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**MAUI PLANNING COMMISSION
REGULAR MINUTES
FEBRUARY 27, 2018**

A. CALL TO ORDER

The regular meeting of the Maui Planning Commission was called to order by Chairperson Sandy Duvauchelle at approximately 9:00 a.m., Tuesday, February 27, 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: Good morning everyone. Thank you for being here. Maui County Planning Commission is in session, February 27, 2018. Director, do you want to start with the agenda?

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: Sure. Commissioners if it please you, your first agenda item is not entirely here right now so what we'd like to do is go to Item D, the Progress Report on the West Maui Community Plan Update. We have Pam Eaton, Garrett Smith and Jen Maydan here to let you know what's going on with the West Maui Community Plan and why they are here.

D. Progress Report on the West Maui Community Plan Update provided by the Department's Long Range Division

Ms. Pam Eaton: Thanks Will. Well, good morning and it's good to meet you guys. How many guys I know from way back. So my name is Pam Eaton and the Division Chief for the Long Range Planning Division. So we're the division that writes updates and develops the Maui Island Plan and the community plans. And as many of you may or may not know in the last year and a half we looked at how can we improve the community planning update process. Trying to make improves from Maui...the Molokai Community Plan and the Lanai Community Plan.

So as many of you should know we have six community plans to be updated here on Maui Island and this is the first time that we'll be updating the community plan under the umbrella of the Maui Island Plan. So the Maui Island Plan was passed by the County Council in 2012. So for the first time as we're updating community plans that are as old as 1992, 1996 and so forth, we have to not only and want to follow the vision, the goals, and so forth already outlined in the Maui Island Plan but we also have legislation that you'll become familiar with 2.80B, Maui County Code that dictates the process, selection of CPAC as well as the content of the plans. So if you're wondering 'cause I know you read and use your community plans when you're making permitting decisions why the community plans need to be very...you know changed and updated aside from the obvious of issues that we're dealing with now like sea level rise and climate change and so forth, the homelessness, affordable housing that may not have been evident in 1992. We're also dictated by Maui County Code to have to follow these rules.

So without further ado, I first of all introduce my Staff. Jen Maydan is one of our Senior Planners, and then Garrett Smith is a Planner 6. He's been with us a little over, I think you did squeak through probation, I'm kidding, Garrett is a rock star. So Garrett is the Project Manager of the West Maui Community Plan update.

1 So one of the important things that we do differently is to do updates. So we would like to on a
2 quarterly or as dictated provide updates to the Maui Planning Commission as well as the Maui
3 County Council. So two weeks ago we did provide an update on the West Maui Community
4 Plan to the...well, to the Planning Commission 'cause we feel like first of all if you guys are more
5 in tuned with what's happening, what the issues are and so forth then when the plan does come
6 to you it's not completely cold. I'm gonna say one more thing and then I want to hand this over
7 to Garrett.

8
9 One of the things that we've done that's never been done before and I would invite you 'cause
10 it's very simple you could even do it on your phone is we created a website. We are
11 www.wearemaui.org. On that website you can basically jump onto it and you can find out for
12 the past six, seven months since August 26th we've had over nine to ten community meetings,
13 workshops and so forth. We've had a tremendous response from the community. The website
14 is just not spitting information at you it's very interactive. So we have various surveys on the
15 website. We've had a really a tremendous usage and lot of interactive going on. Kind of I
16 guess what I could say in a nutshell and I kept hearing it last night is we've truly brought the
17 whole community engagement and planning process to the community. This is not something
18 we want done in a public meeting at night by three-minute diatribes from angry people. We've
19 actually gone and met with small groups. We've done interviews. We've done a huge amount
20 of information to really, you know as grassroots as we can be being the government people
21 really brought this down to community level.

22
23 So what I would like Garrett to do, he's going to do now is he's going to basically give an update
24 on what's happened so far and we'd like to do these somewhat regularly. Right now, we're sort
25 of winding down on a community engagement phase which has been very robust. We are
26 working on the draft and so at some point we'd like to meet you also to let you know what's
27 going on with CPAC when that starts. So Garrett?

28
29 Mr. Garrett Smith: Hi good morning and thank you for having us. Again, my name is Garrett
30 Smith. I'm one of the planners with the Long Range Planning Division. What we wanted to do
31 is just provide a brief overview of where we've been over the last number of months with the
32 West Maui Community Plan and sort of outline the steps moving forward so by the time the plan
33 does arrive on your doorstep you'll already be familiar what that's been taking place and
34 hopefully keeping tabs on it also as we move forward.

35
36 As the Long Range Division really sort of to initiate the community planning effort what we
37 wanted to do is outline some fairly significant phases for the plan. Hold on a second let me
38 adjust this real quickly. It might be about as best we can do right now. Sorry about that. What
39 we wanted to do is really outline the primary phases for the overall effort. And these on the
40 overhead really are snapshots of that.

41
42 There's a research phase heading up towards the actual plan formulation. We were just coming
43 off the community workshop phase and then moving forward as you likely aware there's a
44 CPAC or Community Plan Advisory Committee phase followed by Planning Commission and
45 then ultimately County Council reviewing and approving that document.

46
47 During the initial research phase what we ended up really trying to focus on is looking at what
48 primary issues West Maui was dealing with and that will be obviously the same as we move
49 forward to the other community planning areas. Trying to do a assessment of the resources

1 they have available, infrastructure and also engaging with community leaders on again, their
2 vision for the plan for their specific communities.

3
4 During that process we identified some fairly significant goals that we wanted to maintain during
5 the course of this plan itself. And this is just something that we've looked at internally but also
6 reviewing plans nationally just best planning practices and also hearing comments from the
7 public comparing the different plans that they have been involved with in the past. So what
8 you'll find on the overhead really are the...show the high level goals that were take aways for
9 us.

10
11 First and foremost was really trying to emphasize the transparent an inclusive process getting
12 various community members out, you know representing all the different facets that represent
13 West Maui. As you're likely aware government isn't always the most accessible for the public
14 and often through no one's fault of their own it doesn't, it doesn't solicit all the voices from the
15 community and so that was really one of those primary items we wanted to look at as how are
16 we doing our plan, how are we engaging the public and really trying to get a much more
17 comprehensive group assembled to give us feedback and direction.

18
19 The second item really on the Maui Island Plan there's a significant amount of heavy lifting that
20 was done for the development of the plan and we really wanted to look at this community plan
21 as not being a process that duplicates all the text that's there, all the good work, really we
22 wanted to fine tune those areas specific to West Maui and have it be a much more concise,
23 focused and usable plan.

24
25 Third item, we really wanted to be and are looking forward and want it to be realistic and
26 implementable. Sometimes these plans that we develop as communities have sort of pie in the
27 sky goals that maybe don't have any fiscal constraints and I think we wanted to as a community
28 keep that in mind when we have action items really having it balanced with how much is this
29 going to cost? You know if we've got a billion dollars-worth of investment that the community
30 wants but we only have, you know, a million dollars to work with well, we need to keep that in
31 mind.

32
33 And the last item, we want the adoption process to be efficient and timely and that is a
34 something I'm going to be touching on a little bit more as we move forward in the presentation.

35
36 As mentioned earlier, we were just coming off a community engagement or community
37 workshop phase. Pam had mentioned this. During the last number of months there's been a
38 significant amount of work that the team's done not only in the office but out in the field we've
39 held countless public meetings, we've done stakeholder interviews, had what we've referenced
40 as popup planning events, at the fair we had a little, a table in the Mayor's tent and trying to get
41 as much exposure to the planning work that's being done and get people thinking in terms of
42 what they want to see in their community plan.

43
44 Here is a quick little recap and this is some of the data heading into 2018, so a lot of this
45 information is actually just gone up since this slide was put together. We had seven primary
46 public meetings over on the west side. We tallied up over 750 attendees of that time. We've
47 had a number of public education events over 600 attendees there. Stakeholder interviews as I
48 mentioned, but I really wanted to also showcase the website and the social media outreach.
49 With this effort we've generated a handful of different questionnaires and I'll show where those
50 can be found on the website on various different topics. There's an ideal wall that was prepared

1 and online you'll find it really is almost just a setting where you can put recommendations,
2 suggestions, pose questions, really having sort of an open-ended what would you like to see in
3 your community dialogue with the public and we've had, you know over 800 respondees on that
4 activity. We've got a growing social media presence and our email distribution list we have
5 about every week or every other week email blasts going out to the community members that
6 have signed up. And if you haven't done so, I'd encourage you to go online and sign up. You'll
7 get updates from us on this project.

8
9 Here's a quick slide on the topics that we covered during the public meetings. They've ranged
10 from cultural and historic resources to housing, coastal resilience, infrastructure, transportation,
11 and community design. With these various meetings, if you haven't had a chance to attend or
12 having heard of the work that was done, really successful in our eyes. We were able to get a
13 number of panels out not only just people locally but people from the State such as the
14 transportation meeting we had high level officials from State DOT that were over on the west
15 side discussing various issues like traffic and some of these venues were more of a...I guess
16 less of a panel discussion and more of a hands on activity. The community design was one that
17 really well received by the public. It was covered the most, a Saturday, various activities, the
18 community could come out and get engaged, get feedback, much more hands on than most
19 public meetings or public hearings that many people attend. On average there was about 50 to
20 100 people that did show up to this meetings. So fairly successful on that end.

21
22 Here is the website as Pam mentioned you can just go online and look up, We are Maui or We
23 are West Maui you'll hit it, but it's wearemaui.org. Right now the website is focused just on our
24 West Maui Community Plan effort but as we move forward the idea is to have this being the web
25 portal for all the community plans so you'll be able to land on a primary page, you know, select
26 West Maui or South Maui and go to...again, a series of webpages for each one of those
27 community planning areas and see what...you know where the plan is in the process and if
28 we're actively engaged in updating it, it will probably look much...very similar to the West Maui
29 effort.

30
31 And I guess one of the points I wanted to make on this and Pam alluded to this is with, you
32 know, really just looking at our community planning process we figured since there's so much
33 transition using technology and people wanting to engage with government on their own terms,
34 you know whether it be late evenings when the offices are typically closed or just not being able
35 to come to public meetings 'cause you have work. It seemed like this really was a great
36 mechanism to get our information out there but also to elicit feedback from the public in a much
37 more dynamic manner.

38
39 If you go to the website there's a few different key items I did want to showcase and you'll see
40 them circled on the right hand of the screen. If you go to the events tab page you'll find
41 information on upcoming meetings as well as recaps of prior meetings. And I really wanted to
42 mentioned the recap because again as we move forward we'd like individuals if they haven't
43 had a chance to attend those meetings to be able to go online and actually see a recap of the
44 meeting itself, all the presentations, the displays and boards that were prepared for the
45 meeting. Those are all showcased online. And so for example, by the time we get through
46 CPAC and the Planning Commission ideally you all will be able to scroll through the website and
47 have a fairly good understanding of where the discussion in the plan development has been so
48 you don't have just one large document plopped on your desk for that fun reading that
49 everybody gets to do.

1 Second item under your voice I circled that is the tab where you can go and look at all the
2 questionnaires that have been developed and the submittals for the idea wall. What's nice
3 about this question interface or the questionnaire interface is as soon as you submit your
4 answers you can actually see real time results. So I encourage everyone to go on there, take
5 the survey, it's not just for West Maui residents because we have a lot of people working in
6 West Maui but living in Central. But just to get an idea of how people feel about transportation
7 services, housing costs, it's just a really good resource.

8
9 And then lastly, to sign up for the emails that we do send on a regular basis. You'll see a little
10 section you can do that right there.

11
12 And quick little screen capture of the idea wall and the questionnaires as you'll see the topics
13 cover the main topics that we had public meetings for and then the idea wall what we did is post
14 a handful of questions just sort of open ended and see what the community would like to
15 respond on. So for example, what does livability mean to you? One of the comments came
16 back with community design, having services in close proximity, having schools nearby, jobs
17 nearby.

18
19 A real nice benefit of going through the website is the ability to attract analytics. One of our staff
20 has really been the key person for delving into the website management and this is a snapshot
21 of the web analytics that we've received. So we have over 2,000 users. There have been over
22 43,000 page views. Over 3,700 sessions online and you'll see about five minutes per visit. So
23 again it's a pretty big presence, it's continuing to grow as word of mouth passes along the
24 message but hey, we've got a website, go ahead and...it's real time, look at it.

25
26 And then the last two bullets you see that it's almost a 50/50 split between new and returning
27 website users and that's nice again. It's basically showing that it's growing. And this is really
28 just a snapshot from late summer to end of January 2018. So we'll have some additional
29 website analytics for you once we bring it forward next time.

30
31 This detail really shows where we are right now. We're straddling a couple phases. We just
32 wrapped up the community workshop phase and that's not to mean that we're not gonna
33 continue engaging the public but we really are transitioning towards the plan drafting itself. So
34 from now until what we're estimating right around June, Staff is deep in reviewing all the data
35 that we received, all the feedback and direction from the community members and trying to put
36 a nice focused draft plan out there.

37
38 So ideally in the next couple months we will have different portions of the plan available on the
39 website. One of the modules we're looking at is called Civic Comment, but what we can do is
40 put a chapter for example onto the website, the public can view it, comment and the rest of the
41 public can also see those comments. So it's very much an organic document versus just
42 something that's posted there for viewing only. By the time we get into CPAC and beyond
43 ideally that method is gonna help get feedback more timely and ideally as well cut down on a lot
44 of the verbal testimony that you may have to receive right during the meeting. If we can get it
45 early on, make some changes it should speed up the process and be a little bit more user
46 friendly for the public as a whole.

47
48 One of the primary items that I touched upon earlier on, in our really the goals that we wanted to
49 strive for in the community planning process is looking at a more timely and efficient process.
50 As you all may be aware and probably experienced as a planning commission and even the

1 feedback we got from the public I don't believe anybody is truly happy with how long it takes to
2 get through developing these plans. It's a long drawn out process and you don't want to rush it.
3 You know miss something you'll feel like you've omitted some good public feedback, but the
4 end result is a very, very long process. And a quick overview there's about 18 months that
5 generally has been allotted to research, coordination and community involvement. That's
6 followed by a six-month CPAC process, six-month planning commission and ideally a 12-month
7 County Council process and you'll see again, just drawn a little circle around where we are right
8 now. So again, it can be a couple-year plus process and that's if one of the entities doesn't
9 request an extension. Right now with the Molokai Community Plan it's been under review by
10 the Planning Committee or quite a bit longer than initially thought. So again, it's become a
11 much longer process than everybody would like. And what we're trying to do is look at what we
12 can do to speed that process up.

13
14 You know, we've discussed possibly getting some consultants or additional staffing that would
15 obviously help. Conceivably we could have a couple of these plans running concurrently.
16 Again, there's...the reality is there's only so much you can do with a handful of staff. So one of
17 the other thoughts is maybe better identifying the roles that CPAC, planning commission and
18 Council have...you know, spending less time wordsmithing and maybe more time really
19 focusing on how do we want to make this plan work and moving forward with County Council.
20 There has been some recent discussion on looking at what we can do to change the process.
21 So maybe a couple years out it won't be a two to three year process. It may be something a
22 little bit less. And for comparison, it can be done in a shorter period of time. Kauai County
23 Council just completed the review of their General Plan in five months. So we can aspire to be
24 faster and we're trying to.

25
26 As far as next steps as I mentioned between now and June we're in the process of developing
27 the draft plan. We intend to have various components of the plan put online for public viewing
28 and also getting the ball rolling on CPAC. The Mayor has one process to solicit members that
29 he would like to have appointed and the Council's working on their own. So again, you'll
30 probably hear a little bit of a buzz in the next month or so in terms of soliciting for CPAC
31 members and we also are planning on having ongoing public meetings on the west side. For
32 example, Ann with our Current Division and Will both helped us out with a public meeting
33 specifically on entitlements. So it wasn't on the West Maui Community Plan but it was helping
34 the community understand the differences between what we do in terms of long range planning
35 and what really is done on the permitting side just to help with the public education. Hopefully
36 the upcoming meetings will touch on topics such as the future land use designations that might
37 be used for this plan, sea level rise there's a report that recently has been released from
38 University of Hawaii, Manoa and a number of other agencies. So that's a great item that we'd
39 like to have discussed since the wide side is also being impacted by coastal erosion and sea
40 level rise over the next century. So again, stay tuned. We're getting more information on those.
41 I would encourage everybody to go to the website. Sign up for our distribution list if you'd like to
42 get updates and really if you visit the website, you have any questions, you can submit
43 comments, feedback and a number of us are all cc'd when it comes through and we'll help you
44 out if need be. That really concludes the presentation today. Have any questions, comments
45 anybody has?

46
47 Chair Duvauchelle: Thank you. Do we need to do public testimony? We do on this? Okay, so
48 before we entertain the questions at this time, we'll take a moment and open the floor for public
49 testimony. Anybody wishing to testify on this agenda item please come forward? Seeing none,

1 we'll close public testimony. That was fast. Questions from the Commissioners?
2 Commissioner Kahu Hill.

3
4 Kahu Hill: Aloha kakahiaka. Sounds real exciting what you guys are doing. I look forward to go
5 onto your website. I just wanted to know, I didn't see...I saw mentioned about coastal and of
6 course the sea rising and we have a lot to look at. Just indigenous and endemic plants or
7 looking at the environment and the balance I saw you were also going to be sharing about the
8 Hawaiian culture. But very much wanted to know about the balance with the environment and
9 what you guys plan to be sharing on that or balance on that?

10
11 Mr. Smith: Sure. As I mentioned, yeah, what we're trying to do is not duplicate what's already
12 in the Maui Island Plan and there, you know there's discussion of various topics in the Maui
13 Island Plan but do intend to have our plan drafted with a number of specific headings for
14 example, you know Cultural and Historical Resources we're intending to have a chapter
15 specifically discussing that. Now we'll have a Chapter of Natural Hazards. So there's areas of
16 extreme you know fire danger, coastal erosion and again the intent is to hit those high level
17 topics where we need to clarify and fine tune and really I guess would say at the end of the day
18 the take away is trying to craft that future land use map and the growth patterns, taking all those
19 issues together and just trying to strike that balance. There's as you likely aware with the west
20 side there's some areas that are much more susceptible to hazards, some areas that are much
21 more sensitive culturally or just environmentally that we shouldn't be directing a lot of
22 development too versus those other areas where we have existing infrastructure available, that
23 don't have those constraints. That really would be the ideally the focus for future development.

24
25 Kahu Hill: One other question just looking at the Hawaiian culture you where mention about
26 that. Will you be also giving information and sharing that, bringing that up about historical
27 places?

28
29 Mr. Smith: Yes, actually one of our staff members who work specifically Cultural Resource
30 Committee she and her other team members are gonna be working on, Again one of the more
31 cultural component. Ideally we would like to bring that chapter before the CRC and sort of have
32 them as the sounding board as well to make sure that we collectfully address the concerns
33 specifically with you know Lahaina being a historic district, it needs a little bit more sensitivity
34 than some.

35
36 Also as a sidebar, we do have the website up if anybody did want to see it briefly. Let Pam or I
37 know we can pull it up for you.

38
39 Chair Duvauchelle: Anybody else? Any questions? Director?

40
41 Mr. Spence: Just a couple of comments. First, I want this Commission to know how fortunate
42 we are to have these professional planners working for us and for this County not just within the
43 Department by all of Maui County. They're extraordinarily dedicated to being transparent with
44 the whole process and reaching out to the larger segment of the community. As you know, as
45 you've experienced through your many public hearings you have the same people show up over
46 and over again to testify in favor or against something or against something. There's a whole lot
47 of Maui that's left out of this process in entertaining the vision for what West Maui or what Maui
48 County is supposed to be at some point in the future. But just the...and I'll tell you from having
49 been a staff planner in the 90's we did extraordinarily little public outreach. What they're doing
50 now and so in the 90's we experienced exactly what I was talking about, the same people pro

1 and con would show up, but your regular you know, hotel workers, lot of your union people they
2 don't have the time to come to meeting, they don't have the time to, you know, they're busy
3 working, they have families to take care of. You know, speaking in public is intimidating. So
4 with these people's efforts we're reaching out to segments of the community that have never
5 been involved with planning before. So my hat is entirely off to them and I'm very appreciative
6 and I think this Commission should be, you know, just know these are some of the best
7 planners that we've had in our Department in a very long time.

8
9 Also want to comment on the, you know the length of time that it takes to do these plans we
10 agree it's extraordinarily long. When you have nine community plans they get backed up. I
11 mean, it's well more than a decade to finish these. The Council is interested in how can we
12 shorten the time it takes because each one of our communities is entirely deserving of getting
13 their community plans updated in a timely manner. One of the things they're talking about and I
14 bring this up for your consideration. I'm not saying pro or con but one of things is to either
15 severely limit or eliminate the planning commission review of each one of the plans. Right now
16 our County Charter says we consider the community plans land use documents. Our Charter
17 says that the Commission is supposed to review all land use ordinances and plans. So one of
18 the thoughts is if is the planning commission a necessary part of this or not? I don't know. I
19 think that's worthy of discussion. It would take a...I believe it would take a Charter amendment
20 in order to change your review. So we'll just see where that goes. But I'm happy to keep you
21 up to date on whatever the direction that the Council is moving in.

22
23 Ms. Eaton: I want to make one comment about that. Well, Garrett had mentioned about our
24 resources or lack thereof in terms of Planning Staff and so forth, even if we had a consultant or
25 consultants and one thing to make clear is that in the State of Hawaii and all the Hawaiian
26 Counties we are the only county in Hawaii that is doing this 100 percent in-house. That tends to
27 get forgotten at Council. But even if we had consultants and we had doubled our staff, like Will
28 said given the current approval process if we finish three community plans in a year you guys
29 gonna be able to whip those out? I mean, and the County Council? So even if we get these
30 things cranked and moving, you know, they still according to the Charter right now and the
31 County Code it still gotta go through Planning Commission and the Maui County Council. And
32 given your agendas in addition to going through a community plan, I mean that's something
33 worth thinking about. Is that really gonna expedite the process? So some of things we're
34 looking at is basically having a...we're hoping like Garrett was telling you through this
35 presentation we have a very robust and heavy community engagement process. My hope is, I
36 mean not that I expect everyone going to every single one of our things that we have in West
37 Maui and various communities but you can really, truly delve into the website even from your
38 phone. So if you have questions about cultural resources, one I think one of my favorite panels
39 that we had Annalise put together she had Keeaumoku Kapu, she had Lindsey, I mean, she had
40 Lori Sablas, I mean it was a fantastic panel and it was really about how can you as a community
41 have that responsibility for stewardship of your cultural resources and what are we doing. So
42 that's all on the website. Everybody's power points, everything so that when we get to that
43 particular issue in the community plan there's some evolution in terms of how we got to the
44 polices, you know recommended actions and so forth which quite frankly goes back to these
45 community meetings. So this is not the Planning Department, this is not a top down process is
46 what I'm trying to say and a lot of folks out there who say that have not been involved. This has
47 been very bottom up, very grassroots, so we are truly interested in what does the community
48 want and that's really important. But I think right now we're stuck with the approval process.
49 You know does the Council really need a year and a half, two years to approve a plan? I mean,
50 don't get me started, but the community engagement is really important. So the hope is that

1 some of you guys and the Council Members can be a little more involved in the community
2 engagement to see that it was truly vetted through the community so why do we need to
3 wordsmith for a year and a half to two years? That's all I'm saying. So any rate, thank you.

4
5 Chair Duvauchelle: Commissioner Robinson?

6
7 Mr. Robinson: I was fortunate enough to go to one of those meetings on the west side and it
8 was very informative. They had popups, they had people that knew nothing about nothing being
9 able to learn about different things. The one I was there was about the water resource and I
10 had no idea of the amount of different private resources that were just on that side of the island.
11 I thought the community involvement was grassroots. I didn't see too many big shots overtaking
12 the meeting which I thought was nice. Had the top people from the County was answering
13 questions to just somebody who didn't know anything and I thought that was really great. You
14 know, Parks was there, Water, Director was there. You know, you guys have so many and I
15 wish I had the access to see them all. I think that's something that, you know, like how our
16 commission is it's something I think for Akaku and something like that I think is really important
17 so people could watch too. Because even though it's only about, maybe only about the west
18 side, is every time you watch something about that side you could steal something or say that's
19 what we don't want on our other side.

20
21 As far as wanting to speed up the process. I think we all want to speed up the process. Me
22 personally been here for a few years I wanted to be on the Planning Commission to help
23 planning not to talk about vacation rentals for six hours a meeting about people wanting to make
24 a profit and you know...and I think if we just did a moratorium on short-term rentals or that type
25 of stuff for a year while we get the planning stuff, we would have so much time to actually work
26 on that. We'd have time to read about it because the majority of our time is wasted on things
27 that doesn't have to do with planning, has to do with special use permit, that has to do with
28 individuals not has to do with the community. And I think we could get a lot more done and we
29 could get concrete things towards the Council if the Planning Commission could actually plan.
30 Thanks.

31
32 Chair Duvauchelle: Director?

33
34 Ms. Eaton: I just wanted to get back talk about Akaku. So all the CPAC meetings we are
35 working this out with them. We got a budget and everything. They will be filmed by Akaku
36 which will be great and we'll have the link on our website, the County website, as well as the
37 Akaku website.

38
39 Chair Duvauchelle: Director?

40
41 Mr. Spence: Speaking of reducing the amount of time spent on permits. One of the things that
42 we're pushing for this is just a small tangent, pushing for in the Planning Department is to redo
43 our Zoning Code so we don't have...I think Current Division has 44 different kinds of permits
44 that they process so we can narrow those things down. We can decide which ones need to go
45 to Planning Commission, which ones don't. We will involve you in that process as we get closer
46 to that. That's coming up in the budget to completely redo our Zoning Code.

47
48 Also, got to...Annalise Kehler snuck in. She is also with the Long Range Division. She is our
49 historic preservation person. Not a whole lot Hawaiian archaeological stuff, although she's a lot
50 more skilled than most of us are, but mostly dealing with historic structures and whatnot. So

1 she's gonna be very involved with West Maui Community Plan and the preservation of our
2 Historic Districts and structures, et cetera. So I guess you're...are you here for the other one?
3 Oh, you're just here for this. Okay. Anyway, just a fabulous addition to the Long Range
4 Division.

5
6 Chair Duvauchelle: I have a...I have a quick question. So best case scenario, implementation
7 2020? Is that what for the community plan to be complete, to be adopted, accepted?

8
9 Ms. Eaton: Are you talking about the Maui? That's a tricky question in that, in that right now we
10 are straddling a fence because we are still at the County Council with the Molokai Community
11 Plan. We're not quite sure that could take a real turn which would completely tap out our
12 resources. If we did not...let me put it this way, if we did not have the Molokai Community Plan
13 hanging over us, we were planning impaneling CPAC by June and per 2.80B that's a six-month
14 process and then we would use a month to maybe 45 days or so at least because then we take
15 in and we basically make all the corrections and revisions to prepare it for you guys. So then I
16 could say six months, June that's December so maybe you guys would get it January, very, very
17 beginning of February. You guys have up to six months. You don't need to take six months,
18 and so that would take us to June-ish, you know, July and then it goes to County Council.

19
20 Chair Duvauchelle: Wow. So when does the new CPAC Committee for the next community...I
21 mean, at some point it takes so long do they crossover? Like do they start a new community—
22

23 Ms. Eaton: That's a great question.

24
25 Chair Duvauchelle: Because, you know it's a planning tool, it should be layered for all of our
26 infrastructure, our growth and if it gets so old I mean, when do you start over again? I don't
27 know, I mean, there's no...that's not being constructive, it's just an observation. But yeah, it
28 should...it would be nice if it was shortened.

29
30 Ms. Eaton: Like I said before, I think the community engagement process is critical. Really
31 getting down grassroots from the community I would not want to see that shortened in any way
32 for any community. I think what's less critical is the amount of time quite frankly by the County
33 Council and Planning Commission. I mean if you look at 2.80B what your role is supposed to
34 be is to look at the community plan not from the perspective of words and phrases and visions
35 and goals, that's all been done. The community did that, the CPAC did that, but it's basically
36 looking at it from the perspective of a Planning Commissioner making sure it's consistent with
37 for example the Maui Island Plan and what you do as a Planning Commissioner. That's really
38 the role. The role of the County Council again is not to go through it word by word, reprioritize
39 implementing actions it's to do two things. Corp. Counsel is supposed to look at its legality and
40 number two, the things that are in the implementing actions are they going to be able to
41 program those in the budget, period that's it. And so if you can cut that down from two years to
42 three to five months. I mean, Kauai, the County Council of Kauai just approved their General
43 Plan for the island in five months.

44
45 Chair Duvauchelle: Yeah.

46
47 Mr. Spence: Council has given themselves two extensions on Molokai Community Plan. They
48 depending on decisions they make they might require a third.

49
50 Ms. Eaton: There's your delay.

1
2 Chair Duvauchelle: Yeah. Okay, any other questions or comments for Staff Commissioners?
3 Commissioner Kahu Hill?
4

5 Kahu Hill: Just one thing I really appreciated what you were sharing about social media Garrett
6 and not only being connected where people can comment. Just a thought into the future
7 looking at Akaku documenting is thought of having live streaming or have some way that the
8 community if they can't get to the west side that they can log in, they can plug in and they can
9 be part of this around the island or maybe they're a Maui resident but they're traveling
10 somewhere, but they're here, they're a West Maui resident possibly and where you have those
11 where they come in once a month or whenever that is and be really a part of it and maybe even
12 chime in or give comments or be a part of seeing who's online. Just a thought. Thank you.
13

14 Chair Duvauchelle: Okay, anything else? All right, well thank you so much. Thanks for being
15 here. Thanks for all the hard work and I think it's amazing you're having such a great turnout at
16 your public meetings. I mean, that is heartwarming. It's like trying to get people out to vote.
17 Serious that's another subject. But no, it's really a good job. Thank you guys very much. We'll
18 take a 10-minute break.
19

20 A recess was called at 9:45 a.m., and the meeting was reconvened at 9:55 a.m.
21

22 Chair Duvauchelle: The Commission is now back in session. Director, our next agenda item
23 please?
24

25 Mr. Spence: Commissioners we're back on Item C, this is a SMA Area settlement agreement.
26 We had a property owner James Blaha of Blue Moose, LLC. It says allegedly initiating of
27 remodeling a house on Front Street.
28

29 **C. SPECIAL MANAGEMENT AREA (SMA) SETTLEMENT AGREEMENT**
30

- 31 1. **Proposed Settlement Agreement between the COUNTY OF MAUI and**
32 **JAMES BLAHA of BLUE MOOSE, LLC for allegedly initiating the**
33 **remodel of a house (James Bright House) without obtaining an SMA**
34 **assessment prior to initiating work at 429 Front Street, TMK: 4-6-002:**
35 **004, Lahaina, Island of Maui. (NOV 2017/0007)**
36

37 **AN EXECUTIVE SESSION MAY BE CALLED IN ORDER FOR THE COMMISSION TO**
38 **CONSULT WITH THEIR ATTORNEY ON QUESTIONS AND ISSUES PERTAINING TO**
39 **THE COMMISSION'S POWERS, DUTIES, PRIVILEGES, IMMUNITIES AND**
40 **LIABILITIES PURSUANT TO SEC. 92-5(a)(4), HRS**
41

42 **The Commission may take action on the proposed Settlement Agreement**
43 **pursuant to the provisions of Section 12-202-23(d)(3) of the Maui Planning**
44 **Commission's Special Management Area Rules.**
45

46 Mr. Spence: We issued violations, issued warnings, violations and ultimately came up with a
47 settlement agreement that's before you now. The way that the Commission rules read is that
48 we...if the Department enters into a negotiated settlement for SMA violations, it's ultimately the
49 Commission that has to agree, have to sign off on the agreement. So in this particular case you
50 have the settlement agreement in front of you. The fine is \$35,000 and pretty much after that

1 they'll go get their whatever other permits they need and we can go on from there. So anyways
2 I know the homeowner's representatives are here. They should be given an opportunity to
3 address the Commission and we can go on from there.

4
5 Chair Duvauchelle: Okay, so we'll hold public testimony after...is that correct?

6
7 Mr. Galazin: Yes.

8
9 Chair Duvauchelle: After they have a chance to address us. All right, if you would like to say
10 something please come forward.

11
12 Ms. Brandis Sarich: I'm Brandis Sarich. I'm the architect who was brought in to obtain permits
13 once the violation came through and Thorne Abbott is also here who's a consultant for shoreline
14 and also for this permitting. Just so you're familiar I want to bring around a photo of the house
15 that is actually being preserved and the neighborhood that it's in. If you look at that they are
16 keeping the historic home in the scale and appropriateness for Historic District. It is an
17 important house. It's when the McFarlands lived there and built it. So he didn't obtain permits
18 and I think that...(Inaudible)...can talk about that a little bit.

19
20 Mr. Thorne Abbott: Aloha Commissioners, Thorne Abbott. Thank you for giving us your time.
21 So in essence Mr. Blaha purchased this home. He remodeled the home. He did not tear it
22 down and build a much larger dwelling has his neighbors have but rather he retained the
23 original small dwelling and tried to renovate. However, he didn't go through the permit process
24 correctly. So the settlement in front of you is basically to remedy the fact that he did not go
25 through that process properly and now he will go through that process properly. He submitted
26 his SMA Assessment, his Shoreline Setback Approval, his Flood Development Permit, his
27 Environmental Assessment Exemption Compliance Form and he will follow that with building
28 permit, plumbing permit, electrical permits. So we would invite you to approve the settlement
29 that's been worked out between the Planning Department and the owner so that he can finish
30 his project of remodeling and keeping the house as a useful home. So thank you very much for
31 your time.

32
33 Chair Duvauchelle: Thank you. Before we have questions, I will ask I anyone wishes to testify
34 on this item? If anyone does please come forward. Okay seeing none we'll close public
35 testimony and I'll take...do we have any questions from the Commissioners? Commissioner
36 Robinson?

37
38 Mr. Robinson: Director, I apologize...I got into a car accident. My packet is in my other car.
39 But I don't recall seeing anything happening to the contractor and I'm always concerned about,
40 you know there's always people don't understand what permits they have to get. But we have
41 licensed contractors, we have Contractor's Associations, and I'm always worried about
42 contractors not following the law and then sticking it with the person who didn't know. Can you
43 or Corp. Counsel have...is there anything that was censorship towards the contractor?

44
45 Chair Duvauchelle: Who wants to answer that? Corp. Counsel?

46
47 Mr. Galazin: Thank you, Chair. You bring up an excellent point. The ability of the County is
48 limited to going after either the owner or the person in control of the property and the person
49 responsible for the violation if they hire somebody to perform work for them. They are still the
50 once responsible. Now they certainly may have a cause of action against their contractor, but

1 that would be a private civil matter between those private parties. The County wouldn't have
2 any authority to sort of step in and say that. But if you want to make sure that people watching
3 and listening may be aware, yeah, if a contractor, if there's no...(inaudible)...that comes out of a
4 contractor's negligence then certainly it would be within the owner's purview I think to look at
5 pursuing, you know recovery of those costs from the contractor.

6
7 Chair Duvauchelle: Commissioner Robinson?

8
9 Mr. Robinson: Who issues a contractor's license for the State of Hawaii or County of Maui?

10
11 Mr. Spence: State.

12
13 Mr. Robinson: State does.

14
15 Mr. Spence: Correct.

16
17 Mr. Robinson: So then the State is the body that would be...the censorship body not the
18 County Planning Department and Building Department?

19
20 Mr. Spence: That's correct. I have long...I give my personal comment. And I don't think we
21 send violations forward to the State. We've never done that. My personal comment is I've long
22 thought if we could fine the contractor we would see a lot fewer violations.

23
24 Mr. Robinson: I'm saying that because we had that hotel on the waterfront that did all those
25 illegal things and you know, of course, that's why people get licenses, you know their contractor
26 so we keep the people doing the right thing and people fly by nights. Okay, so we have no
27 jurisdiction on contractors, the people would have to go after the contractors personally off of
28 punitive and spend more money.

29
30 Mr. Spence: We do have occasions when a contractor will tell a landowner, yeah I have all the
31 proper permits, everything's fine. I'm good to go. And they go and then they get in trouble and
32 they find out that oh, no there weren't all the proper permits. So again, that's what Corporation
33 Counsel is referring to. That's a...

34
35 Mr. Robinson: And I guess I'm getting to it's hard for a homeowner to know every single permit
36 they're supposed to have unless each one gotta go hire a consultant. You know, you gotta go
37 hire a consultant just to, you know, maybe just remodel outside of the house. And I think you
38 know it's unfortunate that these remodels happen illegally but there's consciously and there's
39 trusting a contractor and you're trying to do the right things and a person would if you have a
40 contractor's license then you're bound to follow the law. But this is now maybe not the case
41 unless you have to sue them after. And so you know, I'm trying...I'm like you I'm trying to solve
42 the perpetrators which is actually the contractors not the homeowners. Well, I mean unless the
43 homeowner swings the hammer himself, right? It's somebody can offer to pay me to do
44 something illegally but I choose if I'm going to do the illegal act. And so the contractor's know
45 it's illegal which they usually do 'cause they have a license and they took their test then that's to
46 me is where the focus should be in trying to stop all these violations. Thank you.

47
48 Chair Duvauchelle: Thank you. Any other questions? I have a quick question. So after this is
49 all settled up and now you've done all the paperwork is the construction that was done going to
50 be removed or are you going for an after-the-fact permit?

1
2 Mr. Abbott: I'll let the architect speak to that.
3
4 Ms. Sarich: We're doing an after-the-fact permit. We actually have SHPD's approval of the
5 changes that have been made and that it is still a historic property and we're in the process of
6 getting it nominated.
7
8 Chair Duvauchelle: Okay, all right thank you. Any other questions? Okay, what are we looking
9 for here?
10
11 Mr. Spence: Okay, we're just looking for the Commission to accept the settlement agreement.
12 That this satisfies your concerns and at least with regards to this particular property and they
13 can go on and get their...once this is approved they can go on and get all their other permits. If
14 it pleases you we would need a motion to accept the agreement.
15
16 Chair Duvauchelle: To accept the settlement agreement as drafted. Do I hear a motion?
17
18 Ms. Gomes: For clarification purposes Director, SMX is?
19
20 Mr. Spence: Is an SMA Assessment.
21
22 Ms. Gomes: And HDX?
23
24 Mr. Spence: Historic District.
25
26 Ms. Gomes: And the X is just?
27
28 Mr. Spence: It's a placeholder.
29
30 Chair Duvauchelle: Okay, we're a chatty group.
31
32 Mr. Hudson: Move to accept.
33
34 Chair Duvauchelle: As drafted?
35
36 Mr. Hudson: 10-4, as drafted.
37
38 Mr. Tackett: Second
39
40 Chair Duvauchelle: Okay, moved by Commissioner Hudson, and seconded by Commissioner
41 Tackett to accept. Any discussion? Director?
42
43 Mr. Spence: The motion is to accept the settlement agreement as drafted.
44
45 Chair Duvauchelle: All those in favor please raise your hand.
46
47 Mr. Spence: That's six ayes. Motion carries.
48
49 Chair Duvauchelle: Motion carries.
50

1 Mr. Abbott: Mahalo. Thank you very much.

2

3 Ms. Sarich: Thank you.

4

5 **It was moved by Mr. Hudson, seconded by Mr. Tackett, then**

6

7 **VOTED: To Accept Settlement Agreement.**

8 **(Assenting – K. Robinson, A. Hill, L. Hudson, C. Tackett, T. Gomes,**
9 **S. Castro)**

10 **(Excused – L. Carnicelli, R. Higashi)**

11

12 Mr. Spence: So Commissioners we're on Item E. Under Director's Report No. 1 and No. 2 are
13 your Minor Permit and SMA Exemptions Report. Your SMA Exemptions, that's your SMX that
14 Commissioner Gomes was asking about.

15

16 **E. DIRECTOR'S REPORT**

17

18 **1. SMA Minor Permit Report**

19

20 **2. SMA Exemptions Report**

21

22 Chair Duvauchelle: Any questions?

23

24 Mr. Spence: The rules say that you just acknowledge receipt of those.

25

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

27

28 Mr. Spence: Six ayes.

29

30 Chair Duvauchelle: Six ayes.

31

32 **The Commission acknowledged receipt of the SMA Minor and SMA Exemption Reports.**

33

34 **3. Discussion of Future Maui Planning Commission Agendas**

35

36 **a. March 13, 2018 agenda items**

37

38 Mr. Spence: Discussion of the next planning commission. Clayton, I didn't get a copy of that.
39 What's on for next?

40

41 Chair Duvauchelle: Here.

42

43 Mr. Spence: Okay. Oh, we have Unfinished Business, the first one is for A&B Wailea, LLC
44 requesting Step I Planned Development Approval. If you recall, the Commission requested
45 more updated aerial photographs for this. So that's back on the agenda. And then we're gonna
46 have a workshop on proposed amendments to the Maui Planning Commission's SMA Rules.
47 So we've been working on a lot of things internally. We just want to be able to show you the
48 proposed changes. Not for a vote next time necessarily but just as a workshop so we can

1 familiarize the Commission with proposed changes and then at a separate meeting we'll go on
2 and either adopt them, adopt them with changes or whatever the Commission would like to do.

3
4 Chair Duvauchelle: Thank you. All right, any other discussion?

5
6 Ms. Gomes: When there's like a workshop, like the Special Management Area is this proposed
7 to the Council? Are they ever get presented with any, you know enlightened by any information
8 of this that we get enlightened by?

9
10 Mr. Spence: It depends on the topic. If it's a legislative matter like we had your workshop this
11 morning on the West Maui Community Plan Update. Ultimately that's adopted by the Council.
12 So we will transmit information, et cetera to them. Your SMA Rules are only this Commission.
13 The Council has nothing to do with the Special Management Area and so the discussion of the
14 rules goes along with you. If they have questions about the SMA at a council meeting or
15 something we're happy to discuss that as a Department to discuss that with them.

16
17 Ms. Gomes: And do a presentation or something?

18
19 Mr. Spence: Yes. Clayton?

20
21 Mr. Yoshida: I would only add that we would also have discussion on two other pieces of
22 legislation Department has been working on. One is the amendments to the Parking Ordinance,
23 and two, amendments to the Accessory Ohana Dwelling Section of the County Code.

24
25 Chair Duvauchelle: Corp. Counsel did you want to comment?

26
27 Mr. Galazin: Yeah, thank you Chair. And speaking to your question Commissioner Gomes. I
28 think that really gets to the fundamental distinction between separations of power within any unit
29 of government. The Legislative Branch of course adopts you know the ordinance that will guide
30 you or the State Statute, you know the Legislature, State Legislature will enact a Statute, the
31 SMA Statute and then the Departments administratively have to figure out how to implement
32 those and the way that that is done administratively is through promulgation of rules and so
33 administrative rule making has its own different procedures, but that's what really separates
34 distinction between the administrative executive branch and the legislative branch. So it would
35 be unusual for the executive branch to discuss the administrative rules with the legislative
36 branch. Typically the authority is delegated from the legislature to whatever department in the
37 administration and then they go ahead and...in this case it's delegated to you to deal with the
38 SMA and then promulgate rules and update them as necessary.

39
40 Chair Duvauchelle: Thank you. All right, are we good? Any other questions? Conversation?
41 All right thank you very much. Planning Commission is adjourned.

42
43 **F. NEXT REGULAR MEETING DATE: MARCH 13, 2018**

44
45 **G. ADJOURNMENT**

46
47 The meeting was adjourned at approximately 10:10 a.m.

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Submitted by,

Carolyn Takayama-Corden
Secretary to Boards & Commissions II

RECORD OF ATTENDANCE

Present

Steven Castro
Sandy Duvauchelle, Chairperson
Tina Gomes
Kahu Alalani Hill
Larry Hudson Keaka Robinson
Christian Tackett

Excused

Lawrence Carnicelli
Tina Gomes
Richard Higashi, Vice Chairperson

Others

William Spence, Director, Planning Department
David Galazin, Deputy Corporation Counsel, Department of the Corporation Counsel