wall as soon as we could get issued the permit, but we've already discussed
8 building it already.

9
10 Chair Duvauchelle: Thank you. Commissioner Robinson?

11
12 Mr. Robinson: Just a note that they're already a short-term rental and they already have had
13 this wall which they had ample time to build to a certain height for the neighbor and if a neighbor
14 doesn't have enough respect to be quiet for your fellow neighbors and they're the owners of this
15 rental I'd hate to hear what maybe visitors would be like. You know, usually owners keep and
16 B&Bs and managers will keep people in tone because they respect it and you know people
17 always say, the people that live there is the ones that were loud not the visitors, so well that's
18 not a good thing. You gotta respect the neighbors and everybody has to live together and that's
19 why it's called a neighborhood not called a transient vacation rental area. It's still a
20 neighborhood, it's still zoned a neighborhood. I voted for the short-term rental on the other side
21 of the street. I thought that was a more applicable area and even though I might have
22 disagreed with my fellow commissioners who voted against this a few years ago, I still respect
23 their decision, I still respect their due diligence and what they decided on three years ago.
24 Thank you.

25
26 Chair Duvauchelle: Thank you. Any other discussion? All right, Director can you please repeat
27 the motion?

28
29 Mr. Spence: The motion is to deny.

30
31 Chair Duvauchelle: All those in favor please raise your hands?

32
33 Mr. Spence: That's seven ayes.

34
35 Chair Duvauchelle: Seven ayes.

36
37 Mr. Spence: Motion carried.

38
39 Chair Duvauchelle: Motion carries. Thank you.

40
41 **It was moved by Mr. Robinson, seconded by Mr. Higashi, then**

42
43 **VOTED: To Deny the Short-Term Rental Home Permit.**
44 **(Assenting – K. Robinson, R. Higashi, A. Hill, L. Hudson, T. Gomes,**
45 **C. Tackett, S. Castro)**
46 **(Excused – L. Carnicelli)**
47

1 Chair Duvauchelle: We are going to take a ten-minute break. We'll reconvene at 10:20.

2
3 A recess was called at 10:10 a.m., and the meeting was reconvened at 10:22 a.m.

4
5 Chair Duvauchelle: Planning Commission is now back in session. We'll have our next agenda
6 item.

7
8 Mr. Spence: Okay Commissioners we're on Item D-1, Mr. Stewart Stant, Department of
9 Environmental Management. He is requesting a 30-year time extension for Land Use
10 Commission Special Use Permit for the Hana Landfill and with us this morning is Mr. Paul Fasi.

11
12 **D. COMMUNICATIONS**

- 13
14 **1. MR. STEWART STANT, Director, DEPARTMENT OF ENVIRONMENTAL**
15 **MANAGEMENT requesting a 30-year time extension on the State Land Use**
16 **Commission Special Permit, County Special Use Permit, and Special**
17 **Management Area Use Permit for the Hana Landfill Project at Waikoloa**
18 **Road, TMK: 1-3-006: 007 (por.) and 012, Hana, Island of Maui. (SP08-402,**
19 **CUP 2007/0001) (SM1 2007/0003) (P. Fasi)**

20
21 Mr. Paul Fasi: Thank you Director. Good morning Commissioners. The matter before you this
22 morning are three permits and the Department of Environmental Management is requesting 30-
23 year time extensions on the County Special Use Permit, and the Special Management Area
24 Permit. You have decision making authority on these two permits. The State Land Use
25 Commission Special Use Permit SP08-402 you will be making a recommendation to the State
26 Land Use Commission on this particular permit. So you do have decision making authority on
27 the CUP and the SM1. With us this morning we have Elaine Baker, Department of
28 Environmental Management and Bob Schmidt also from the Department of Environmental
29 Management.

30
31 The CUP was awarded on July 22, 2008, the SUP was awarded by, I'm sorry, by the Planning
32 Commission on July 16, 2009. On August 24, 2010, the Planning Commission meeting
33 approved the SM1. So the Hana Landfill has been operating under these permits. There have
34 been no special requirements handed down from the Department. Everything is operational as
35 we expected. We did send this request out to get agency comment. There were no substantial
36 comments coming back.

37
38 Chair Duvauchelle: Mr. Fasi, could you cover one more time what we are reviewing here today,
39 slow that down just a little bit. What our task is here.

40
41 Mr. Fasi: So what we are doing today is three permits.

42
43 Chair Duvauchelle: Okay.

44
45 Mr. Fasi: The State Land Use Commission Special Permit of which you will be making a
46 recommendation to the State Land Use Commission. We are also going to make a

1 determination on the County Special Use Permit of which this body has authority and we're also
2 gonna make a decision on the Special Management Area Permit of which this body also has
3 authority on.

4
5 Chair Duvauchelle: Okay, thank you.

6
7 Mr. Fasi: Since the permits were already awarded, I'm not going to get into the how it relates to
8 governmental requirements and land use laws. The Department I recommending that the...this
9 body recommend approval to the State Land Use Commission for the 30-year extension and is
10 also going to recommend that you approve the County Special Use Permit and the Special
11 Management Area Permit.

12
13 In the Maui Island Plan as a note, they have in there that the expected landfill, life of the landfill
14 is 96 years. So the Department of Environmental Management coming before you and
15 requesting 30 years is entirely reasonable. And I believe passed out to you this morning was a
16 letter of support from the Hana Advisory Committee from Vice-Chair Claire Carroll. So the
17 Committee, the Hana Advisory Committee is in support of this proposal.

18
19 Chair Duvauchelle: Thank you. Is there a presentation by the applicant or is this...

20
21 Mr. Fasi: There is no presentation.

22
23 Chair Duvauchelle: Okay, then at this point we will open the floor for public testimony on the
24 agenda item. Anyone wishing to testify please come forward? Seeing none, we'll close public
25 testimony and we'll take questions from the Commissioners. Commissioner Kahu Hill.

26
27 Kahu Hill: Aloha kakahiaka. Always support Hana and what they need. Just looking at the
28 amount of years, it says for 30 years, I was just wondering about the environmental reports.
29 Have they tested around or when did they last test around like the landfill or see where the
30 waters or the aquifers or the ocean, anything as far as how the landfill has been?

31
32 Mr. Fasi: I'm not aware of any testing of the ocean waters by the Department of Environmental
33 Management. I don't believe that's a requirement.

34
35 Kahu Hill: None of the waters was done to understand if anything is leaching into...

36
37 Mr. Fasi: I don't think there has been a study.

38
39 Kahu Hill: Are they looking in 30 years to go up or to go out in expansion?

40
41 Mr. Fasi: No, they're gonna operate within the confines of their current land area. They're not
42 looking to expand. In fact when the permit was awarded back in 2008 part of that award was
43 the expansion of the landfill but they're not gonna expand beyond what the boundaries are now.

44
45 Kahu Hill: So...just so I am clear this started in 1967 is that right?

46
47 Mr. Fasi: Yes.

1
2 Kahu Hill: So in that time nobody has tested any of the ground leaching or anything that could
3 have come into waters that could impact the people there living there in Hana?

4
5 Mr. Fasi: The Department's not aware of any testing of such nature.

6
7 Chair Duvauchelle: Director?

8
9 Mr. Spence: We have representation from the Department of Environmental Management here.
10 Perhaps they'd like to comment on some of the questions?

11
12 Ms. Elaine Baker: Elaine Baker, civil engineer, Solid Waste Division. We test the ground water
13 quarterly and that's a condition of the Land Use Permits Mr. Fasi referred to.

14
15 Chair Duvauchelle: Thank you. Commissioner Robinson?

16
17 Mr. Robinson: Hi, the question I have is twofold. Do we have the distance to the nearest
18 ocean? I see the stream distance, and second, is there gonna be any streams that are gonna
19 be reappropriated theoretically that is not under local water folks control say you know, say A&B
20 might be appropriating some or any of those flows? That's the only two concerns I have about
21 the time that we're gonna grant this for.

22
23 Ms. Baker: No, there aren't any ephemeral streams in the area and we have a 250-foot setback
24 from the ocean from which we are clearing an old dumpsite now. So that entire Conservation
25 District which includes the 250-foot setback plus the Conservation District will be clear of all
26 waste.

27
28 Mr. Robinson: Do you know what height that is off of sea level that 250 feet?

29
30 Ms. Baker: Oh native ground I think we're approximately 40 feet high there.

31
32 Mr. Robinson: Thank you. Thank you so much.

33
34 Chair Duvauchelle: Thank you. Questions Commissioners? No further discussion. Thank you
35 very much. So is there or has there...is there a Department recommendation on?

36
37 Mr. Fasi: Yes, based on the foregoing, findings and analysis by the State Land Use
38 Commission and the Maui Planning Commission from previous meetings and coupled with the
39 fact that there have been no substantive changes that have occurred that would affect the
40 environment in a negative manner the Department finds that the proposed request is
41 reasonable and prudent so the Department is recommending that this body approve the County
42 Special Use Permit and the Special Management Area Permit for the 30-year time extension
43 and then make a recommendation to the State Land Use Commission for an additional
44 30 years.

45
46 Chair Duvauchelle: Thank you. Do we need to take this one at a time Corp. Counsel? So what

1 we'll do is we'll get prepared so we'll take them one at a time. So can I have discussion or
2 motion on the County Special Use Permit approval?

3
4 Mr. Robinson: Move to approve on the SUP.

5
6 Vice-Chair Higashi: Second.

7
8 Chair Duvauchelle: Okay, moved by Commissioner Robinson, seconded by Commissioner
9 Higashi? Oh Corp. Counsel?

10
11 Mr. Galazin: Is that with the...as recommended with the amendment as written by Staff in the
12 report?

13
14 Mr. Robinson: I have a question first before cover that part.

15
16 Chair Duvauchelle: Commissioner Robinson?

17
18 Mr. Robinson: Mr. Fasi or actually anybody it's again we're talking about the time frame. But
19 with landfills they're very heavily regulated more than as a Commission we could ever put on I
20 assume. And I know with landfills they have follow different State Laws, different Federal Laws
21 and I don't think we need to be concerned that our length of time because if something does
22 happen on the topography of that location I'm sure it would trigger different things as well as
23 with the LUC. Is that correct?

24
25 Mr. Fasi: That is entirely correct sir.

26
27 Mr. Robinson: Thank you.

28
29 Chair Duvauchelle: Commissioner Hudson?

30
31 Mr. Hudson: ...(inaudible)...

32
33 Chair Duvauchelle: Okay. So Director, will you repeat the motion please?

34
35 Mr. Spence: The motion is to approve the County Special Use Permit.

36
37 Chair Duvauchelle: Thank you. All those in favor please raise your hand?

38
39 Mr. Spence: That's seven ayes.

40
41 Chair Duvauchelle: Thank you.

42
43 **County Special Use Permit**

44
45 **It was moved by Mr. Robinson, seconded by Mr. Higashi, then**

46
47 **VOTED: To Approve the Time Extension for the County Special Permit as**

1 **Amended and Recommended by the Department.**
2 **(Assenting – K. Robinson, R. Higashi, A. Hill, L. Hudson, T. Gomes,**
3 **C. Tackett, S. Castro)**
4 **(Excused – L. Carnicelli)**

5
6 Chair Duvauchelle: Okay next we'll tackle the Special Management Area Use Permit. Any
7 motion or discussion on this particular permit?

8
9 Mr. Hudson: Move to approve.

10
11 Mr. Castro: Second.

12
13 Chair Duvauchelle: Move to approve by Commissioner Hudson, seconded by Commissioner
14 Castro. Any discussion on this motion? Okay, Director?

15
16 Mr. Spence: The motion is to approve the extension of the SMA Permit.

17
18 Chair Duvauchelle: All those in favor please raise your hands?

19
20 Mr. Spence: That's seven ayes.

21
22 Chair Duvauchelle: Thank you.

23
24 **Special Management Area Use Permit**

25
26 **It was moved by Mr. Hudson, seconded by Mr. Castro, then**

27
28 **VOTED: To Approve the Time Extension for the Special Management Area**
29 **Permit as Recommended by the Department.**
30 **(Assenting – L. Hudson, S. Castro, A. Hill, K. Robinson, T. Gomes,**
31 **C. Tackett, R. Higashi)**
32 **(Excused – L. Carnicelli)**

33
34 Chair Duvauchelle: And can have a recommendation for the State Land Use Commission?

35
36 Mr. Castro: Move to accept.

37
38 Chair Duvauchelle: Move to accept the 30-year time extension?

39
40 Mr. Castro: Correct.

41
42 Chair Duvauchelle: Moved by Commissioner Castro, seconded by Commissioner Kahu Hill.
43 Discussion? Okay, Director?

44
45 Mr. Spence: The motion is to recommend approval to the State Land Use Commission.
46

1 Chair Duvauchelle: All those in favor?

2

3 Mr. Spence: That's six ayes.

4

5 Chair Duvauchelle: Opposed?

6

7 Mr. Spence: Okay and one none vote which counts as an affirmative so that's seven ayes.

8

9 Chair Duvauchelle: Thank you.

10

11 Mr. Fasi: Thank you.

12

13 **State Land Use Commission Special Permit**

14

15 **It was moved by Mr. Castro, seconded by Ms. Hill, then**

16

17 **VOTED: To Approve the 30-Year Time Extension for the State Land Use**
18 **Special Permit as Recommended by the Department.**

19 **(Assenting – S. Castro, A. Hill, K. Robinson, L. Hudson, C. Tackett,**

20 **R. Higashi, T. Gomes - Abstained)**

21 **(Excused – L. Carnicelli)**

22

23 Chair Duvauchelle: Okay, Director our next agenda item?

24

25 Mr. Spence: Commissioners our second communication item is A&B Wailea LLC requesting a
26 Step I Planned Development Approval within Wailea, the Wailea Resort Planned Development
27 area. Our Staff Planner this morning is Tara Furukawa.

28

29 **2. A&B WAILEA, LLC requesting a Step I Planned Development Approval for**
30 **the reallocation of planned development zoning designations involving**
31 **three(3) parcels within the Wailea Resort Planned Development at**
32 **TMK: 2-1-008: 127, 2-1-008:130, and 2-1-028:002, Wailea, Island of Maui.**
33 **(PD1 2017/0001) (T. Furukawa)**

34

35 Mr. Tara Furukawa: Good morning Commissioners this item is under your review because the
36 applicant, A&B Wailea LLC is requesting Step I Planned Development Approval of the transfer
37 of land use designations for three parcels located within the Wailea Resort. The applicant's
38 consultant of Munekiyo Hiraga is here to discuss the proposal in more detail.

39

40 Chair Duvauchelle: Thank you and we will take public testimony after the applicant's
41 presentation.

42

43 Mr. Bryan Esmeralda: Aloha Commissioners. My name is Bryan Esmeralda of Munekiyo
44 Hiraga. I'm here on behalf of A&B Wailea to present the proposed Planned Development Step I
45 transfer requests for properties within Wailea Resort. Before I get into the presentation I'd just

1 like to note that Dan Yasui and Randy Endo from A&B as well as myself and Mike Munekiyo
2 from Munekiyo and Hiraga are available for questions following the presentation.

3
4 The request before you today is for three Planned Development Step I transfers for properties
5 within Wailea Resort. Really quickly to summarize the three properties. The first is
6 TMK: (2) 2-1-008: 127. We'll be referring to it as Parcel 127. It has a total acreage of
7 11.001 acres. The second TMK is (2) 2-1-008: 130, Parcel 130 total acreage is 46.181 acres.
8 And the third parcel (2) 2-1-028: 002, Parcel 2 and total acreage is 3.88 acres. Again, all
9 parcels are located within Wailea Resort and are currently undeveloped.

10
11 This slide shows a parcel location map. I'll just point out where the three parcels are located.
12 Parcel 127 is located here near the intersection of Wailea Ike Drive and Piilani Highway. It's
13 located across Wailea Ike Drive from the Wailea Gateway Center where the Monkey Pod
14 Restaurant and that development is located. Parcel 130 is located north along Piilani Highway
15 and it's this large parcel here. And Parcel 002 is located along Wailea Ike Drive right above the
16 existing Residence Inn Hotel.

17
18 So Wailea Resort is a approved Planned Development per Maui County Code Section
19 19.32.040(h) which states that planned developments proposed on lands including more than
20 one zoning district may permit a mixture of uses, densities and dwelling units except that the
21 total density and dwelling units of the planned development shall not exceed the combined
22 allowable densities of each of the zones. Simply approved planned development zoning uses
23 may be transferred within planned development via this Step I transfer so long as the overall
24 total area allowed to each use remains the same. So as I go through this presentation what I'll
25 be demonstrating is the proposed uses...the proposed transfers represent simply a reallocation
26 of uses among the parcel, the total acreages, densities and...will not be changing.

27
28 The next couple of slides just simply illustrate the concept of the Step I transfer. I'll just go
29 through these really quickly. The outline here is our conceptual planned development boundary
30 within which there are two parcels, Parcel 1 total acreage 10 acres, zoned B-2, and Parcel 2
31 total acreage also 10 acres, zoned A-1. The conceptual transfer here would be five acres of B-2
32 from Parcel 1 to Parcel 2 and five acres of A-1 from Parcel 002 to Parcel A-1. This would result
33 in both parcels maintaining their acreage of 10 acres. However, now each parcel has five acres
34 each of A-1 and B-2. This basically graphically shows what I had explained earlier regarding
35 Planning Development Step I transfers. You can see that in this conceptual illustration the total
36 acreages remain the same. There's still 10 acres available of A-1, 10 acres available of B-2.
37 The uses were simply reallocated amongst the parcels.

38
39 Now I'll be going through the specific planned development transfer requests that A&B is
40 proposing this morning. I'll just simply...I'll go through the existing acreages for each of three
41 parcels really briefly. Parcel 127 has currently 5.408 acres of B-2, 3 acres of A-1 and 2.593
42 acres of Open Space for a total acreage of 11.001.

43
44 Parcel 2 is completely zoned A-2. Its total acreage again is 3.88 acres. And Parcel 30 has
45 9.983 acres of B-2, 28.924 acres of A-1, 2.43 acres of A-2 and 4.84 acres of open space. Total
46 acreage is 46.181.

1
2 In terms of the zoning use transfers that are being proposed this morning the applicant is
3 proposing transferring B-2 Business from Parcel 130 to Parcels 127 and 002. Three acres of
4 B-2 Business to Parcel 127 and 3.888 acres to Parcel 2. In exchange for that transfer the
5 applicant is proposing that three acres of A-1 be transferred from Parcel 127 to Parcel 130 and
6 3.888 acres of B-2 Apartment from Parcel 002 to Parcel 130. This slide is just, it's a graphic
7 representation of the proposed transfers that A&B is seeking this morning. Again, from Parcel
8 130, 3 acres of B-2 to Parcel 127 in exchange of 3 acres of A-1, and 3.888 acres of B-2 from
9 Parcel 130 to Parcel 002 in exchange for 3.888 acres of A-2.

10
11 This slide summarizes the resulting acreages amongst the three parcels. Again, I'd like to note
12 that following the proposed transfers the total acreages for each of the three parcels don't
13 change nor do the total acreages for each of the zoning designations. Again, it's just a simple
14 reallocation of the uses amongst the three parcels. As a result of the transfers, Parcel 127
15 would be mostly business zoned. Parcel 002 would be completely business zoned and the
16 majority of uses on Parcel 130 would be residential A-1 and A-2.

17
18 The proposed transfers are...or the transfers are being proposed for a number of reasons, on
19 Parcel 127 the transfer will facilitate future commercial development for Parcel 127. I'd like to
20 note that this Step I transfer is just the first step in the planned development process. Once
21 detailed plans of any commercial development are prepared for Parcel 127 A&B will need to
22 come back to this body for a Planned Development Step II Approval as well as SMA Approval.
23 These properties are within the SMA so SMA permitting would need to be sought and approved
24 by this body. On Parcel 002, the transfer recognizes that again commercial use would be more
25 appropriate in taking a look at this area we have the Residence Inn located just below Parcel
26 002 in here as well as the Wailea Gateway Center located just above. So the transfer request
27 seeks to kind of locate commercial developments in the same area. And for Parcel 130 the
28 transfer reaffirms that residential use would be the primary future use of this parcel. There are
29 no specific development plans at this point for Parcel 002 and Parcel 130. Again, once they are
30 developed they would be presented again to this body for approval through the Planned
31 Development Step II and SMA Use Permit processes.

32
33 To summarize, A&B Wailea is respectfully requesting this body's approval of Planned
34 Development Step I transfers for Parcels 002, 127 and 130 within the Wailea Resort. Thank
35 you.

36
37 Chair Duvauchelle: Thank you. At this time we'll open the floor up for public testimony. If
38 anyone wishes to testify on this agenda item please come forward? Seeing none, we will close
39 public testimony and we'll take questions from the Commissioners for the applicant?
40 Commissioner Kahu Hill?

41
42 Kahu Hill: In perusing the maps as well as the one I just saw here it doesn't seem to reflect the
43 current status of the buildings that what's been built next to Wailea Gateway Center mauka. I
44 can see where Monkey Pod is and can see the it looks like the empty dirt but I don't even see
45 the new buildings and everything that's been going up in that project. And if this...if there's a
46 more current aerial or satellite map?

1
2 Mr. Esmeralda: Right, I apologize for that. We don't have a more current aerial at this time, but
3 yes, this is the location of the Wailea Gateway Center.

4
5 Kahu Hill: Is that some that we can request? There's so much development going on in this
6 area and we're looking over 60 acres we're talking about and a lot of building. A lots been going
7 on right on that street and we just approved in the last one, business right next to 127, a
8 business building a couple of weeks ago. So just looking at the area and really like to see a
9 current map so we can understand what is going on, what's current at this time next to all the
10 sides of you.

11
12 Mr. Esmeralda: Okay, thank you.

13
14 Chair Duvauchelle: Would someone like to comment about the construction going on around
15 the Gateway?

16
17 Mr. Esmeralda: I'll turn it over to A&B to respond.

18
19 Chair Duvauchelle: Thank you.

20
21 Mr. Randy Endo: Good morning Commissioners Randy Endo, A&B Properties Hawaii. If I
22 understand the question I can go through and describe the current status of some of these
23 parcels 'cause I definitely acknowledge that the aerial is fairly old. So the one on the corner that
24 includes the Monkey Pod Restaurant is called Keala O Wailea, 70 condominium units that are
25 currently under construction. That is a joint venture between A&B Wailea and Armstrong
26 Development so that should be done pretty soon like later this year. Down in this area below
27 the parcel there's a 10-acre site that's already been constructed into the Wailea Residence Inn,
28 the hotel. That's pretty much what's been built in the central corridor at this time in Wailea. I'm
29 not sure exactly what you referred to earlier as far as business building. That was probably
30 somebody else...(inaudible)...area.

31
32 Kahu Hill: I think it was right next door where there—

33
34 Chair Duvauchelle: I think Kahu's referring to Jack Kean's project.

35
36 Kahu Hill: Yes.

37
38 Chair Duvauchelle: It's gonna have parking and it's up by the water tank.

39
40 Mr. Endo: Oh, okay. So the Jack Kean application for SMA was over here.

41
42 Chair Duvauchelle: There, yeah.

43
44 Mr. Endo: Pretty close to the Parcel 127, yes that's correct.

45

1 Kahu Hill: And I know it's farther from you, but the Wailea Golf Estates as well and its
2 expansion and it's building down there there's a lot of traffic, a lot of just in that area.

3
4 Mr. Endo: Yeah, Wailea Golf Estates Phase 2 is down here in the former driving range. You
5 see these two little white things, those are actually the driveways that get you to that site. So
6 you're correct that is several single family homes that will be coming up in the future. Oh, sorry
7 and if you're gonna go around that far there's also commercial construction going on right down
8 here that we're not involved with. It's was sold by Wailea Golf to someone else who's doing a
9 commercial project where the old clubhouse is.

10
11 Kahu Hill: I'm concerned about the traffic congestion and just so many construction projects
12 happening in that area. I don't see how it cannot have magnitude and environmental impact.
13 Can you share especially with 130 looking off the highway when will there be traffic studies
14 conducted as well as archaeological impact surveys?

15
16 Mr. Endo: Okay, thank you that's a very good question and I think the important point I need to
17 stress or we need to stress first is that this presentation is basically a bookkeeping exercise
18 where we're just moving stuff around from one parcel to the other. We don't actually have any
19 plans or current SMA Permits being prepared for Parcel 130. So at the time that these parcels
20 would actually be developed into an actual business center or homes or whatever it would be all
21 the requisite studies would come as part of the SMA Permit as well as Step 2 Approvals. And
22 so this is in no way approving development on all of this land. We definitely agree this is a lot of
23 land. The immediate plan actually from A&B's perspective is actually a commercial center on
24 Parcel 127. That is the only near horizon development that we're planning right now.

25
26 Chair Duvauchelle: Thank you. Any other question from the Commissioners? Commissioner
27 Robinson?

28
29 Mr. Robinson: Randy, aloha. Thanks for being here to answer the questions. So on 127 can
30 you tell us what type of business park you're looking at. Is it a condominium size like across the
31 street or is it something more open and what your idea of access?

32
33 Mr. Endo: Okay, so I don't want to be or seem cagey and not have all the answers, but the
34 short answer would be I don't really know because it is still very preliminary. I mean it is our
35 next goal and we've been looking at a lot of different site plans and conceptual things but it's
36 actually a different department at A&B that specializes in commercial construction development
37 that's leading that effort. But just to satisfy your curiosity I think the idea is to have a nice
38 anchored, grocery anchored commercial center. One interesting fun fact is that this site by land
39 covenant is the only site in Wailea allowed to have a gas station. So hopefully it would have a
40 gas station and hopefully it would have a few restaurants and couple of major grocery, not a
41 couple, maybe at least one grocery, large grocery anchor.

42
43 Mr. Robinson: Thank you.

44

1 Chair Duvauchelle: Sorry, I have a quick question. So on the Parcel 130 the net amount of
2 acreage that's being moved over there for potential either apartment or single family residential
3 what was that number for me again please?
4

5 Mr. Endo: So the apartment A-2 moving over is 3.888 acres coming from Parcel 002, and then
6 the A-1 Apartment of 3 acres is going over to Parcel 130. So a total of about 6.888 acres.
7

8 Chair Duvauchelle: Six acres. Thank you. Commissioner Robinson?
9

10 Mr. Robinson: Chair what is the difference between A-1 and A-2?
11

12 Chair Duvauchelle: Director?
13

14 Mr. Spence: Mostly it's height and density on the property. I can...A-1 the height of 35 feet, A-2
15 it's 60 feet. Floor to area ratio 40 percent for three acres or more, 50 percent for larger than 3
16 acres that's for A-1. A-2 is 90 percent floor area ratio. So they could...the density could be
17 considerably higher.
18

19 Mr. Robinson: So with the...what is this Plan I, what is this called?
20

21 Mr. Spence: Phase 1.
22

23 Chair Duvauchelle: Phase 1.
24

25 Mr. Robinson: Planned Development Stage I? So there's a clause that says not more, is it not
26 more than 20 percent of open space and so 10 percent is in line of what we're saying now? I'm
27 not sure if I'm reading that correctly.
28

29 Mr. Spence: There's a whole...that's under Standards of Development where it says that
30 19.32.030 not less than 20 percent of the total area of the tract shall be common protected open
31 space. And there's a number of standards there. There's a lot of other things that apply to this
32 as well. But as Mr. Endo explained these zonings already exist. They're just moving from one
33 parcel to another. So we're not, you're not allowing an increase in density. It's just per se, the
34 density right now, the allocation for density is just on a different property. So there's moving
35 those things around. At such time that there is an actual project this whole area is within the
36 Special Management Area it will come back to this Commission with a SMA Major Permits and
37 at that time there will be the archaeological studies, at that time there will be the traffic studies,
38 all the mitigation, everything that you know under the purview of this Commission.
39

40 Chair Duvauchelle: Commissioner Robinson?
41

42 Mr. Robinson: Sorry Commissioners. It's my concern and anybody can answer this, my
43 concern is moving Apartment 2 to a higher height, not having a view from the road of the
44 topography of that right now what the plans are gonna be and just because we just went
45 through this with Discovery about having sight lines from the highway about having...you know
46 and even with the development that happened at that corner, I know that was discussion there,

1 and so I personally don't want to tell the company what to do with their land, but I know as part
2 of the planning there is certain...I don't want housing to be lost out is my concern because the
3 place that we could have put a house or apartments with a higher structure is now being
4 business and the business that might have been lower is where the housing are. And that's my
5 only concern. It's just does this project inherently restrict development of affordable housing or
6 any type of housing in the new development area?

7

8 Mr. Spence: I can...okay, we'll let Michael answer.

9

10 Chair Duvauchelle: Mike?

11

12 Mr. Mike Munekiyo: Thank you Madam Chair. My name is Mike Munekiyo. I'm working with
13 Bryan on this application and I think to answer Commissioner Robinson's question as was
14 discussed at the time Parcel 130 is developed, of course all of the environmental considerations
15 will need to be taken into account including sight lines, including the ability to provide housing in
16 a way that is appropriate in terms of density for that parcel. So I know there's a lot of
17 uncertainty with respect to the Step 1 transfer process but there is still a lot of work to do with
18 respect to getting Parcel 130 planned out. And again, as Randy mentioned there really hasn't
19 been any initiation work on that parcel at this point. So I think we understand the
20 Commissioner's concerns and at the time that work is being initiated on 130 I think they would
21 have to consider those parameters as well.

22

23 Chair Duvauchelle: Thank you. Any other questions for Mr. Munekiyo? Commissioner
24 Robinson?

25

26 Mr. Robinson: Do these properties now complete the whole Wailea planning area or is there
27 other properties that's part of this master development that could in the future be switched on in
28 case the height restrictions are prohibitive? Just in this ...(inaudible)...I know you have different
29 all over, but like I know you have...we're switching into different areas of this planned
30 development is this encompasses all of it and then we look at something else or is there some
31 fringes that could maybe be switched out later if we find out that homes can't be built there
32 because of height requirements?

33

34 Mr. Endo: There are several other parcels that A&B still owns all within the Planned
35 Development area. So the future is open for what you said. If it doesn't work out the Apartment
36 zoning could be moved to a different parcel in Wailea.

37

38 Chair Duvauchelle: Any other questions or discussion? Okay, thank you. Can I have the
39 Department's recommendation please?

40

41 Ms. Furukawa: Approving the proposed request would enable A&B to respond to changing
42 market demand and create synergy between existing and future uses within the Wailea Resort
43 area. It will not result in the next change to the total PD land use allocations within the Wailea
44 Planned Development area and it meets the criteria for a Phase I Planned Development
45 Approval. No environmental impacts are anticipated at this time. The properties are located
46 within the Special Management Area any development will be subject to SMA rules. After Step I

1 Approval if the applicant wishes to develop they will submit applications for Step 2 Planned
2 Development and SMA Approval. In addition, the project will be reviewed by the Urban Design
3 Review Board which will provide notes to the Planning Commission on design. The Planning
4 Department has not received any testimony regarding the application and the Planning
5 Department recommends approval of the land use transfer of acreages. The Department would
6 also recommend that the Maui Planning Commission adopt the Planning Department's report
7 and recommendation prepared for the February 13, 2018 meeting as its finding of fact,
8 conclusion of law and decision and order and to authorize the Director of Planning to transmit
9 the decision and order on behalf of the Planning Commission.

10

11 Chair Duvauchelle: Thank you. Commissioner Tackett?

12

13 Mr. Tackett: So my question is under the paperwork we just viewed all the commercial will be
14 moving onto the central lots and then all the residential will be moved into the furthest what is
15 130 is that correct?

16

17 Ms. Furukawa: Yes, that's correct. It will create a commercial core.

18

19 Mr. Tackett: Currently I'm kind of uncomfortable about all the residential being moving out.
20 Thank you.

21

22 Chair Duvauchelle: Mr. Endo?

23

24 Mr. Endo: Sorry, Randy Endo, A&B Properties. Just to clarify though if you look at that diagram
25 there's actually about three acres of business that still remains on Parcel 130 after all of the
26 transfers but it's still correct what Tara said is the majority of it is moving to the central core of
27 Wailea.

28

29 Mr. Tackett: But there's no residential on those two lots, correct if this change happens?

30

31 Mr. Endo: Yes, that is correct. All of the residential uses from 127 and 002 would be moved off.
32 That's correct.

33

34 Mr. Tackett: Thank you.

35

36 Chair Duvauchelle: Thank you. Any other discussion? Commissioner Gomes?

37

38 Ms. Gomes: I'm sorry I do have a question and I am hoping that this could be answered. I'm
39 not sure who to direct it to. Is the approval if this goes through from the Commission the
40 applicable regulations, the paperwork that we do have all of the Planned Development Step I
41 Approval that is being provided here is that what we are allowing, Director. I'm sorry I guess
42 maybe that's for you.

43

44 Mr. Spence: I'm not sure what the...can you repeat the question?

45

46 Ms. Gomes: You know under the paperwork that we have received, if we are to approve this

1 Step I and I guess this kind of relates to Commissioner Robinson's with the changing are we
2 able to change...'cause they would have to come back to us further you know 'cause this is
3 Step I, the SMA Permit and so forth and everything else. Are we approving any of this, I mean,
4 they have every I guess autonomy to do what is being provided to us in the documents on
5 Pages 4 and 5?
6

7 Mr. Spence: So it shows up on the minutes, what Commissioner Gomes is pointing to is on
8 Page 4, the applicable regulations for Planned Development Step I Approval this is already
9 within the Code. You're not approving any changes to the Code itself. These are things they
10 will have to comply...that are complying with this application and then when there is an
11 actual...and then further on Page 5 those are other additional regulations contained in
12 19.32.040. These are already within the Code. These are provided for your convenience so
13 you don't have to look up in the Code yourself, but these are the regulations that apply to
14 Planned Developments.
15

16 Ms. Gomes: And may I ask is this also something that we are able...though that they are able
17 to apply for it that we are able to deny it or is this rightly so they can do this. That Alexander
18 and Baldwin can do this or any applicant can do this just because it is in Code?
19

20 Mr. Spence: Right now...there are multiple phases. There's two phases in Planned
21 Development. There's the first...actually there's Step 3 as well. This is only the Step I where
22 they're moving the pieces around, consolidating different zonings. And then when they actually
23 have a project to show the Commission they'll come back with a Phase 2 and with an SMA
24 Permit. The Commission could deny it right now if they wanted to, the Phase I. I'm not
25 sure...well, I'll leave that to Commission. Phase 2...an SMA is when you have more of a...a
26 better idea of actually what is going to be built. They're stating that...they have no solid plans
27 on what is going to be built at this time. It's just consolidating, moving around different zoning
28 designations
29

30 Ms. Gomes: Got it. Thank you.
31

32 Chair Duvauchelle: Any other discussion? Commissioner Higashi?
33

34 Vice-Chair Higashi: I have a question for the rational for moving the...although we're talking
35 about same acres but now it's a designation of business or apartment type. So what's the
36 purpose of the switching around of the properties?
37

38 Mr. Endo: Randy Endo, A&B Properties. Thank you commissioner for that question. You raise
39 a good point because I think it's hard for this body I know to hear all of this and feel like you're
40 actually approving something, like something is gonna be built next year because of this. In
41 reality it's just more of a bookkeeping, just what we think is going to work and the only primary
42 project is on Parcel 127. You know that one we do have, we're at least part way through
43 conceptual planning for our commercial center. And so that is the only somewhat
44 concrete...that's our next thing that we're trying to develop basically. Although we're not ready
45 to come yet. We'll have full studies when we do come in and you know, the traffic,
46 archaeological for everything. And I think the important point that if I may make is that

1 approving of this bookkeeping change of the numbers does not hamstring the Commission in
2 any way whatsoever. Just because you allow us to say okay, business is gonna be on that
3 parcel 127 doesn't mean you have to approve a commercial project when we come in next year
4 or the year after on it. You know if you don't like it because it's bad for views, bad for the
5 environment or whatever, whatever reasons it gets denied. It just gets denied on its merits at
6 that time when you come in for the SMA and Step 2. And then if we don't get it then we say, oh
7 okay, well maybe we'll move then. So then we would react to whatever the Commission wants
8 to do. But approval of this Step I is...does not pre-commit approval for anything later on. So it's
9 really just bookkeeping under the Planned Development, architecture or the purpose of the
10 ordinance is to allow flexibility. ...(inaudible)...this was built back in the '60s by Matson and
11 then later acquired by A&B then sold by A&B then reacquired by A&B. So over all of those
12 years since the '60s things have changed a lot and the plans have changed. And so we're just
13 trying to react to what we think the market needs, you know where commercial would best fit in
14 in general for the resort. We're trying to make the resort a great place for everyone. You know
15 to develop it in a thoughtful manner. So that's all we're doing right now, just real preliminary.

16
17 Chair Duvauchelle: Thank you. And I'd like to comment briefly. Based on the size, I mean
18 when I first looked at this based on the size of Parcel 002 and Parcel 127 logically it makes
19 sense. I mean if we're hoping to have more homes built and affordable homes I think moving
20 the homes onto the larger parcel where infrastructure will come to it, we've got more of a
21 chance of getting something built than on the 3-acre parcel or the 11-acre parcel. Just my two
22 cents. Any other questions Commissioners? Commissioner Tackett?

23
24 Mr. Tackett: Do you believe the value of the lots of themselves will be better with the change in
25 the zoning or do you believe the values would be typically the same?

26
27 Mr. Endo: Thank you Commissioner. Randy Endo again, A&B Properties. It's kind of a difficult
28 question. Valuation is always a difficult analysis. It really would depend. I guess if you take
29 Parcel 127 as an example right now as it is it could be attractive to somebody who wanted to
30 do, what do you call a multi-use type of project where you combine apartments with commercial.
31 You know, 'cause that's what it would allow right now with some of each. On the other hand, it's
32 also very valuable hopefully as a pure commercial center. If you assume that we need a gas
33 station and we need a big grocery store in Wailea to serve the area. So looking at the parcel
34 itself it's hard for me to speculate as to which would be more valuable. I can say holistically on
35 a whole looking at all whatever 60 acres or so, we're not necessarily increasing the value since
36 if you assume the commercial zoning is valuable, we're taking away from one and giving to the
37 other so it's sort of a wash.

38
39 Mr. Tackett: Thank you.

40
41 Chair Duvauchelle: Thank you. Commissioner Gomes?

42
43 Ms. Gomes: I'm sorry, whomever has a pointer can...I apologize on the map there's an area by
44 130, by your arrow below, below I'm sorry at the corner. If you go down towards your corner.
45 Yeah, what is that? What is located there?

46

1 Mr. Endo: Thank you. Randy Endo again. This area here is what we refer to as MF-7. It is
2 duplex zoning and actually has a approved SMA Permit for 100...sorry, 75-unit condo
3 development. It has not gone forward at this time. It's sort of going on a slow schedule for
4 development. Is that the area you're talking about?

5
6 Ms. Gomes: Yes you mean there is an application for it?

7
8 Mr. Endo: There is already an existing valid SMA Permit and Step 2 Approval for a
9 development project there. It was granted probably early 2000s or so.

10
11 Ms. Gomes: Alexander & Baldwin owns this?

12
13 Mr. Endo: Yes.

14
15 Ms. Gomes: A&B?

16
17 Mr. Endo: Yes.

18
19 Ms. Gomes: Thank you.

20
21 Chair Duvauchelle: Okay, thank you. All right, Commissioners any further discussion or do we
22 have a motion? Commissioner Kahu Hill?

23
24 Kahu Hill: It's a little confusing for me 'cause there's three different things and business and
25 instead of three separate applications. I really or at least put it up for discussion to defer until
26 we get a current map of what it really looks like. It's an old map and there's so much
27 construction going on in that area. I just want to be able to see it what we voting clearly with
28 that's in place now and what's growing.

29
30 Chair Duvauchelle: Thank you. We have a motion on the floor to defer for further information
31 from Commissioner Kahu Hill. Director?

32
33 Mr. Spence: Madam Chair, I'm not sure there's more recent aerial photographs available. I
34 suppose they could go fly it. But you know, I know the general public, consultants, Planning
35 Department depends on imagery that's generally available, satellite imagery. The easy on is
36 Google Earth, but you know, we also look at Eagle View which used to be Pictometry that
37 sometimes they have more recent information. In other words, we're looking at commercially
38 available information otherwise they're private. You know you would have to hire a private
39 photography, aerial photography to go up and fly this area and present that. The
40 Commission...it's within the Commission's purview to review that, but it's not a normal that we
41 would ask for. We'd normally just use what is commercially available at the time.

42
43 Chair Duvauchelle: Commissioner Robinson?

44
45 Mr. Robinson: I think what I hear from my fellow Commissioner is she wants to see...not a map
46 of just look here. She wants a larger map. She wants to understand what it is. It could be a

1 zoning map that you know, could be zoned more. Just want a more encompassed area besides
2 this snapshot is that what I'm hearing?

3
4 Kahu Hill: Encompass but the main thing I know this area very well so I can see that it's not a
5 current map, that it's an old map and it's 60 acres we're looking at and three different parcels at
6 the same time that are all being under one application instead of three applications and there is
7 so much building going on I just would like to be able to see currently what it looks like and how
8 that is 'cause they're right against the things that they're gonna be doing except the one on the
9 other side of the golf course right there. They're all connected.

10
11 Chair Duvauchelle: Okay, thank you. We have a motion seconded by Commissioner Robinson.
12 Any further discussion on this motion? Director?

13
14 Mr. Spence: And just for clarity, so I understand so when we go to reschedule this, you want a
15 more recent aerial imagery?

16
17 Kahu Hill: That is correct.

18
19 Mr. Spence: Okay.

20
21 Chair Duvauchelle: Commissioner Hudson?

22
23 Mr. Hudson: I will not be supporting this motion to defer. I think I understand exactly what you
24 guys are asking. You guys are asking to put houses with houses and businesses with
25 businesses so we don't have a house next to a service station. So we don't have a dentist
26 office next to a house. That actually makes sense to me. As far as the map goes, the acreage
27 isn't going to change no matter what photograph we get. Thank you.

28
29 Chair Duvauchelle: Thank you Commissioner Hudson. Further discussion? Okay, Director
30 would you repeat the motion?

31
32 Mr. Spence: The motion is to defer decision making until more recent aerial imagery is
33 obtained.

34
35 Chair Duvauchelle: Thank you. All those in favor please raise your hand?

36
37 Mr. Spence: That's two ayes.

38
39 Chair Duvauchelle: Opposed?

40
41 Mr. Spence: One, two opposed. That would be three ayes with...Okay, can we do that again?

42
43 Chair Duvauchelle: Yes, let's do that again.

44
45 Mr. Spence: I would appreciate a show of hands.

46

1 Chair Duvauchelle: Okay, all those in favor of the motion to defer please raise your hands?

2

3 Mr. Spence: Three, four.

4

5 Mr. Hudson: This is to defer.

6

7 Chair Duvauchelle: So there's three.

8

9 Mr. Spence: There's three.

10

11 Chair Duvauchelle: Those opposed?

12

13 Mr. Spence: Two opposed.

14

15 Chair Duvauchelle: Two abstained. Those that abstained?

16

17 Mr. Spence: Okay, so that's five ayes.

18

19 Chair Duvauchelle: Motion carries. Thank you

20

21 Mr. Spence: Well reschedule as soon as we can.

22

23 Mr. Endo: Thank you very much.

24

25 Chair Duvauchelle: Thank you.

26

27 **It was moved by Ms. Hall, seconded by Mr. Robinson, then**

28

29 **VOTED: To Defer Decision Making Until More Recent Aerial Imagery is**
30 **Received from the Applicant.**

31 **(Assenting – A. Hall, K. Robinson-Abstain, T. Gomes, C. Tackett,**

32 **R. Higashi-Abstain)**

33 **(Dissenting – L. Hudson, S. Castro)**

34 **(Excused – L. Carnicelli)**

35

36 Chair Duvauchelle: Okay, Director next agenda item?

37

38 Mr. Spence: Okay Commissioners we have a request for time extension to initiate construction
39 for an SMA Permit at the Nalu Ola West Subdivision in Haiku. Our Staff Planner this morning is
40 Candace Thackerson.

41

42 **E. DIRECTOR'S REPORT**

43

44 **1. MR. WILLIAM SPENCE, Planning Director, notifying the Maui Planning**
45 **Commission pursuant to Section 12-202-17(e) of the Maui Planning**

1 **Commission's SMA Rules of his intent to process the following time**
2 **extension requests administratively:**

- 3
4 **a. MR. RYAN W. SCHULTZ, Vice-President of Development of**
5 **VERSA REAL ESTATE representing MAKAI V, LLC, requesting a**
6 **two-year time extension on the Special Management Area Use**
7 **Permit condition to initiate construction of the Nalu Ola West**
8 **Subdivision at TMK: 2-5-004: 055, 068, 069, and 0022, 2-7-004: 007,**
9 **048, 049, 052, 053, 054, 055. 056, and 058, Haiku, Island of Maui.**
10 **(SM1 2014/0004) (C. Thackerson)**

11
12 Ms. Candace Thackerson: Good afternoon Commission. We have before, let's see I have the
13 next two of them, so the first one is for Versa Real Estate representing Makai V, LLC requesting
14 this body to waive review and allow the Department to approve administratively a two-year time
15 extension request to a previous SM1 that this body had approved. I do believe this is the first
16 request for this application that was approved back I believe in 2014. It's just for...it's kind of a
17 paper subdivision and includes the subdivision infrastructure and improvements and that's why
18 the costs was so high. And as you can see I've included the subdivision map there previously
19 approved.

20
21 I did just want to highlight a couple things on this application that in case you guys had any
22 questions or anything but they are providing shoreline access for this parcel. That was
23 something that this body discussed in length at the last...when the approval came about. So in
24 the approval letter on Condition 9 and 10 the applicant does have to provide shoreline access
25 and they've called that out in the easement. And there was some discussion between some of
26 the local fishermen and the applicant and so they're also providing access from the road through
27 the property up to that easement because some of the fishermen were saying what if I catch a
28 really big fish how am I gonna get it back to my car? So they do have access they can drive up
29 there and then park. There will be a little graded parking area and they can then walk down to
30 that access point all along the cliff there. So that was included in it.

31
32 Also, the last couple conditions in the approval letter have to do with view plane. We know that
33 area is really gorgeous and nice and open right now so there are some conditions about no
34 berms or continuous hedges or rows of trees that block it. That the building sliding for all
35 proposed structures have to come in and they will have to do SMA applications for those. We'll
36 look at each one individually how it affects the view plane and that all utilities be underground.
37 We would hate to see them put up any wires or anything right there where right now it's just
38 such a nice open space.

39
40 So those were things that this body had put on last time that I agree with too and I think were
41 good conditions. So those were things that were looked at last time. They all still hold true
42 subject to an approval for a time extension. So if you have any questions?

43
44 Chair Duvauchelle: Do we need to do public testimony on this item? No? All right, so quickly if
45 there's anyone here wishing to testify on this agenda item you're welcome to do so. Seeing
46 none we will close public testimony. Questions from the Commissioners? Commissioner

1 Robinson?

2

3 Mr. Robinson: So they revised it from three years to two years and that's because they're ready
4 to go and they have their financing?

5

6 Ms. Thackerson: I'm not sure if they're ready to go, the answer to that exactly. The applicant
7 can answer that. They changed it from three years to two years because three years would
8 require...according to our policy they can't ask for a waiver of review. If they were to come in for
9 three years it would be opening up the permit again, and I would have to do a staff report and
10 things like that. Two years is what the maximum that we allow for you guys to just say okay two
11 years sounds like an okay amount of time, go ahead Department and you guys can approve it.
12 If it's any more than two then it's like we want to look at it all over again kind of, almost do the
13 SMA process over again.

14

15 Mr. Robinson: He's behind you. He was going to answer that question.

16

17 Ms. Thackerson: Okay, about the financing part, sure.

18

19 Mr. Steve Robinson: Good afternoon, Steve Robinson of Versa Development. Aloha. So yes,
20 we're getting ready to proceed. Just as a background Versa acquired the property from A&B
21 just last year so we've just kind of been getting our ducks in a row which has been the source of
22 the delay.

23

24 Mr. Robinson: Thank you.

25

26 Chair Duvauchelle: Thank you. Any other questions? Commissioner Kahu Hill.

27

28 Kahu Hill: I would like to ask Steve this question just since you've done this and if we're
29 approving this today. Has there been any other construction that's on near that area in this last
30 year that you see happening for this year?

31

32 Mr. Robinson: I haven't.

33

34 Kahu Hill: Okay, mahalo.

35

36 Chair Duvauchelle: Thank you. Any other questions? Candace can we have the Department's
37 recommendation.

38

39 Ms. Thackerson: We recommend that you allow, you waive your review of this and that you
40 allow the Department to administratively approve a two-year time extension.

41

42 Chair Duvauchelle: Thank you. Commissioners?

43

44 Mr. Robinson: So move.

45

46 Ms. Gomes: Second.

1
2 Chair Duvauchelle: Moved by Commissioner Robinson, seconded by Commissioner Gomes.
3 Director?

4
5 Mr. Spence: The motion is to waive your review of the time extension.

6
7 Chair Duvauchelle: All those in favor.

8
9 Mr. Spence: That's six ayes, seven ayes.

10
11 Chair Duvauchelle: And abstain? One abstain.

12
13 Mr. Tackett: Opposed.

14
15 Chair Duvauchelle: Oh I'm sorry, opposed. You had a smile on your face.

16
17 Mr. Spence: So six ayes. Motion carries.

18
19 Chair Duvauchelle: Motion carries. Thank you.

20
21 **It was moved by Mr. Robinson, seconded by Ms. Gomes, then**

22
23 **VOTED: To Waive Review of the Time Extension Request.**
24 **(Assenting – K. Robinson, T. Gomes, A. Hill, L. Hudson, S. Castro,**
25 **R. Higashi)**
26 **(Dissenting – C. Tackett)**
27 **(Excused – L. Carnicelli)**
28

29 Mr. Spence: And then the next one Commissioners is similar. This is Lahaina Roads AOAO
30 requesting a two-year time extension to initiate construction at the Maui Kaanapali Villas in
31 Kaanapali on the West Side and take it away Candace.

32
33 **b. HALE KAAPALI AOAO requesting a two-year time extension on**
34 **the Special Management Area Use Permit condition to initiate**
35 **construction of the proposed support facility renovation at the Maui**
36 **Kaanapali Villas located at 45 Kai Ala Place, Kaanapali, Maui, Hawaii,**
37 **TMK: (2) 4-4-006:011 (SM1 2010/0003) (C. Thackerson)**
38

39 Ms. Candace Thackerson: Okay, so same thing. We're asking you guys to waive your review
40 and allow us to process administratively a two-year time extension. This is for the Maui
41 Kaanapali Villas and the SM1 as for their existing support facility. So support facility is where
42 back of house operations kind of occur for the hotels. So they wanted to renovate it. It's like a
43 single-store. It's kinda outdated and they had gotten permission from this body to make it a two-
44 story and do parking. There was some extensive discussion about offering beach parking and
45 the applicant did agree to do 16 beach parking stalls on site subject to the approval of the SM1
46 Permit. The reason for this delay has been a couple of things as the applicant noted in their

1 letter. One of them being that they're trying to figure out that beach walk out in front of the
2 property. There was a condition by the Commission that they pursue efforts into that. So they
3 have. They've been trying to work on getting that. It has to be timed in conjunction with some
4 of the neighboring properties so that can add some time to the permit. So they're here asking
5 for two more years and this is their first request as well for this property.
6

7 Chair Duvauchelle: Thank you. Okay, real quickly we'll do is anyone here wishing to speak
8 publicly on this agenda item, please come forward? Seeing none, we'll close public testimony.
9 Commissioners? Commissioner Kahu Hill.

10
11 Kahu Hill: Aloha. I was just reading through in the documents and it said that they were unable
12 to get Condition 13 as you just mentioned.
13

14 Ms. Thackerson: Yes.
15

16 Kahu Hill: And it seemed like that was really connected to the Royal and their boardwalk and
17 being able to create this so I was just wondering do you have any idea when their construction
18 or process to be complete and when that would connect to this extension for them building their
19 boardwalk?
20

21 Ms. Thackerson: Thank you for that question. So actually this has been at some discussion at
22 some lengths. It's kind of been the holdup. The condition on the approval letter is worded very
23 vaguely. It says 13 on the approval letter condition says, that the applicant continue to pursue
24 efforts towards a beach lateral access boardwalk makai of the existing buildings of which
25 construction of said boardwalk shall be timed to occur in conjunction with the construction of the
26 Royal Lahaina beach boardwalk. That's hard putting one project's approval or not or if they can
27 move forward on timing it with the neighboring property. What if they never do it? So that's why
28 the condition didn't say you know, you have to do it. It says that you will pursue your best
29 efforts. So they've really been trying. I don't think Royal Lahaina has any plans at the moment
30 to being theirs. So the applicant has given me recently an outline of all the efforts they've put
31 forth trying to do it over the years and the Department is ready to deem that as satisfying that
32 condition because at this point we have to either move or not on that condition consider it you
33 know, satisfied. The boardwalk actually does continue through the parcel. It doesn't continue
34 makai of the existing buildings. Right now it cuts down and comes through their property and
35 then it goes around the pool area and then comes back out. And at the time when we did this
36 permit I did go down there and observe it to make sure that a) the hotel was making sure it was
37 a public...wasn't trying to block the public from using it. And I saw joggers, women with baby
38 strollers. People seem to have no issues and the hotel had clearly labeled and marked with
39 signage public beach boardwalk please, you know, go ahead and use freely. So they do. It
40 does continue. It doesn't break and stop and there's nowhere to go through the parcel. It just
41 doesn't go along the ocean. So there's really...there's not a great answer to that since it's
42 subject to another property, but at the same time it just says that they pursue their efforts, best
43 efforts.
44

45 Kahu Hill: So we're not concerned about Condition 13 now? You feel that that's not something
46 for us to look at?
47

1 Ms. Thackerson: The Department is gonna consider that condition satisfied.

2

3 Kahu Hill: Okay great. Thank you.

4

5 Chair Duvauchelle: Any other questions? Okay, Candace the Departments recommendation
6 please?

7

8 Ms. Thackerson: The Department recommends that you waive review and allow us to grant
9 administratively a two-year time extension request.

10

11 Chair Duvauchelle: Thank you. Any other discussion? Motion?

12

13 Mr. Robinson: So move.

14

15 Chair Duvauchelle: Thank you. Moved by Commissioner Robinson, second by Commissioner
16 Kahu Hill. Any discussion on the motion? Okay, Director?

17

18 Mr. Spence: The motion is for the Commission to waive review.

19

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

21

22 Mr. Spence: That's seven ayes.

23

24 Chair Duvauchelle: Seven ayes. Thank you very much.

25

26 Ms. Thackerson: Thank you.

27

28 **It was moved by Mr. Robinson, seconded by Ms. Hill, then**

29

30 **VOTED: To Waive Review of the Time Extension Request.**
31 **(Assenting – K. Robinson, A. Hill, L. Hudson, S. Castro, T. Gomes,**
32 **C. Tackett, R. Higashi)**
33 **(Excused – L. Carnicelli)**

34

35 Chair Duvauchelle: Next agenda item?

36

37 Mr. Spence: Okay, second on your Director's Report Commissioners we have, this is just
38 notifying you we have issued two Emergency SMA Permits.

39

40 **2. MR. WILLIAM SPENCE, Planning Director, notifying the Maui Planning**
41 **Commission pursuant to Commission's SMA Rules of the following Special**
42 **Management Area (SMA) Emergency Permits**

43

44 **a. KAA NAPALI BEACH HOTEL requesting a Special Management Area**
45 **Emergency Permit in order to construct emergency protective**
46 **measures such as deploying sand-and-water slurry-filled**
47 **mattresses along the Molokai Wing of the Hotel at 2525 Kaanapali**

1 Parkway, TMK: 4-4-008: 003, Kaanapali, Island of Maui. (SM3
2 2018/0001) (K. Scott)
3

- 4 b. SANDS OF KAHANA AOA requesting a Special Management Area
5 Emergency Permit in order to construct temporary emergency
6 protective measures such as the placement of approximately 3,500
7 square yards of geotextile fighter fabric underlayment along
8 approximately one hundred feet (100') in front of Building 3 and
9 approximately three hundred (300) 0.75 cubic meter ElcoRock
10 sandbags filled with 300 cubic yards of sand-sized fill material at
11 4299 Lower Honoapiilani Road, TMK: 4-3-010: 002, Kahana, Island of
12 Maui. (SM3 2018/0002) (K. Scott)
13

14 Mr. Spence: First is for Kaanapali Beach Hotel. We have a letter dated January 25, 2018 and
15 there's some photographs on there. I think that it quite justify issuing an emergency permit.
16

17 And then the second one is Sands of Kahana AOA also requesting an SMA Emergency
18 Permit with photographs attached to that also. Certainly at least to me and the Department
19 show that a justification for issuance of such a permit.
20

21 Just FYI while we can issue these emergency permits they must come back in for regular SMA
22 Permits at not too distant in the future to either make permanent repairs or something of a short.
23 If you have questions Mr. Keith Scott is here from the Department who was involved with both of
24 these.
25

26 Chair Duvauchelle: Thank you. Any questions Commissioners?
27

28 Mr. Keith Scott: Could I offer one comment for these?
29

30 Chair Duvauchelle: Yes please.
31

32 Mr. Scott: You should be aware that the Kaanapali Beach Hotel is participating with the
33 Kaanapali Operator's Association for a beach renourishment program for the entire area
34 so...and we fully anticipate that even before that happens that beach is gonna recover there.
35 So both the State and our permits say within a 180 days your emergency protection has to be
36 gone.
37

38 Chair Duvauchelle: Thank you.
39

40 Mr. Scott: With respect to Kahana Sands they are also actively participating in the beach
41 renourishment program and the Kaanapali or I'm sorry the Kahana Bay Steering Committee has
42 recently selected a contractor to do an Environmental Impact Study to move that along.
43

44 Chair Duvauchelle: Any questions or discussion? Do we need to make a motion or is this for
45 informational purposes only.
46

47 Mr. Spence: No, this is just for your information.

1
2 Chair Duvauchelle: Okay, thank you very much Mr. Scott.

3
4 Mr. Spence: It's part of your rules that we notify you.

5
6 Chair Duvauchelle: Yes.

7
8 Mr. Spence: Okay, Commissioners we also have for you're the SMA Minor and SMA
9 Exemptions Reports and that's just for you to acknowledge receipt and if you have any
10 questions we can get back to you on those.

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

13
14 **4. SMA Exemptions Report**

15
16 Chair Duvauchelle: Seeing none, we need to make a motion to accept?

17
18 Mr. Spence: Sure.

19
20 Vice-Chair Higashi: So move.

21
22 Mr. Castro: Second.

23
24 Chair Duvauchelle: Okay moved by Commissioner Higashi, seconded by Commissioner
25 Castro. All those in favor accepting the SMA Reports? Seven ayes.

26
27 Mr. Spence: Good. Motion passes.

28
29 **It was moved by Mr. Higashi, seconded by Mr. Castro, then**

30
31 **VOTED: To Accept the SMA Minor and SMA Exemption Reports.**
32 **(Assenting – R. Higashi, S. Castro, K. Robinson, A. Hill, L. Hudson,**
33 **T. Gomes, C. Tackett)**
34 **(Excused – L. Carnicelli)**

35
36 **5. Discussion of Future Maui Planning Commission Agendas**

37
38 **a. February 27, 2018 agenda items**

39
40 Mr. Spence: Commissioners your next meeting is February 27th. Right now we have two things
41 on your agenda. One is an update of the West Maui Community Plan what Long Range
42 Division is doing with regards to updating that plan. Part of the thought of this is you know the
43 community plans come for your review as well. So instead of once...it goes through three
44 phases, actually four. The Planning Department prepares a draft community plan. They take it
45 out to the Community Plan Advisory Committee or CPAC that's Phase 2. Phase 3 it comes to
46 the Commission to review and then 4, it goes onto the County Council. Part of the update that
47 the Long Range Division wants to do is they will inform you as this is going on as the community

1 plan updates not just this one but the future ones as well so you're aware of what is taking
2 place, what the issues are, the progress that they're making, the community outreach that
3 they're doing. So when it does finally come to you it's not such a heavy lift. You're already up
4 to speed on what's happening. You know what's going on and so nothing comes as a surprise
5 or whatever.

6
7 We're also doing the same thing for the County Council. So we'll be advising them as we go
8 through each of the community plans, what's taking place for public outreach, what's happening
9 at the CPAC. Ultimately we'll be telling them what happens at planning commission and so
10 when it gets up to Council it's not such a super heavy lift. They're already up to date on what
11 the issues are. They don't have to be...take a whole lot of time to educate themselves on what
12 took place. So it's part of the Department's effort for transparency, with the community, with the
13 different approving bodies.

14
15 So the second thing that will be on your agenda is review of a settlement agreement for
16 Mr. James Blaha of Blue Moose, LLC with regarding some violations from work done on a
17 house on Front Street without the proper SMA Permits. And that's what I have.

18
19 Chair Duvauchelle: Okay, any discussion?

20
21 Kahu Hill: I just had a question. I had got in my emails that we were also gonna do the Dragon
22 Fruit farm is that gonna be the next time?

23
24 Ms. Takayama-Corden: That was just for the Commission.

25
26 Kahu Hill: Oh just for information.

27
28 Ms. Takayama-Corden: Yes.

29
30 Kahu Hill: Thank you.

31
32 Chair Duvauchelle: Commissioners thank you very much. Maui Planning Commission is
33 closed. Happy Valentines.

34
35 **F. NEXT REGULAR MEETING DATE: FEBRUARY 27, 2018**

36
37 **G. ADJOURNMENT**

38
39 The meeting was adjourned at approximately 11:36 a.m.

40
41 Submitted by,

42
43
44 Carolyn Takayama-Corden
45 Secretary to Boards & Commissions II
46
47

1 **RECORD OF ATTENDANCE**

2 **Present**

3 Steven Castro

4 Sandy Duvauchelle, Chairperson

5 Tina Gomes

6 Kahu Alalani Hill

7 Richard Higashi, Vice Chairperson

8 Larry Hudson

9 Keaka Robinson

10 Christian Tackett

11

12 **Excused**

13 Lawrence Carnicelli

14

15 **Others**

16 William Spence, Director, Planning Department

17 David Galazin, Deputy Corporation Counsel, Department of the Corporation Counsel