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3 **MAUI PLANNING COMMISSION**
4 **REGULAR MINUTES**
5 **APRIL 24, 2018**
6

7 **A. CALL TO ORDER**
8

9 The regular meeting of the Maui Planning Commission was called to order by Chairperson
10 Richard Higashi at approximately 9:05 a.m., Tuesday, April 24, 2018, Planning Conference
11 Room, First Floor, Kalana Pakui Building, 250 South High Street, Wailuku, Maui.
12

13 A quorum of the Commission was present. (See Record of Attendance.)
14

15 Chair Higashi: Good morning, the Maui Planning Commission is now in order. First of all,
16 before we go into any of the present agenda I'd like to announce that as the chair of the
17 Commission I am presenting going to resign. I have other commitments that I gotta make. But
18 before I do, I want to suggest to the Commissioners certain things that we should address and
19 see whether you are in agreement or not.
20

21 Number one is legal representation. We, as board, commission volunteers if you get cited or
22 someone files a formal complaint against you with the Ethics Commission we are not
23 represented by the County and I think those things should be corrected because as volunteers
24 we need support especially legal support. And what concerned me was there were four of us
25 commissioners had to face the Ethics Board because someone filed a formal complaint without
26 any findings of fact or conclusions of law and we didn't have any legal representation. We had
27 to represent ourselves which is not fair. I think that's something that we should look at and I've
28 already told Director Spence that that's something that maybe they should critically look at.
29

30 Number two is paperwork. I've been on other boards and commissions but the Planning
31 Commission has the largest amount of paperwork that is being generated and because of
32 technology today it will save the applicant and also the commissioners of all the paperwork that
33 you have to bring to each meeting. And after the meeting we just dispense of it and so if we
34 have laptops and discs, you can take the disc and store it instead of throwing anything away
35 and it will save the County a lot of money in the process of storage, et cetera.
36

37 And third thing is I think all of us as volunteers spend a lot of time, I figured going on my fifth
38 year now I've attended over 80 meetings, 90 percent of them and that takes a lot of time. As
39 you know that you know we spend anywhere to four to six hours on each meeting twice a
40 month. We're the only commission that meets that often and have that much responsibility.
41 We're like a quasi-county council. We don't have all the authority but yet we do have to cover
42 all the areas that need to be covered and I told Director Spence I give him a gold star because
43 he has a big...all that responsibility on his shoulders.
44

45 And so, I'm gonna leave that with Vice-Chair Robinson who I know is very capable of taking my
46 place. So with that, I'm gonna turn it over to—
47

48 Mr. Spence: Before you leave, just for clarity Mr. Chairman, are you going to sit through this
49 day and turn it over the Vice-Chairman or are we expected to...we would have bare quorum if
50 you resigned right now. We would prefer that you stay through the day, but that's up to you.
51

1 Chair Higashi: Yes, I will stay as long as there's a quorum so that the meeting can be
2 conducted. But if we already have a quorum with me vacating, I don't think that would be a
3 problem would it?
4

5 Mr. Spence: Rather have you here for the last meeting. It's up to you.
6

7 Chair Higashi: Yeah, I just so happened I scheduled an appointment just before lunch so and I
8 talked to Vice-Chair Robinson so I'm pretty sure he's ready to go.
9

10 Mr. Spence: Okay.
11

12 Mr. Carnicelli: Chair?
13

14 Chair Higashi: Commissioner Carnicelli.
15

16 Mr. Carnicelli: Chair before you step down I would just like to acknowledge you and say thank
17 you for the years of service that you have given our community and that you know, as we all
18 know the countless hours that you spent in this room and preparing to be in this room and for
19 the leadership that you showed as vice-chair and then in your brief time as chair and I just
20 wanted to say thank you and that you will be missed.
21

22 Chair Higashi: Well, thank you very much. I feel that, you know, I'm already pushing 80 so I'm
23 not a young squirt anymore, but at the same time I think this particular commission has a very
24 important role to play in assisting the County. We've saved the County a lot of money by
25 volunteering our services and the amount of time and I had hoped that the community at large,
26 everyone could have the opportunity to be in our position to understand the magnitude of what
27 takes place in the County. So for me, that was a good experience. Commissioner Hill.
28

29 Kahu Hill: Thank you I just wanted to say mahalo and you show so much aloha and you helped
30 me when I've come in too, really come into this commission and be able to have a voice and
31 listen to you. And I just wanted to say mahalo for everything you've done. It's really been an
32 honor to serve with you.
33

34 Chair Higashi: Thank you very much. Commissioner Robinson.
35

36 Mr. Robinson: Chair, my friend. I'm not happy about you resigning. I wish you could have
37 stayed on. I think your years of knowledge and experience in Maui County, the thousands and
38 thousands of people, families you've touched being their teacher, their principal, being involved
39 in the community is something that is important to have on our board. You are going to be
40 missed. I hope you can still share your knowledge with us and your feelings even if you aren't
41 able to be in this chambers. And it is unfortunate that somebody that has been in the
42 community as long as you is not going to be voice there and it will be missed.
43

44 Chair Higashi: Well I thank you too. Commissioner Hudson.
45

46 Mr. Hudson: Chair, I mirror...I'm in agreement with my other commission members, I wish that
47 you were not leaving. I understand that you are leaving but there's a couple of things that I

1 would like to say. Thank you for your guidance and thank you for mentoring me because when I
2 came on you showed me the way, you gave me a lot of pointers, and I really do appreciate that.
3 And thank you for being part of my family and the County of Maui's family and you will be sorely
4 missed.

5
6 Chair Higashi: Thank you Commissioner Hudson. I just want to conclude by saying that this
7 has been a real learning experience. If everybody had the opportunity to understand the
8 process that we have to go through in order to get items accomplished, it's really...it sometimes
9 it is frustrating because we end up with special interest groups that try to persuade us to get
10 away from the ordinance or the facts that we need to deal with and those are things that's are
11 our responsibility. And so with that, I have no regrets about serving on the commission.

12
13 Mr. Spence: Before you say final, before you step down.

14
15 Chair Higashi: Commissioner Spence, I mean Director.

16
17 Mr. Spence: I heard the finish coming and I just wanted before you actually pau, I wanted to
18 also thank you for your service. This is a tough commission. It has a lot of responsibility.
19 There's a lot of information, a lot facts, a lot of testimony, a lot of things are thrown at you and
20 you're expected to sort through them and come up with a decision and it's very difficult. And I
21 think that, you know, Commissioner Higashi, Chair Higashi, you have served this commission
22 well and I wanted to just thank you for being here and we will miss you, so thank you very much.

23
24 Chair Higashi: Thank you. Thank you for that compliment. I definitely know that the
25 commission is in good hands with the members that we have and the diversity really helps in
26 making decisions that we need to make. And so with that I want to turn it over to Commissioner
27 Hudson, Vice-Chair to take over the meeting.

28
29 Mr. Hudson: Robinson take over the meeting.

30
31 Chair Higashi: Robinson. How do I always call you Hudson?

32
33 Mr. Carnicelli: Chair, Chair point of order, could you please call a brief recess so we can make
34 the change and we can actually say a proper aloha before you walk out of the building?

35
36 Chair Higashi: All right. We'll take a five-minute recess.

37
38 A recess was called at 9:18 a.m., and the meeting was reconvened at 9:23 a.m.

39
40 Vice-Chair Robinson: Maui Planning Commission back in session. After the morning events,
41 do we have any motions on the floor? Yes, Commissioner Carnicelli?

42
43 Mr. Carnicelli: Chair, I would like to make a motion to nominate Commissioner Hudson for Vice-
44 Chair.

45
46 Vice-Chair Robinson: We need to get a Chair before we get a Vice-Chair.

47

1 Mr. Carnicelli: Okay, so I then will nominate Commissioner Robinson to from Vice-Chair to
2 Chair.

3
4 Kahu Hill: I second that.

5
6 Mr. Galazin: Chair?

7
8 Vice-Chair Robinson: Yes, Corp. Counsel?

9
10 Mr. Galazin: Thank you Chair. I would suggest that when you're talking about elections it's
11 very clear that in the absence of the Chair, the Vice-Chair is Chair for the purposes of this
12 meeting clearly. I would need to look into exactly within your rules if it speaks to what happens
13 with a resignation or just disability or other disappearance of an officer when the election needs
14 to take place, but I would strongly recommend that this be placed an agenda for the next
15 available meeting that way it's properly noticed for members of the public. You would need a
16 two-thirds vote I think to change the agenda to add on an item which I don't even, you won't be
17 able to have. So those are my thoughts as to why I would suggest postponing any vote on
18 officers until the meeting we put on the agenda, we have some more people here and we can
19 address it that way if you want. Thank you.

20
21 Mr. Robinson: Commissioner Kahu, did I have a second from you? I just want to finish that
22 before we continue.

23
24 Kahu Hill: You did.

25
26 Mr. Robinson: Okay, Commissioners if I'm unable to make the next meeting we will not have a
27 chairman or vice-chairman. I think we can open up the meeting for reconsider and we can have
28 a vote again at another time. I think we always want at least have a vice-chair for meeting
29 otherwise the meeting might be open and then we'll have to choose one of the five to take the
30 meeting and the vote I'm fine either way. I think we do have quorum. I think we can always
31 reconsider. I don't think this is a autocratic type of monarchy type of commission. I think we
32 vote each other in, we vote each other out and I'll leave it to your guys' hands. Commissioner
33 Carnicelli.

34
35 Mr. Carnicelli: Well, there is a motion on the floor so just in speaking to the motion. I
36 understand the, you know, Corp. Counsel giving us legal opinion, but speaking to the motion
37 right now I would speak in favor of the motion and would be in favor of just go ahead and
38 moving forward. If we need to then notice it and do this again then we can always do that if that
39 is the proper order with which it needs to happen is to be noticed and then noticed to the public
40 and then agendized and then voted on we can do that as well. But in speaking to the motion
41 right now I'll just go ahead and vote in favor.

42
43 Mr. Robinson: Discussion on the floor on the motion? Okay, motion on the floor, Director?

44
45 Mr. Spence: The motion is to elect you as Chair.

46
47 Mr. Galazin: Chair if I may?

1
2 Mr. Robinson: Yes you may.

3
4 Mr. Galazin: Thank you. So before you do any further action I will say just kinda flipping
5 through just to make sure that I have this right, yes, the board may amend an agenda during a
6 meeting to add items to be considered but that has to be done the addition of an additional
7 agenda item has to be done by the affirmative vote of two-thirds of all board members including
8 members not present at the meeting. So adding an item to the agenda is not permitted if it is an
9 item of reasonably major importance and action on the item might effect a significant number of
10 persons. So my advice would be, if you're trying to change the agenda to add something to it
11 which is going to effect the chairmanship and vice-chairmanship of this committee I don't want
12 you to make a decision that you're gonna have to later just redo because it's technically out of
13 bounds. So if the Commission would like to perhaps withdraw the motion I might suggest that
14 might be one way of addressing the issue.

15
16 Mr. Robinson: Commissioner Hudson.

17
18 Mr. Hudson: Could we have another five-minute recess please?

19
20 Mr. Robinson: We'll have a five-minute recess. Thank you.

21
22 A recess was called at 9:28 a.m., and the meeting was reconvened at 9:30 a.m.

23
24 Mr. Robinson: Maui Planning Commission back in session.

25
26 Mr. Carnicelli: Chair?

27
28 Mr. Robinson: Commissioner Carnicelli?

29
30 Mr. Carnicelli: I would like to rescind my motion.

31
32 Kahu Hill: I would like to rescind my second.

33
34 Mr. Robinson: All right, motion has been rescinded. Just to let everybody know that we want to
35 follow protocol and make sure that that this board acts as you know as it's supposed to. Having
36 said that, first item on the agenda, Director?

37
38
39 **B. PUBLIC TESTIMONY** - Public testimony will be taken when each agenda item is
40 discussed. **Testimony will be limited to a maximum of three (3) minutes.**

41
42 Mr. Spence: Good morning Commissioners. We're ready to start Item C, your Orientation
43 Workshop No. 2. And what we have first up is Mr. Jim Buika and he's gonna talk to us about
44 your SMA Rules and Shoreline Setback Rules.

45
46
47

1 **C. ORIENTATION WORKSHOP NO. 2**

- 2
- 3 **1. Special Management Area Rules and Shoreline Setback Rules**
 - 4 **2. Managing Maui's Shorelines**
 - 5 **3. Flood Hazards**
 - 6 **4. County's Policy Against Discrimination**
 - 7 **5. Update of the General Plan – Long Range Division and Plan Implementation**
- 8

9 Presentations were made by the Planning Department Staff.

10
11 Mr. Robinson: Director?

12
13 Mr. Spence: Commissioners we have two public hearing items for you this afternoon. First off
14 is both of them are draft bills for ordinances. First up is amendments regarding ohana dwellings
15 and then the next one after that will be with the off-street parking ordinance. And I'm not sure if
16 David or Michele want to...we have both Deputy Director McLean and our Administrative Officer
17 David Raatz here to make the presentation to the Commission.

18
19 Mr. Carnicelli: Chair?

20
21 Mr. Robinson: Commissioner Carnicelli?

22
23 Mr. Carnicelli: Yeah, aloha Chair. I just wanted to put on the record here that these items,
24 these two public hearing items, D-1 and D-2 are items that my employer will most likely take a
25 position on or at least given an opinion at County Council. You know right now we are just
26 doing nothing more than making a recommendation to the Council. However, it will be
27 transmitted up to the Council at which point in time my employer will weigh in.

28
29 What I did and maybe not everybody knows this but before I sat in this seat knowing that this
30 may come up, items like this may come up, I went to the Board of Ethics ahead of time and I
31 said this may come up and I wanted an advisory opinion. So in an advisory opinion they said if
32 things like this come up, I bring it up to the Commission, if the Commission says you know what
33 that's okay, this isn't an action item that we're taking or whatever you guys decide. So if this
34 Commission decides that I should recuse myself during this then I will recuse myself as I've
35 brought this to you guys on several different occasions items like this. And so if you guys feel
36 as though I should recuse myself I will do such. I will stay in the room and I'll maintain here so
37 we can keep quorum. But if you guys feel as though I should recuse myself on these two items
38 then I will.

39
40 Mr. Robinson: Thank you. Commissioner I have a question for you. Is your position advisory
41 or is there a reason for recusal? Is there some type of benefit that you would personally get out
42 of this or are you just, you know, are you here because of your experience like all of us? You
43 know you have a certain experience. We're all professionals in Maui and we're all going to have
44 an opinion of things and things how affect us. But again you know Board of Ethics it's I don't
45 see where a recusal would be needed unless there's a certain project or is this accessory
46 dwelling going to benefit Realtors Association because there's all of sudden more homes to
47 sell?

1
2 Mr. Carnicelli: Thank you for that question Chair. Chair, this is in no way, shape or form,
3 there's no monetary benefit to the Realtors Association. There's no skin in the game on this,
4 you know there's...you know like I said, there's no monetary gain, there's no monetary...benefit
5 or loss as to whichever way this thing goes. It's just literally just something that I want to be
6 completely transparent, come from a total place of integrity and a complete place of ethics of
7 saying hey I don't want somebody later saying hey, oh wait Lawrence you were on the planning
8 commission you weighed in on this and then you're also doing that and so you swayed the
9 planning commission or whatever it is. But no we don't have any skin in the game on this. I just
10 want to be really, really careful and that's why I went to the Board of Ethics ahead of time to say
11 like okay, if something like this comes up what do I do and they said bring it to you guys so
12 that's what I'm doing. But yeah there's no, there's nothing for me personally or for my employer.
13

14 Mr. Robinson: Thank you. Commissioners do you have anything, any questions for the
15 commission I think to add? Corporation Counsel?
16

17 Mr. Galazin: Thank you. I would just ask Commissioner are you comfortable that you can make
18 an impartial decision on this matter?
19

20 Mr. Carnicelli: I feel as though I can, yes, thank you.
21

22 Mr. Robinson: I was going to ask that. And again, it's one we are at bare quorum. Two, we all
23 are professionals and we're all here for a certain reason and that's 'cause we have some type of
24 expertise in some area. And I think all our opinions are actually wanted instead of being
25 recused because I think that reflects a larger part of our area including the Realtors Association.
26 So thank you for checking with Board of Ethics. I have no problem with anything if you like
27 share. Aloha.
28

29 **D. PUBLIC HEARINGS** (To begin at 1:00 p.m. or soon thereafter.) (Action to be taken
30 after each public hearing.)
31

32 **1. MR. WILLIAM SPENCE, Planning Director transmitting proposed**
33 **amendments to Chapter 19.35 of the Maui County Code relating to**
34 **Accessory ("Ohana") Dwellings (M. McLean and D. Raatz)**
35

36 Ms. Michele Chouteau McLean: Aloha Chair, Commissioners. My name is Michele Chouteau
37 McLean. I'm the Deputy Planning Director. We're starting first with what we're referring to as
38 the Ohana Bill. Last month you folks reviewed a proposed bill that we introduced to allow more
39 accessory dwellings which is what we call ohanas than are currently allowed now and to make
40 them more livable by increasing their size. We believe that they provide an important
41 component to our affordable housing stock and with the current housing crisis we believe that
42 increasing the number and size of ohanas would help our working families find homes that are
43 livable and affordable.
44

45 When we met with you last month we received public testimony as well as the commission
46 comments and a few of those are bulleted out in the memorandum that was provided to you.
47 Since that meeting we made further revisions to the bill and the most significant change is that

1 the lot threshold for having a second ohana was reduced. When we presented it to you that
2 cutoff was 12,000 square feet. So if you have a 12,000 square foot lot or larger you could have
3 that second ohana. We dropped that down to 7,500 square feet. There were a few reasons
4 that we did this. One is staff did bring to our attention the number of lots that would benefit by
5 having that lower threshold, of course you lower the threshold more lots would qualify. And that
6 what's included in your packet is an exhibit that shows a section of Central Maui that really
7 illustrates that difference. Also because this will ultimately go to the County Council and they
8 can always increase that number. But if we started out from point with a larger number it would
9 be a struggle for them to decrease it if they chose to. So we're starting at what is a safe point
10 and they can always increase that and certainly your feedback on that number will be important
11 to them.

12
13 Mr. Robinson: I'm sorry Michele could you say that one more time please about the decrease
14 and walk your way back on the footage, I'm sorry.

15
16 Ms. McLean: Sure. When a bill comes to the commissions and then has to be approved by the
17 Council. The Council is very mindful of the scope of what the Commission reviewed. And if the
18 Council goes outside that scope there's often discussion with Corporation Counsel of does this
19 need to go back to the commissions? Did they have a chance to comment on this? And so by
20 lowering that threshold to 7,500 square feet, and then we go to Council, if the Council chooses
21 to increase it, they'll know that you already looked at that lower number. But if we came to you
22 with 12,000 square feet and then Council wanted to consider lowering it there would be a
23 question of oh, should we take that back to the commission so the commission could consider
24 that lower number.

25
26 Mr. Robinson: Thank you for the clarification.

27
28 Ms. McLean: The revisions that we made since the last time you looked at the bill was also to
29 reduce the area of open decks even though it's still an increase from what the current code is,
30 it's a slight decrease from what you looked at last time. However, we added a new section to
31 allow covered decks which currently are not allowed on ohanas. Covered decks are counted as
32 part of the living area of an ohana. So we really did get a lot of people from individual staff
33 members, from friends, from family members saying, oh I could just use a little bit more space
34 or why can't ohanas have covered decks, you know, we're in Hawaii having a covered deck is a
35 really important thing.

36
37 So with that the latest version of the bill is attached as your Exhibit 1. It's a long bill because
38 other sections of the code need to be amended to reflect these changes. But the key
39 components of the bills only take up the first five pages.

40
41 We did also circulate the bill to various State and County agencies for review and comment and
42 those comments are very, very important. You'll see that it does make it clear that not all
43 properties will be able to build that third ohana even if they qualify in terms of the lot size. Right
44 now they're allowed two, but to have that third ohana there could be issues with water, with fire
45 protection, with wastewater and so those agency comments talk about that. So not all homes
46 would be able to have...not all lots that would qualify, it might not be feasible for them to add
47 that third ohana or it could be cost prohibitive for them to add it. But nonetheless we still believe

1 that the bill would offer additional opportunities to develop this type of housing without extensive
2 entitlement and permitting requirements.

3
4 The exhibits that show the maps are a few snapshots of where these changes would take effect
5 throughout Maui. And we also in the memo just summarize the outreach that we did before
6 coming to you folks last time. So with that, I'm happy to answer any questions or Chair if you
7 would like we can just go page by page of the bill and see if there are questions that way or if
8 you're ready to take testimony then we can come back.

9
10 Mr. Robinson: I'd like to take testimony and that way our questions you know might be broader.

11
12 **a) Public Hearing**

13
14 Mr. Robinson: At this time we're going to have public testimony. Is there anyone there in the
15 audience that would like to speak on this agenda? Aloha Ms. Aarona.

16
17 Ms. Francine Aarona: Aloha.

18
19 Mr. Robinson: Please.

20
21 Ms. Aarona: I guess I have the double "a" so I'm the first on the list.

22
23 Mr. Robinson: First on the list. Please introduce yourself and you have three minutes.

24
25 Ms. Aarona: Good morning Mr. Chairman, and Commission Members. My name is Francine
26 Aarona also known as Aunty Mopsy, Protect Paia. I'm here to testify on the proposed
27 amendments to Chapter 19.35 of the Maui Code relating to accessory "ohana" dwelling. I know
28 that Maui along with the State of Hawaii is hurting to...for affordable housing. As a whole our
29 state has been taken advantage of that by developers because we live in paradise.

30
31 As the Planning Department, Public Works and other departments continue to look for better
32 ways to...or laws to govern the development of affordable living we need to look at the language
33 that is written in the process. And I'm sorry I missed March because this is the first time I'm
34 hearing. My concern is if I a regular homeowner of the county stumbles on the proposed by
35 checking the agendas of this commission or the Council meetings how will our community find
36 out of this process? How many of our families truly understand the language that is written in
37 these guidelines. I know they mentioned other meetings that were held but can you honestly tell
38 me that your daily work families know about this?

39
40 I have reservations about the language that is written about the 7,500 square foot footage but
41 then you also...you add to the chart 7,499 square foot. Also clarification of less than six
42 months. Language can create loopholes for developers that will benefit their pocket. I
43 recommend that you go back to the table and include people that will be enforcing these
44 amendments. How do we let homeowners of more than 10 years or more know about our
45 ohana dwelling process?
46

1 When we talk about ohana dwelling in my mind we refer to hanging onto our aina and creating a
2 place for our children, our grandchildren that becomes affordable to the ohana. I know that you
3 are working very hard in making things right for our people, but sometimes we need to forget
4 about...we forget about the simple details as we do the planning. Thank you very much.
5

6 Mr. Robinson: Thank you. Is there any questions? Aloha, mahalo. Is there any other
7 testifiers? Please come to the mic. Aloha, please introduce yourself and you have three
8 minutes.
9

10 Ms. Catherine Clark: Aloha Commission Members. My name is Catherine Clark. I work in the
11 vacation rental industry but I do not own a B&B or STR home and I never intend to, but I do
12 understand this industry and a concern for me is the removal of the option to include an
13 accessory dwelling on a B&B Permit. As proposed if a local resident owner lives in the cottage
14 he can obtain B&B Permit to rent the main house. Fabulous for a couple or even a single
15 person. But what about the owner with a larger family that resides in the main house? He does
16 not have the option to get a permit for the cottage so is that really fair? If you're single you can
17 do it but if you have a family you can't. We would be removing this owner from the option of
18 having a B&B rental yet in reality the only way that he might be able to afford his mortgage is
19 with the additional vacation rental income.
20

21 Housing can be affordable in a few different ways. A sufficiently great career that carries a
22 mortgage, government becomes involved and partially funds affordable building with the homes
23 offered to low income buyers or individuals become creative, work more than one job or create
24 income in other ways. One of these ways is to live in one dwelling on their property and operate
25 a B&B in the other.
26

27 Looking at permitted B&Bs there are some that provide retirement income, others that are
28 putting kids through cottage and others that make a mortgage manageable. These are owners
29 that have taken matters into their own hands and created their own version of affordable
30 housing. Please consider removing this restriction on a first accessory dwelling or ohana for
31 B&B properties.
32

33 Housing for local residents has been an issue for more than 30 years. This option allows some
34 local residents to create their own version of affordable housing without relying on any
35 assistance. Thank you.
36

37 Mr. Robinson: Thank you. Any questions? Mahalo. Mr. Croly.
38

39 Mr. Tom Croly: Aloha Chair, aloha Commission. Tom Croly, and I'm speaking just on my own
40 behalf with regard to this issue. First I think that it would be important that we not refer to these
41 accessory dwellings as ohanas. It confuses the matter in the public's eye and also from a legal
42 standpoint they're accessory dwellings so we should make sure that that's the language that
43 we're consistently using throughout this.
44

45 I support everything that Ms. Clark just stated as far as leaving the option for an owner operated
46 bed and breakfast to be able to utilize this accessory dwelling as part of their bed and breakfast.
47 Our changes in life might dictate at one time that were gonna be living in the accessory dwelling

1 and at other times living in the main dwelling and giving a homeowner that opportunity is good.
2 Taking it away will not eliminate this use. It will just make some homeowners make this use
3 illegally, and that's the thing that I'm most concerned with that if someone wants to make this
4 use they follow the rules and they do it legally and they pay the taxes and we're all playing by
5 the same rules. But saying you can't do it but you can do it is going to unlevel the playing field
6 and then somebody will do it without a permit and that's not good situation.

7
8 On Oahu they passed a similar bill like this and it was not a total failure but it failed in many,
9 many ways. And one of the reasons why it failed over on Oahu I observed was that the
10 restrictions that came along with building the accessory dwelling were such that most folks
11 couldn't comply and I really appreciate this report because it shows some of the stumbling
12 blocks that are still in the way from making this successful and I would encourage the
13 Department to work with the other departments that brought up some of the issues that would
14 prevent someone from being able to successfully get a permit to build one of these prior to its
15 implementation because I wouldn't want the public to be jaded about this.

16
17 Also we need to be aware that what this bill is going to do is allow a lot of already existing
18 accessory dwellings that people have converted their homes and allow them to legalize them
19 and I think that's a good thing. I think that's a really good thing. But at the same time, when
20 that guy comes forward and says okay, I want to do this there has to be a reasonable chance
21 he's gonna get through. And some of the things that I saw in here like he's gonna be told he
22 has to put sprinklers into his house or he's gonna be told that his septic system is not going to
23 be acceptable and now the whole subdivision has to be sewer. Those are...they guy's gonna
24 feel like he was duped. You know I came forward, I opened up my door and said hey, I want to
25 legalize this and now you're telling me that there's things that I can't get through.

26
27 Ms. Takayama-Corden: Three minutes.

28
29 Mr. Croly: So I encourage you to explore the things that the departments, the other
30 departments said and see if there's ways that we can address those before this moves forward.
31 But I really think that it's a great idea and hopefully we'll get many of these built and used as
32 housing for our people. Thank you.

33
34 Mr. Robinson: Thank you. Any questions? Would anybody else like to testify? At this time,
35 Commission do we have any questions for the—I will now close public testimony. Commission
36 if we have any questions for the planner? Yes, Commissioner Carnicelli.

37
38 Mr. Carnicelli: Thank you Chair. So I just want clarification on your presentation. You talked
39 about a third I guess ohana accessory dwelling. So it's the main plus two?

40
41 Ms. McLean: Correct, and sorry—

42
43 Mr. Carnicelli: 'Cause you said third and I'm going okay, read this incorrectly, they're allowed
44 three. So okay. The other thing that I would like for you to address is in Mr. Croly's testimony
45 as far as addressing some of the objections from the other departments if you could please just
46 address that that would be great.

1
2 Ms. McLean: We would be happy to work with those departments as we moved through this. It
3 may require them amending their regulations or even their codes in order to accommodate
4 these uses. And getting their comments, we had circulated the bill to them quite some time ago
5 just conceptually and did not get the same kind of specific feedback that we got this last round.
6 So we're really glad to have this feedback. It's obviously important and we would certainly start
7 working with them to see how some of this could be relaxed so that it would be more achievable
8 for people to build these second ohanas, three units.

9
10 Mr. Carnicelli: Chair?

11
12 Mr. Robinson: Yes Commissioner go ahead.

13
14 Mr. Carnicelli: So in that, is there any...two questions is one, are any of those now more
15 specific things things that should be included in this piece of legislation? And my second
16 question would be if you could address potentially changing the B&B section to allow one of
17 those accessory dwelling to potentially be included in that for a habitable thing or maybe it's like
18 okay, you can live in one or not, but if you could address like the concern of the B&B thing and
19 then if we would change the legislation to address that.

20
21 Mr. Robinson: Commissioner can you be more specific on the first question you asked there.
22 The second was about the B&B and the first it was general. Do you have a specific?

23
24 Mr. Carnicelli: No, I mean I don't have anything specific, you know from one of the departments
25 but it's like if the departments are now becoming more specific about okay, whether it be you
26 know we've got to get approvals from you know whether sewer can handle this, water, things
27 like that. I mean is there something specific that you feel 'cause you're the one that drafted this
28 Michele and I'm really trusting you on this. Is there something in there that you feel should be
29 included in this prior to us transmitting it to the Council so we that we don't have to try and
30 wordsmith it at the Council level. That's the specific question I have. Thank you Chair.

31
32 Ms. McLean: In terms of...I'll answer the question about the agencies first. There are two ways
33 to answer that. One is that two of those departments did propose specific amendments and we
34 support including those amendments. The Fire Department proposed requiring fire review for
35 the third dwelling or the second ohana and the Department of Health, Wastewater Branch
36 proposed small amendment to the current language. So there are two proposed amendments
37 that have been put forward and we support those. Those however, won't address the kinds of
38 comments that Mr. Croly made. Those are things that we will need to continue to work with the
39 other Departments on and those don't necessarily belong in a Title 19 change...in this bill
40 because different titles of the code regulate the different departments so in terms of changes to
41 this bill there are a couple of, like I said, there are a couple of comments that agencies
42 recommended and we support those.

43
44 Relating to the bed and breakfast I was whispering to Dave when Cathy testified, that is
45 something that we struggled with because B&Bs and STRHs while they are similar in that they
46 provide transient accommodations they are very, very different in that there is still long term
47 occupancy of that property in some way. And so we did struggle with treating B&Bs and STRHs

1 differently in this bill to allow ohanas or maybe just one ohana to be used for B&B purposes
2 rather than the outright prohibition.

3
4 Again, similarly to what I talked about with sending ideas up to Council. We'd rather put that
5 idea before you and then you could recommend a change to that, Council could consider that
6 but you've already considered that concept. Whereas if you didn't put that before you and then
7 Council wanted to consider it they would ask, oh did the commission have to comment on this.
8 So your comments on that would be important, but yes they are different than STRHs in that
9 way and we wouldn't have a whole lot of concern with allowing some B&B use and maybe one
10 ohana. Thank you for the questions.

11
12 Mr. Robinson: Yeah, and Commissioners did this come before us and we did add comments
13 and I see some of these comments were taken into account with the cross-outs. Having said
14 that is after seeing the revision is there any other comments that we might have or any
15 questions that we might have on clarification?

16
17 Kahu Hill: I just wanted clarification on—

18
19 Mr. Robinson: Commissioner Hill.

20
21 Kahu Hill: Thank you. Thank you Chair. Mahalo. It might be common knowledge but what you
22 mentioned about no covered decks on the ohana and I had just lived in a place for 29 years
23 renting and that ...(inaudible)...that mango got really, really big, dropping plenty mangoes and
24 we're living in the tropics and sometimes people might put up something screened or something
25 just to protect themselves or their children or their animals, what is the definition of what you're
26 saying as far as no covered decks? How are you looking at that?

27
28 Ms. McLean: It's really...the only leeway that's given, same with the square footage of an
29 ohana talking about the covered interior area, right now the definition is quite encompassing and
30 so it talks about anything that's under roof, even walkways that are underneath an eave. So
31 that if you have your home and you have a little walkway from your carport up to your front door
32 and that walkway is under the eaves that arguably can be counted toward your living area. And
33 ohanas are already size restricted so we changed that definition to not include that portion, to
34 make it clear we're talking about just the interior living space. Similarly with a covered deck if
35 you have your ohana and roof eaves come out and you have your deck or just the eave, the
36 regular eave extends three feet out, that covered portion would be counted as part of your
37 interior living area. We want to say no, we'll include that as part of a covered and deck and then
38 what's not covered is not covered. But anything under roof is considered covered.

39
40 Mr. Robinson: Commissioners any other questions? Sure Commissioner Carnicelli?

41
42 Mr. Carnicelli: One last thing. I just want to put on the record in case it wants to be addressed
43 at County Council and that is some sort of possible grandfathering for people that are already
44 existing. You know, for that person that, your local family that enclosed their garage and it's an
45 ohana right now and then they're gonna like okay come forward, they would have to get an
46 after-the-fact permit for this ohana. You know, I mean is there some way with which we can
47 kinda grandfather that person in so, you know they don't feel like all right I'm illegal now, how do

1 I become legal, not legal, you know is there some sort of a grace period that we can give for
2 those folks to come forward and raise their hand and say, yeah I have an ohana that I want to
3 make legal? Anyways, I just want to put that on the table in case the conversation happens at
4 the Council level that, you know, is we have addressed that and it's something that we may
5 consider here at the planning commission as well.

6
7 Mr. Robinson: Commissioners? Michele I have a question again. So I notice on the parking,
8 will we deal with this here or on the next agenda item with the parking? It should be here and
9 deal with it now or it will affect next one?

10
11 Ms. McLean: They do overlap.

12
13 Mr. Robinson: They do overlap?

14
15 Ms. McLean: The Parking Ordinance says what the requirements are and what we're looking at
16 with this bill is previously an ohana was only allowed a single car carport. Not allowed a garage
17 and not allowed for two cars. And so what we're proposing in this bill is to allow a two-car
18 garage or a two-car carport or at a minimum still providing parking spaces. So even though
19 that's not a parking requirement, it's what ohanas are allowed to have. So it does tie into this
20 bill as well.

21
22 Mr. Robinson: Is, and please correct me if I'm wrong, but I thought it said that is they're able to
23 find street parking and I don't remember us...no, right? So street parking it has to be on
24 premise.

25
26 Ms. McLean: Off-street, on site.

27
28 Mr. Robinson: On site, yeah. Anything else Commissioners? I also want to make a comment
29 about the AUDs and this is just...I agree with your guys...(inaudible)...and it's tough with the
30 B&Bs, but I think there's a difference between a dwelling and a combination. I think it's...the
31 purpose of I think of what our Mayor did was trying to find housing you know, for the workforce
32 and we're trying to minimize the lot lines and all these sizes to try accommodate that not to try
33 and increase accommodations, but try to increase housing. And I think a lot of people get loss
34 in the benefit of that and of course it's a revenue stream but there has to be, you know it has to
35 be some regulation on revenue streams on what's best and what this bill is. This bill is a AUD
36 bill, if there's going to be another bill it could be another short-term bill or that's the area to
37 address it, but right here we're just trying to get people in houses and we're trying to get people
38 to stay long-term and there is a revenue stream of long-term rentals. You know this is not a
39 dead rental. This is not a non-money making thing. Its prospectors have been making money
40 off of renting you know, homes and apartments and rooms since the dawn of day. So I don't
41 think that just because you're not allowed to have a short-term rental means that you're not
42 allowed to support your kids or send them through college. I don't have a short-term rental and
43 I support my kids and send them to college. At this Corporation Counsel would like to clarify a
44 couple things in the ordinance?

45
46 Mr. Galazin: Thank you Chair. Deputy Director I just had a couple of comments for the
47 Commissioners to consider, but I want to get clarification from you first. The first would be I see

1 a couple of references to accessory dwelling units pursuant to Chapter 19.35B of this title and
2 I'm wondering if that was intentional because this bill doesn't establish a different chapter or if
3 that was originally intended to, that would be something to clarify.

4
5 And the second comment I would have I would recommend to the members is perhaps one of
6 the comments you might want to make is changing the title of the bill. Right now it's referencing
7 is only amending Chapter 19.35 or there's eight different sections and as the Deputy Director
8 pointed out by amending 19.35 it therefore triggers a series of amendments to other chapters so
9 it should be amending Title 19 would probably be a recommendation I would think should come
10 from this body. Thank you. Deputy Director if you could answer that first question?

11
12 Ms. McLean: Yeah, that's a typo on our part because we were doing this bill at the same time
13 as the Parking Code which is 19.36D. I think we just got "D" in our heads so yeah, it should just
14 be 19.35. Thanks for catching that. And we can make the correction to the title. I mean, the
15 Commission can make that motion, but we can just make that internally because the bill hasn't
16 been signed off on by Corp. Counsel. So once we go through commission review and make
17 any revisions that we feel are appropriate then we send it to Corp. Counsel and we can make
18 those corrections at that time.

19
20 Mr. Robinson: So Commissioners in front of us we have...we're looking for a few things, right
21 we can defer action, we can recommend approval with no revisions, we can recommend
22 approval with revisions, and we can recommend denial to the County Council. So is...we're not
23 voting on passing anything, we're voting on recommendations only. This is our second reading
24 of this and we have one real simple where we thought maybe a different name to it, you know
25 might be advantageous. Floor is open for any discussions or any motions? Commissioner
26 Carnicelli?

27
28 Mr. Carnicelli: Chair I make a motion to recommend this to Council with the following
29 amendments. To change the title to say, Chapter 19 rather than 19.35. To include the
30 Department of Health and the Department of Fire's recommendations and to also allow or I
31 guess delete or allow for one accessory dwelling to be included in the B&B ordinance. That's
32 my motion. Thank you.

33
34 Mr. Robinson: Do we have a second or do we need clarification on the motion?

35
36 Kahu Hill: Mahalo Chair. I do need clarification and Corporation Counsel had just mentioned
37 changing it to possibly Title 19, and Carnicelli I heard you say Chapter 19. So I just wanted to
38 know which?

39
40 Mr. Galazin: Chair?

41
42 Mr. Robinson: Corp. Counsel?

43
44 Mr. Galazin: Yeah thank you. Yes, and I believe the commission would probably be open to a
45 friendly amendment to clarify that he meant Title 19. One other point I would add is it might be
46 easier for the body if it has...if it wishes to pass something out, but wishes to discuss proposed
47 amendments accordingly that perhaps the main motion be made to recommend approval and

1 then a secondary motion be made to propose a certain amendment because that way right now
2 what you would have on the floor if this motion gets seconded is to recommend approval with
3 specific amendments which might not be amenable to every council member, commission
4 member.

5
6 Mr. Carnicelli: I withdraw my motion.

7
8 Mr. Robinson: I thought it was a good shot at it. But Commissioner Carnicelli would you like to,
9 after withdrawing your motion would you like to have a new one?

10
11 Mr. Carnicelli: Sure. Oh I guess if everybody is amenable I should have just not withdrawn it. I
12 make a motion to recommend transmittal as submitted by the Department.

13
14 Mr. Robinson: Chapter?

15
16 Mr. Carnicelli: As submitted. We can amend from there.

17
18 Mr. Robinson: Do I have a second?

19
20 Mr. Hudson: I'll second.

21
22 Mr. Robinson: Discussion? Any discussion?

23
24 Mr. Carnicelli: Chair if I could make an amendment to my motion?

25
26 Mr. Robinson: Yes, yes you may.

27
28 Mr. Carnicelli: I would like to amend my motion to include one accessory dwelling in the B&B
29 Ordinance and not say none.

30
31 Mr. Robinson: Do we have a second? Seeing that we do not the motion fails. Is there any
32 other motions. I know we wanted to talk about the Title. Commissioner Carnicelli?

33
34 Mr. Carnicelli: I would like to make an amendment to the main motion that says the revisions to
35 Title 19 instead of Chapter 19.35.

36
37 Mr. Hudson: Second.

38
39 Mr. Robinson: Second by Commissioner Hudson. Any discussion? Director?

40
41 Mr. Spence: Call for the question on the amendment to change it to Title 19 instead of
42 Chapter 19.35.

43
44 Mr. Robinson: All those in favor? With my vote that's five and it passes.

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

47

1 **VOTED: To Amend Wording to State, Revisions to Title 19 Instead of**
2 **Chapter 19.35.**
3 **(Assenting – L. Carnicelli, L. Hudson, A. Hill, C. Tackett,**
4 **K. Robinson)**
5 **(Excused – P.D. La Costa, T. Gomes, S. Castro)**

6
7 Mr. Carnicelli: Chair?

8
9 Mr. Robinson: Commissioner Carnicelli?

10
11 Mr. Carnicelli: I'd like to make another amendment to the main motion.

12
13 Mr. Robinson: Please do.

14
15 Mr. Carnicelli: I would like to include the Fire Department and the Department of Health's
16 recommendation as far as changes to the bill.

17
18 Mr. Robinson: Do I have a second?

19
20 Mr. Hudson: I'll second.

21
22 Mr. Robinson: Second by Commissioner Hudson. Any discussion? Commissioner Carnicelli is
23 going with is what they've already added in the paper of what the Planning Department wants to
24 have in. It's part of it, but thank you for making it clarified in that so that way it will be easier to
25 be passed on.

26
27 Mr. Spence: Okay, the motion to amend the main motion is to include the Department of Health
28 and Fire Department recommendations as a part of the bill.

29
30 Mr. Robinson: All those in favor?

31
32 Mr. Spence: That's five ayes.

33
34 **It was moved by Mr. Carnicelli, seconded by Mr. Hudson, then**

35
36 **VOTED: To Include the Fire Department's and Department of Health's**
37 **Recommendations as Part of the Bill.**
38 **(Assenting – L. Carnicelli, L. Hudson, A. Hill, C. Tackett,**
39 **K. Robinson)**
40 **(Excused – P.D. La Costa, T. Gomes, S. Castro)**

41
42 Mr. Robinson: Thank you. Are we back to—

43
44 Mr. Galazin: Back to the main motion.

45
46 Mr. Spence: Unless there are other amendments.

47

1 Mr. Carnicelli: I don't have any others.

2

3 Mr. Robinson: We're now going to vote on the motion, the main motion. Director?

4

5 Mr. Spence: The main motion is to recommend approval to the County Council of the passage
6 of this bill as amended.

7

8 Mr. Robinson: All those in favor?

9

10 Mr. Spence: That's five ayes. Motion carried.

11

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

13

14 **VOTED: To Recommend Approval of the Proposed Amendments to Title 19 of**
15 **the MCC relating to Accessory Dwellings to the County Council as**
16 **Recommended by the Department, as Amended.**
17 **(Assenting – L. Carnicelli, L. Hudson, A. Hill, C. Tackett,**
18 **K. Robinson)**
19 **(Excused – P.D. La Costa, T. Gomes, S. Castro)**

20

21 Mr. Robinson: Thank you. Director, next item?

22

23 Mr. Spence: Okay, Commissioners the next item on your agenda is another bill for an
24 ordinance proposing changes to the Off-Street Parking and Loading Ordinance and again, we
25 have Deputy Director McLean and David Raatz.

26

27 **2. MR. WILLIAM SPENCE, Planning Director transmitting proposed**
28 **amendments to Chapter 19.36A of the Maui County Code relating to the Off-**
29 **Street Parking and Loading Ordinance (M. McLean and D. Raatz)**

30

31 Ms. Michele Chouteau McLean: Hello again, Michele McLean, Deputy Planning Director. Again
32 this bill was brought to you folks last month to do an overview of the Department initiated effort
33 to really overhaul Chapter 19.36A which is our Parking Code. Over many years of
34 administering these requirements the Department has found them to be confusing, inflexible,
35 too lenient in some circumstances, and too strict in others, and in need of replacing.

36

37 When we brought this to the Commission we heard comments from the Commission and from
38 the public. Some of the highlights are bulleted out in the memorandum in front of you. We did
39 make minor revisions to the bill to address most but not all of those comments. And so the
40 reviewed bill was included in your packet. Like the other bill the key changes to the bill take up
41 the first 20 pages and then the subsequent pages of the bill are other sections of Title 19 that
42 needs to be amended.

43

44 We did send the bill out to a variety of State and County agencies and there really weren't any
45 concerns or any proposed recommendations. As you can imagine, people had various
46 comments on parking and loading and abuses thereof. But there were none that wanted actual
47 revisions or found the bill to be problematic.

1
2 As with the other bill we did do outreach on this. We did have our own public meeting. We had
3 a meeting that was organized for the Chamber of Commerce. We also met with the Alliance of
4 Community Associations. And we also did send this out to various architects, engineers,
5 planning consultants, construction industry representatives and other interested parties. And so
6 with that we leave it to your questions and suggestions. Thank you Chair.

7
8 Mr. Robinson: At this time we'll take public testimony. Anybody at this time would like to
9 testify?

10
11 **a) Public Hearing**
12

13 Ms. Francine Aarona: Aloha again Mr. Chairman and Commission Members. My name is
14 Francine Aarona. You all know me, Protect Paia. Off-street parking I sympathize with the
15 Planning Department to try and move forward something to make any kind of sense of this bill.
16 As you know I live in Paia and off-street parking well, remains to be seen. It has a lot of
17 question marks as far as understanding the language that is in the chapter regarding the off-
18 street parking. I think that we are trying to accommodate who? It seems that the issues come
19 up just to accommodate the moneymakers. I'm sorry that I don't know enough of the
20 information that is in the chapter where I had a chance to read it. But there are many, many of
21 our people, our families, our daily families that do not know about issues, about off-street
22 parking or what it consists of. But Paia is small. We just have a small parking lot. We have so
23 many parking for businesses. Then we have people that abuse the parking situation and they
24 try to sneak it in with tandem and everything. So it's a confused issue. I think enforcement
25 needs to play a good part in this before we move forward in this off-street parking. But anyway
26 mahalo for listening.

27
28 Mr. Robinson: Mahalo, any questions? Thank you. Please state your name. You have three
29 minutes.

30
31 Mr. Tom Croly: This is Tom Croly again speaking on my own behalf and some observations
32 that I've made about the Parking Code and specifically how it applies to bed and breakfast
33 homes. I've not seen a single bed and breakfast, permitted bed and breakfast home that is
34 utilizing any street parking 'cause that's a condition of their permit. They may not utilize street
35 parking and I've never seen, never seen anyone ever abuse that. That's the first statement.

36
37 The second is I've seen many bed and breakfast permits have to have more parking than is
38 actually required for the bed and breakfast. And I just came here from an inspection on exactly
39 one of those and I'll explain why. There's comment made here about the statements that were
40 made in testimony the last time that said to confirm that the bed and breakfast parking is in
41 addition to the parking that's required for the house and no, it should be the exact opposite in
42 place of. And here's the inspection that I just returned from, a four-bedroom home where all of
43 the bedrooms were being used for bed and breakfast use. Has a two-bedroom unit, a one-
44 bedroom unit and a one-bedroom unit. So there would be three guests for this bed and
45 breakfast. But the call was that they would need five parking spaces, two for the home that no
46 one lives in and then one for...actually six parking spaces and then one for each of those
47 bedrooms.

1
2 So here's the problem. You present to the public these six parking spaces as part of the
3 permitting process and they look at this and they say, oh my God there's gonna be a whole lot
4 of people on that property. But there's not. There's only going to be three parties because
5 there's only three rental units. But because we've made the parking so excessive by saying you
6 need the parking for if someone were going to live here and you need the parking for the bed
7 and breakfast use and you need double the parking for a unit because there's two bedrooms in
8 that unit as opposed to one bedroom. We really have made a mess of it, we have.

9
10 So I just want to be very, very clear what's stated here is the exact opposite of what I testified to
11 the last time. The parking requirements for bed and breakfast or short-term rental should be in
12 place of and not in addition to the regular parking requirements. Sometimes they might be
13 more, sometimes they might be less. You can take the greater of them, but they should never
14 be a combination of both.

15
16 The other thing about our parking requirements that we should really be practical about is they
17 should meet the need that's in place. And we're in the last bill we're talking about expanding
18 ohanas to as much as 1,000 square feet and including some covered deck areas and so forth
19 which allows us to make them bigger. But then we're saying that there's a parking requirement
20 of only one parking space. Now again, I live in Maui Meadows. There are 400 ohanas. A few
21 of them are used for bed and breakfast but most are used for people's homes. Most of them, all
22 of them have two cars at least.

23
24 Mr. Robinson: Please conclude your testimony.

25
26 Mr. Croly: That concludes my testimony that most of these accessory dwellings will need more
27 than one parking stall.

28
29 Mr. Robinson: Thank you. Question, Commissioner Carnicelli?

30
31 Mr. Carnicelli: Thank you Chair. So Tom I'm just trying to go through my head here. I got a
32 B&B and you're saying, okay if it wasn't a B&B I'd need two cars...I need two stalls. Now it's a
33 four-bedroom house but husband and wife both have a car and then we also have three
34 additional rooms. So four stalls is actually not going to work.

35
36 Mr. Croly: Okay, I want explain. If the four-bedroom house is the only rental the husband and
37 wife live in a different dwelling then there's another parking requirement for that dwelling. In this
38 particular case I was referring to, the parking requirement was 10 parking spaces. Okay, five for
39 the owners because of the two units and five more for the bed and breakfast use even though
40 the bed and breakfast is only three units.

41
42 Mr. Carnicelli: Okay, I follow you then. Okay, thank you.

43
44 Mr. Robinson: Thank you. Would anybody else like to testify at this time? Aloha Ms. Clark.
45 Please state your name and you have three minutes.

46
47 Ms. Catherine Clark: Aloha, my name is Catherine Clark. I'm just following along with what

1 Tom said. And I can understand the desire to get the vehicles off the street around some of the
2 monster homes. There's definitely areas where that happens and I can see that that's a
3 concern. But for the B&Bs the new rules were applied, five-bedroom B&B in a 5,000 square
4 foot home would go from a requirement of 7 to 10 spaces. You've got five for the B&B rooms
5 and five for the owner, a little excessive. If it were a slightly larger home say a 6,000 square
6 foot home and it has an accessory dwelling it would go from a requirement of 7 spaces to 12
7 spaces. So again that would give the owner 7 parking spaces for his use which really came
8 about as a result of saying you have the B&B requirements plus the requirement required under
9 the ordinance when you built the house. So I think that does have to be looked at.

10
11 But my other question is does this apply to homes built after a certain date and what would
12 trigger it? If somebody comes in to do a remodel or a short-term rental permit will that trigger
13 these requirements and I think that should called out in the ordinance.

14
15 The other question following up on that would be permit renewal for a B&B or an STR. Would
16 that trigger this and it would be nice to see it spelled out in the ordinance as well. Thank you.

17
18 Mr. Robinson: Thank you. Any questions? Anybody would like to testify? Please state your
19 name and you have three minutes.

20
21 Mr. Peter Niess: Hello, my name is Peter Niess, Principal Architect, Maui Architectural Group. I
22 also have a degree in Urban Planning. I wanted to say one thing. First about the ohanas, I'm
23 not sure if we're just talking about the parking now or the change to the 19.35A accessory
24 dwelling. I'm in favor of that. The additional square footage, 100 square feet plus two
25 accessory dwellings on lots over 7,500 square feet talked about this in the AIA. This is an
26 actual really positive step towards providing affordable rentals and affordable units for people.
27 This is not an easy task. I've worked on multiple 201, 201H affordable housing project like in
28 Kahoma. Those kind of work, they'll be affordable for five years or ten years but the proposed
29 revisions that the Planning Department is making is positive for the local community. Certain of
30 it.

31
32 And in terms of the parking, I think it's mostly a positive thing. Making a whole bunch of
33 exemptions for bed and breakfasts is good for the people that make a living off of that. But in
34 terms of the community as a whole, I don't know how I feel about having a lot of people parking
35 on the street instead. And as a designer it is hard to fit the parking onto a lot of the lots, but
36 overall in support of both of the proposed amendments.

37
38 Mr. Robinson: Thank you Peter. Any questions? Anyone else would like to testify at this time?
39 Seeing none, public testimony is closed. Commissioners, do we have questions for the
40 Department? Commissioner Kahu Hill.

41
42 Kahu Hill: Mahalo Chair. I just don't have my questions that I asked you last time in regarding
43 to the nursing homes and places where they might have to have hospice or someone come in
44 for elders or support and I wanted to know if you got any of those answers or if the community
45 was involved in that.

1 Ms. McLean: I want to confirm but I believe we added, yes we added assisted living facility to
2 the uses.

3
4 Mr. Robinson: I was going to ask real quick, Commissioner Carnicelli unless you wanted to
5 jump in is if you could kind of go real quickly on the changes that you made with us instead of us
6 kinda do it in a quick nutshell. I don't know if you have that list and kind of if you could go
7 through that list that we gave you last time. Is that possible Michele?

8
9 Ms. McLean: Sure.

10
11 Mr. Robinson: Thank you.

12
13 Ms. McLean: We did not...so just looking at the memo, the requirements for B&Bs and STRHs
14 we didn't change from the last time we were in front of you. There was also discussion last time
15 whether to base the parking requirements for homes based on the square footage or on the
16 number bedrooms and internally we did go back and forth on that a bit but we ended up keeping
17 it at square footage. Let me see what we did with apartments. We did add nursing homes,
18 assisted living facilities, warehouses with related sales and business offices and morgues to the
19 specific list of uses so that we didn't have to come up with square peg, round hole kind of
20 situation for that.

21
22 One of the questions was on apartments and duplexes, I'm looking for that. It looks like we
23 didn't make a change to that either. We are putting apartments and duplexes in the same
24 categories as homes. Under the current code, apartments and duplexes have a lower
25 requirement than single family homes but we are proposing to treat them the same way based
26 on square footage for their parking requirement.

27
28 We did tweak the landscaping requirements a little bit to account for parking garages. There
29 were comments about landscaping at hotels and parking garages. So we did do some minor
30 tweaks based on that. There was a comment about uses that may not be listed even though
31 we've tried to come up with every use we could think of there are still going to be uses that
32 aren't listed and we did make a statement in there that that would be determined by the Director
33 based on industry standards as well as on related uses.

34
35 Mr. Robinson: Michele, on the apartment and townhouse is...you said it went to residential, but
36 we're still allowing front and back parking is that correct as a using two stalls, is that called
37 tandem parking.

38
39 Ms. McLean: Tandem parking?

40
41 Mr. Robinson: We didn't change that, right?

42
43 Ms. McLean: I do not believe we changed that.

44
45 Mr. Robinson: It's still in there. Okay.

46

1 Ms. McLean: David, can you help me out with that where we allow tandem parking. Oh, I'm
2 sorry it's right here in the beginning. On Page 2, under that first, in that first block under
3 housing, for any type of dwelling unit the parking spaces may be in tandem. So yes, we carried
4 that over.

5
6 Mr. Robinson: Thank you. Is that the end of the list or is there—

7
8 Ms. McLean: There was a comment when we were talking about parking reductions or waivers.
9 The existing code now says that if you own your property, your business and you don't have
10 room on your lot for parking you can do off-site parking, there are various options now. And one
11 of those options now does take into account if there is a public parking lot within a certain
12 distance. That's in the current code and there was discussion last time where some
13 commissioners said that shouldn't be the case. If there's a public parking lot that serves its own
14 purpose that shouldn't be a justification for a waiver or reduction. And we did consider that but
15 because it's in the current code we're proposing to leave it as it is. So I think that was the end
16 of the comments that we considered after the last meeting.

17
18 Mr. Robinson: Commissioner Carnicelli?

19
20 Mr. Carnicelli: I don't see that you, and maybe I missed it, photovoltaic trees as a, you know,
21 like if you had a landscaping requirement that we talked about potentially having photovoltaic
22 trees as meeting the requirement and I don't think, I don't see that it was added in there or not.

23
24 Ms. McLean: Yeah, we did not add photovoltaic trees as an option in the landscaping
25 requirement. We did not.

26
27 Mr. Carnicelli: Okay.

28
29 Ms. McLean: We're trying to...a separate initiative that doesn't involve Title 19 working with the
30 Arborist Committee with parking lot trees, street trees and parks trees trying to define that the
31 Planning Department works on parking lot trees, the Public Works Department handles street
32 trees and the Parks Department handles trees in parks and to be consistent among the three
33 departments and to get the support of the arborist committee we said that the parking or the
34 landscaping, the trees in those areas would be consistent with the tree types recommended by
35 the Maui County Planting Plan. And the Maui County Planting Plan was adopted just a couple
36 of years ago and that all three of those departments with the trees that they oversee or to follow
37 the planting plan's guidelines for tree types, planting methods and irrigation and maintenance.

38
39 Mr. Robinson: Commissioners any questions or clarification? Commissioner Carnicelli?

40
41 Mr. Carnicelli: So I...thank you Chair. Michele I want to go back to the square footage of
42 housing units and the spaces based on...and again, trusting you guys, you guys are the ones
43 that looked at this, mulled it over, talked about it. We did go you know instead of bedrooms to
44 square footage. Is there a reason why we just went in 1,000 square foot increments? 'Cause I
45 was thinking about it, it's like you know why would it not say started okay two under, you know if
46 I'm starting to thinking about affordable housing. You know a 2,800 square foot house and then

1 go in 800 square foot increments. I mean, is there a reason why we went to just 3,000 and then
2 4,000, 5,000, 6,000, 7,000?

3
4 Ms. McLean: We did look at other parking codes from other municipalities. And we know that
5 we will be getting applications for homes that are 4,999 square feet. So whatever number we
6 chose people would be designing homes just one foot under that cut off. So in terms of
7 administering it these are just nice round numbers giving some bit of leniency recognizing that
8 this is a notable increase over what's required today. It's only two parking spaces today for a
9 single family home regardless of its size. So to do these increments if you wanted to adjust
10 them then we would suggest adjusting them to be higher increments rather than by a 1,000
11 square feet.

12
13 Mr. Robinson: Okay.

14
15 Ms. McLean: But it's also having a general sense of the building permits that we review and the
16 size of the homes that we typically see and where the problems generally arise. So it was...it
17 was researched and it was also anecdotal.

18
19 Mr. Carnicelli: One other question Chair?

20
21 Mr. Robinson: Commissioner Carnicelli.

22
23 Mr. Carnicelli: So I want to address the B&Bs and in addition to rather than in place of because
24 if I'm recalling B&Bs by a condition of their permit are not allowed...the owner or the visitors are
25 not allowed to park on the street. So if they don't have enough parking they gotta figure it out
26 not like okay, they can just...I mean, you know that's a violation if they park on the street at all.
27 So in trying to do the math that the two testifiers brought up what are your thoughts of amending
28 you know, the bed and breakfast parking to accommodate what's kinda the real world.

29
30 Ms. McLean: Right. If you have a five-bedroom home and one bedroom is occupied by the
31 owner and they rent out four rooms then right now the requirement is four...is one parking
32 space for each bedroom used by the B&B but it doesn't account for the owner's parking needs.
33 So that's what we're trying to address. We're not trying to put any additional burdens. We want
34 each room that has a guest in it where you're gonna assume there's one car for each plus the
35 two required for the owner. That's what we're after. Or if it's a one of these huge houses and
36 there are a number of other people that's what we're trying to reconcile. We're not trying to put
37 any additional burdens on B&Bs. We wanna make sure that it's clear that the requirements are
38 that each guestroom has a parking space and the requirements for the residential occupancy of
39 the structure is also accommodated. And we can look at the wording here and see if we can
40 come up with better wording because what he was describing where you're gonna have the
41 10—space requirement that seems crazy.

42
43 Mr. Robinson: Michele, what I see is that the bed and breakfast is being treated in the short-
44 term. Short-term rental you can only have one occupant even though they have the four rooms,
45 but a bed and breakfast you could have four different occupants I understand that. But on the
46 short-term rental you could have five bedrooms with three stalls while if you have five bedrooms
47 in a bed and breakfast you have to have five stalls plus the two which is seven and multiplying

1 that way. Is there a way where the bed and breakfast could accommodate it if it's similar parties
2 to where they would be able to be allowed to be living more reasonable I guess he was saying?
3 I mean, I understand if here's renting out four bedrooms but if they rent out to two parties four
4 bedrooms isn't it being treated more like two short-term rental. I mean, I understand how we
5 want to be one for all it's easier, but I do also want to hear because you know, some of us favor
6 B&Bs over short-term so we don't want to dampen and make it harder for B&Bs. You know, we
7 think that's the best type of combinations. So is that something that you think you guys could
8 look at that way too. I think Mr. Croly saying if you don't have four different renters, you have
9 two or one taking the whole four rooms maybe we can look at what we do with the short-term
10 rentals.

11
12 Ms. McLean: Right. And the difficult part...and I agree with that concept, the difficult part is that
13 B&Bs are allowed to rent to different parties. So even if someone's intention going in is to rent
14 these three rooms to one party and these three rooms to another party, a year after they get
15 their permit things could change for them and they would have the ability to rent to six separate
16 parties.

17
18 Mr. Robinson: Well I mean, unless their permits says they can rent to the maximum of three
19 parties. I mean we could condition their permit that way, and I mean, that's what I'm saying and
20 it's going to be up to the B&B operator he can choose. He says, you know what it's either I'm
21 going to be a B&B operator or I'm not gonna have enough stalls. He can say you know what
22 the most parties I'm every gonna rent out is two or three and then therefore that parking space
23 would be conditioned on his permit and if he's parking off the street then that would be a NOV. I
24 mean, I understand what you're saying, but maybe that's something that you guys could before
25 it goes to the Council you guys can you know maybe work with them and see if there's some
26 type of middle ground because they would be conditioned on their own permit.

27
28 Ms. McLean: Right.

29
30 Mr. Robinson: Which would follow your rules.

31
32 Ms. McLean: And it's the same for B&Bs as well as STRHs. You could say one party and it
33 could be the McLean family and the McLean family could be my brother or my cousin, my
34 parents, all of us have cars. So it's one party but we could have a number of cars even—

35
36 Mr. Robinson: With a short-term rental you could do the same thing though.

37
38 Ms. McLean: Right.

39
40 Mr. Robinson: --that's just the...okay.

41
42 Ms. McLean: Right, right.

43
44 Mr. Robinson: I apologize, but at this time we're gonna take a quick ten-minute recess break.
45 Thank you.

46
47 A recess was called at 2:40 p.m., and the meeting was reconvened at 2:52 p.m.

1
2 Mr. Robinson: So have all questions been answered Commission for Michele or do we have
3 more? Just to let you know Michele and I were talking during the break about if before it goes to
4 the Council if they could at that discrepancy and there's different ways with permit holders and
5 B&B and short-term rentals and see if there's...they can find some type of way to put it in the
6 permit. You know, it's always hard, enforcement is always our hardest thing, but unless we
7 have some type of motion to disagree with it at this point I'd like to see if we can move forward
8 Commission. Commissioner Carnicelli?

9
10 Mr. Carnicelli: Chair, I mean we obviously gonna have to make a motion and if we want to
11 amend anything, but as per what you just said to me the B&B one, I would like it just to read as
12 per what the permit requirement says. I mean, that way it takes out, because what you were
13 bringing up where okay somebody might want to only rent out two of the rooms that they have.
14 They have five rooms and they only want to rent out two, you know, so that's a condition of the
15 permit. Parking is a condition of the permit anyways so why not just say that in the Code. Say
16 it's as per what the permit says.

17
18 Mr. Robinson: I think we fall into the gray area of if that's what the permits...it will help the
19 people that are grandfathered in. How about the people, are we spend enforcement on
20 checking parties on tax ...(inaudible)... and the parking. You know if you're gonna have a
21 house and we go to inspect it the first time are we gonna look at how many spaces they have.
22 And like I said, I think it's valid, I'm with you. You know, I think if it's going to be same the party I
23 think they should be treated a certain way. But I think it's a different, bigger discussion with the
24 short-term and B&B owners themselves and the Planning Department about you know try to get
25 something to present to the Council otherwise they're going to be on two different sides anyway.
26 But I do think trying to get something closer to how we treat short-term term rentals where five
27 rooms is three cars because it's the same party but that is a different criteria. So that's gonna
28 be on the Department. But it be nice if there was a easy way to do it. Corp. Counsel?

29
30 Mr. Galazin: Thank you Chair. And to speak to your question Commissioner. It's probably
31 more helpful for somebody who is looking to submit an application to know what requirements
32 are going to be in advance. Having the conditions that are typically put on is very helpful.
33 Maybe say you know set some kind of minimum floor and...or as otherwise established by the
34 permit conditions. But there has to be...well, doesn't have to be, I think it would benefit
35 everybody both you folks as well as applicants to have some inkling of what they would be
36 required before they even decide whether to seek a permit in the first place.

37
38 Ms. McLean: Chair if I may?

39
40 Mr. Robinson: Michele please.

41
42 Ms. McLean: Thank you. One thing I wanted to make clear is that what's proposed in the bill in
43 front of you today is the same requirement for B&Bs that exists currently so we're not proposing
44 to change that but I understand we may still want to make improvements to it.

45
46 The other thing is that in the chapter, the two chapters in Title 19 that regulate B&Bs and
47 STRHs don't have parking requirements. They refer to this. So it's not a permit condition, it's

1 not those chapters. This is where you set up what the parking requirement should be. So it's a
2 blank slate you can make it whatever you think it should be. And if you don't have a specific
3 idea then if you do want the bill to move forward we can send it with the comment that we want
4 to try and reconcile how B&Bs are treated in terms of multiple rooms being used by single
5 parties and that's something that we can continue to work on with staff and make sure that that
6 is conveyed to the Council that you know, we do want to encourage B&Bs and allow them
7 flexibility in that regard and we can look at a related change that might be needed in the B&B
8 chapter to allow for that.

9
10 Mr. Robinson: Commissioners you guys good with that? Any comments for that? That's good.
11 Okay, thank you. Do we have any other questions for Michele at this time? One more
12 Commissioner Carnicelli?

13
14 Mr. Carnicelli: One more. I'm still gonna go to the reduction or deferral based on public parking
15 and you know, whether we change that or not I want that also noted 'cause...and definitely
16 beach access is not included in that. 'Cause beach access is public parking and the last thing I
17 want to do is have somebody say, oh okay, I get a deferment on my parking because of beach
18 access. And especially like you know like Aunty Mopsy said, in places like Paia it's just not
19 feasible. You know we got limited space anyway. So I'm just again that particular part of this
20 ordinance.

21
22 Mr. Robinson: Commissioners, any? So I have a comment on that, is I understand where
23 Commissioner Carnicelli is coming from. I'm also looking at as we start to urbanize and we're
24 starting to have people putting parking spaces, how do we...what's the word...how do we
25 designate certain type of stalls to be exempt from this like what Mr. Carnicelli is saying? You
26 know to say, you know you can use public parking's one thing but it cannot be used for beach
27 access or any other designated parking besides public parking. You know something in that
28 nature.

29
30 Ms. McLean: Yes, that's possible.

31
32 Mr. Robinson: Yeah, that's a good point. Anything else? Do you have anything else Michele?

33
34 Ms. McLean: No.

35
36 Mr. Robinson: You're good?

37
38 Ms. McLean: No, thank you.

39
40 Mr. Robinson: Okay, do we have a motion? So what we did the prior time is we approved the
41 overall and then we went with amendments and even though amendments, we actually asked
42 for not for amendments but we asked for discussion on those two things.

43
44 Mr. Hudson: Chair I understand all of that.

45
46 Mr. Robinson: Okay, I'm sorry.

47

1 Mr. Hudson: Okay, but there was an awful lot of discussion on very limited amount of time. I
2 will be leaving at 4 o'clock, so I will make the motion that we approve this and push this through
3 to the County Council as it is.

4
5 Mr. Robinson: Okay, as it is. We have a second?

6
7 Kahu Hill: I second.

8
9 Mr. Robinson: Discussion? Commissioner Carnicelli?

10
11 Mr. Carnicelli: Just wanted to be noted the B&B thing obviously is gonna be part of how it's
12 transmitted, right? And then also the parking deferral is also going to be part of that discussion
13 as well noted?
14

15 Ms. McLean: Yes, we will just...that will be written in the transmittal letter to the Council that the
16 Maui Planning Commission had these two main concerns that they wanted discussed.
17

18 Mr. Carnicelli: Thank you. Thank you Chair.

19
20 Mr. Robinson: Thank you.

21
22 Mr. Spence: Okay, Commissioners the motion is to recommend approval to the County Council
23 the way that the draft bill is drafted.
24

25 Mr. Robinson: All those in favor.

26
27 Mr. Spence: That's five ayes.

28
29 Mr. Robinson: Thank you. Thank you Michele.

30
31 Mr. Spence: Thank you Commissioners.
32

33 **It was moved by Mr. Hudson, seconded by Kahu Hill, then**

34
35 **VOTED: To Recommend Approval of the Proposed Amendments to Chapter**
36 **19.36A of the MCC relating to the Off-Street Parking and Loading**
37 **Ordinance to the County Council as Recommended by the**
38 **Department.**

39 **(Assenting – L. Hudson, A. Hill, L. Carnicelli, C. Tackett,**
40 **K. Robinson)**

41 **(Excused – P.D. La Costa, T. Gomes, S. Castro)**
42

43 Mr. Robinson: Commissioners at this time I'm gonna request because of limited time and
44 because of Commissioner Hudson's announcement that we sort go quickly out of order and
45 take care of some housekeeping things that have been ...(inaudible)...there that we can go
46 without having to take testimony. Any objections? Okay, thank you.
47

1 Director, we would like to go over with the Communications, F-1 regarding the Hana Advisory
2 Committee.

3
4 Mr. Spence: So Commissioners, Item F-1 is Mr. Gale Notestone, Chair of the Hana Advisory
5 Committee to the Planning Commission regarding their recommendations for Mr. Robert Horen
6 and Wendy Horen for a Land Use Commission Special Permit to operate Hale Nanea, a two-
7 bedroom short-term rental home within Hana, and our Staff Planner is Mr. Ryan Quigless.

8
9 **F. COMMUNICATIONS**

10
11 **1. MR. GALE NOTESTONE, Chair of the Hana Advisory Committee to the**
12 **Maui Planning Commission transmitting: the Committee's**
13 **recommendations on the request from ROBERT HOREN and WENDY**
14 **HOREN for a State Land Use Commission Special Permit in order to**
15 **operate Hale Nanea, a 2-bedroom Short-Term Rental Home located in the**
16 **State Agricultural District at 5440 Hana Highway, TMK: 1-4-003: 051, Hana,**
17 **Island of Maui. (SUP2 2017/0016) (R. Quigless)**

18
19 **The Commission may take action on this request.**

20
21 Mr. Robinson: Aloha Ryan.

22
23 Mr. Ryan Quigless: Aloha. Good afternoon everyone, Commissioner, Director, Chair. So to go
24 over the basics of why we're here today the public meeting was held with the Hana Advisory
25 Committee. Today we're having the final approval on the short-term rental Hale Nanea. This is
26 for Robert and Wendy Horen. They will be requesting a State Special Permit to operate Hale
27 Nanea, two-bedroom short-term rental home in the State Agricultural District on approximately
28 2.64 acres located along Hana Highway at 5440 Hana Highway, Hana, Maui. Maui Tax Map
29 Key is (2) 1-4-003: 051.

30
31 Mr. Robinson: Thank you. Commission, do we have a motion?

32
33 Mr. Carnicelli: I move to accept the Hana Advisory Committee's recommendation.

34
35 Kahu Hill: I second.

36
37 Mr. Robinson: Director?

38
39 Mr. Spence: The motion is to approve as recommended by the Hana Advisory Committee.

40
41 Mr. Robinson: All those in favor?

42
43 Mr. Spence: That's five ayes. Motion's carried.

44
45 Mr. Robinson: Thank you.

46
47 Mr. Quigless: Mahalo for your time.

1
2 **It was moved by Mr. Carnicelli, seconded by Kahu Hill, then**

3
4 **VOTED: To Approve the State Land Use Commission Special Permit as**
5 **Recommended by the Hana Advisory Committee and Department.**
6 **(Assenting – L. Carnicelli, A. Hill, L. Hudson, C. Tackett,**
7 **K. Robinson)**
8 **(Excused – P.D. La Costa, T. Gomes, S. Castro)**
9

10 Mr. Robinson: Director, I'd like to move over to G-1, for Adoption of Written and Decision and
11 Order please.
12

13 **G. ADOPTION OF WRITTEN DECISION AND ORDER**
14

- 15 1. **Having voted at its June 13, 2017 meeting to deny the request by**
16 **MR. GAL COHEN for a Short-Term Rental Home Permit for the Halama**
17 **Beach Villa, a 3-bedroom short-term rental home located in the R-3**
18 **Residential District at 1543 Halama Street, TMK: 3-9-010: 031, Kihei, Island**
19 **of Maui. (STKM T2017/0002) (T. Furukawa)**
20

21 **The subject application was brought to the Maui Planning Commission for**
22 **review because there are at least two (2) permitted short-term rental home**
23 **operations located within 500 ft. of the subject property.**
24

25 **The Commission may take action to adopt, adopt with modifications, or**
26 **take some other action regarding the proposed Findings of Fact,**
27 **Conclusions of Law, and Decision and Order.**
28

29 Mr. Spence: This comes from a denial of a request by Mr. Gal Cohen for a Short-Term Rental
30 Home Permit on Halama Beach Villa on Halama Beach or excuse me, Halama Street. This is
31 just the adoption of written decision and order and our Staff Planner if you have questions is
32 Tara Furukawa.
33

34 Ms. Tara Furukawa: Hi, does anyone have any questions on the Decision and Order?
35

36 Mr. Robinson: Commission? Yes, Commissioner Carnicelli?
37

38 Mr. Carnicelli: And this is actually for Corp. Counsel. I'm looking at the signators and how
39 are...is that who voted in affirmative?
40

41 Mr. Galazin: Chair?
42

43 Mr. Robinson: Yes, Corp. Counsel?
44

45 Mr. Galazin: Thank you. What...if you look on the page after the Maui Planning Commission
46 signature page there is an affirmation by the Director that who was present and how they voted.

1 So the signature page will just be replaced with the current commissioners, you know, the
2 current Acting Chair. Yeah. So that would be the change.

3
4 Mr. Carnicelli: Move to adopt.

5
6 Mr. Hudson: Second.

7
8 Mr. Robinson: Discussion? Director?

9
10 Mr. Spence: Commissioners the motion is to adopt the decision and order regarding the denial
11 of this permit.

12
13 Mr. Robinson: All those in favor?

14
15 Mr. Spence: That's five ayes.

16
17 Mr. Robinson: Thank you.

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

20
21 **VOTED: To Adopt the Decision and Order.**
22 **(Assenting – L. Carnicelli, L. Hudson, A. Hill, C. Tackett,**
23 **K. Robinson)**
24 **(Excused – P.D. La Costa, T. Gomes, S. Castro)**

25
26 Mr. Robinson: Director, I'd like to make sure we get this done too is we have a SMA for the
27 Maui Kai Resort, Special Management Area Emergency Permit and see if the Commission had
28 any questions about this for today?

29
30 **H. DIRECTOR'S REPORT**

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

35
36 **MR. MICHAEL R. BURR, General Manager of the MAUI KAI RESORT**
37 **obtaining a Special Management Area Emergency Permit by letter dated**
38 **March 29, 2018 to implement temporary measures to address significant**
39 **subsidence on the makai lanai for property located at 106 Kaanapali**
40 **Shores Place, TMK: (2) 4-4-001: 100, Kaanapali, Lahaina, Island of Maui.**
41 **(SM3 2018/0007) (K. Scott)**

42
43 **This is for notification and review purposes.**

44
45 Mr. Robinson: Seeing none. Thank you on that. At this time, we'd like to take a five-minute
46 recess.

1
2 A recess was called at 3:03 p.m., and the meeting was reconvened at 3:08 p.m.

3
4 Mr. Robinson: Back in session. Next agenda item?

5
6 Mr. Spence: Commissioners we're on Item F-2, Chris Hart and Partners on behalf of Wailea
7 Land Corporation requesting Planned Development Step III Approval for the Makalii at Wailea
8 multi-family development. Our Staff Planner this afternoon is Tara Furukawa.

9
10 **F. COMMUNICATIONS**

- 11
12 **2. CHRIS HART & PARTNERS on behalf of WAILEA LAND CORPORATION**
13 **requesting a Planned Development Step III approval for the proposed**
14 **Makalii at Wailea (Wailea MF-15) Multi-Family Development at the corner of**
15 **Wailea Alanui Drive and Kaukahi Street at TMK: (2) 2-1-008: 120, Wailea,**
16 **Island of Maui. (PD3 2018/0002) (SM1 2013/0016) (PD1 2013/0004) (PD2**
17 **2013/0004) (T. Furukawa)**

18
19 **The Commission previously reviewed this application at its April 10, 2018**
20 **meeting and decided not waive its review and review the request.**

21
22 **The Commission may take action on the application.**

23
24 Ms. Tara Furukawa: Good afternoon Commissioners. This item is under your review because
25 at the last Maui Planning Commission on April 10, 2018 the Maui Planning Commission opted to
26 review the application as a result of public testimony about the onsite archaeological monitoring
27 process and items of cultural significance identified onsite.

28
29 At that time there was no evidence presented to support the testimony. However the testifiers
30 said that they could bring it to this meeting if the planning commissioners opt to waive their right
31 to review the application. As we discussed the Step III process involves the review of
32 construction plans, the site plan showing grading, landscaping, protected open space, building
33 and structure location, building plan, and financing and timing.

34
35 The project was granted Planned Development Step I and II Approval as well as SMA approval
36 on October 14, 2014. The Step I Approval is based on the location, size and description or
37 transfer of land uses within the area. Step II Approval is for preliminary plan of development
38 and review was on drainage, streets, utilities, grading, landscaping, open spaces, lots, land
39 uses, recreation and community facilities, buildings and structures. And the SMA approval is
40 based on consideration of recreational resources, historic resources, scenic and open space
41 resources, coastal ecosystems, economic uses, coastal hazards, managing development,
42 public participation, beach protection and marine resources.

43
44 At this time because the previous planning commission already granted Step I, Step II and SMA
45 approval the planning commission has to grant Step III Approval which is based on whether the
46 plans submitted are in conformance with the development plan previously reviewed. The
47 applicant's consultant, Jordan Hart of Chris Hart and Partners is in attendance to show you what

1 was previously approved.

2

3 Mr. Jordan Hart: Thank you Commissioners. I'm gonna try and go very quickly. We have our
4 project team here. One of them has to get out. I probably...exactly the same time as
5 Commissioner Robinson. So I'm gonna go through, try to do an overall presentation and then
6 basically see if we can respond to any questions.

7

8 Mr. Robinson: Jordan, we don't want to rush you because we want to make sure that this
9 doesn't go home with me.

10

11 Mr. Hart: Okay, noted. So as Tara mentioned we're here for the PD Step III. The PD Step I, II
12 and SMA Major Permit were reviewed and approved by the Commission and we're at the PD
13 Step III process where you confirm that the representations we made previously are what we
14 are proposing to construct which is the plan sets you have in front of you. One of the things I
15 will say is that one of the reasons that the Commission has waived their right to review in the
16 past is because it is 259 sheets of plans and basically the assign ZAED to work with Current
17 Planning to go through each of those sheets and confirm that the drawing that we showed
18 conceptually are the same as those detailed drawings and it would be a feat for the commission
19 to do that each time.

20

21 The project team we have here today with us is Mr. Robert Armstrong, President of Armstrong
22 Companies, Wayne Muraoka, Vice-President of Armstrong Development, Peter de Zwager,
23 Vice-President of Burrard Group, myself, planner for the project. Mike Dega is the principal
24 investigator for Scientific Consultant Services. Ian Bassford is the archaeological monitoring
25 supervisor for Scientific Consulting Services, and then Paul Horikawa is the project's counsel.

26

27 So the purpose that we're here for is to go over PD Step III and what that is in plain language is
28 confirm that what we said we were gonna build is what we submitted for building permit
29 application. So a recap of where the project is located. It's nicknamed MF-15 in the Wailea
30 Master Plan Project. It's called Makalii at Wailea. It's just mauka of the Kea Lani in Wailea.
31 The project is in the State Urban District, Maui Island Plan Urban Growth Boundaries. It's multi-
32 family in the Kihei-Makena Community Plan which is what the proposed development is. And
33 then the zoning contains A-1 and B-2 which both allow multi-family development.

34

35 So some of the project milestones that occurred and this is in response to whether or not there
36 was adequate opportunity to participate in the process. In 2014, February a notice of
37 application with a location map was published in *The Maui News* letting the community know
38 that we were pursuing these applications. There was a public meeting. June 3, 2014 with
39 Urban Design Review Board that did include public testimony. No public testimony was
40 received regarding archaeological or flora and fauna concerns.

41

42 The Planning Department notified the applicant and relevant state and county agencies of the
43 scheduled Maui Planning Commission hearing on August 26, 2014. September 12, 2014 the
44 applicant mailed a certified return receipt notice of the public hearing with a map to all
45 landowners within 500 feet of the project site. In September 12, 2014 there was a notice, a
46 public hearing published by the Maui Planning Department in *THE MAUI NEWS, HONOLULU*
47 *STAR ADVERTISER, THE GARDEN ISLAND, HAWAII TRIBUNE-HERALD AND THE WEST*

1 *HAWAII TODAY.*

2

3 For our SMA Major Permit with PD Step II application there were 18 agencies that reviewed and
4 commented, Public Works, Water, Environmental Management, Parks and Recreation, Housing
5 and Human Concerns, Police, Fire, Urban Design Review Board. State agencies, Accounting
6 and General Services, Commission on Water Resource Management, DLNR-Engineering,
7 DLNR-Division of Forestry, SHPD, Department of Health, Department of Health-Maui Office,
8 Department of Education, U.S. Fish and Wildlife Services, and the Wailea Community
9 Association.

10

11 In October 14, 2014, the Maui Planning Commission had a public hearing for the project.
12 Testimony was received. No issues were raised of archaeological or flora and fauna concerns.
13 The Department recommended approval with conditions. The Commission voted on two items,
14 SMA Major Permit and the PD II. The vote was six votes to approve, two excused and the
15 Chair abstained from voting so unanimous vote of the Commissioners present.

16

17 Notable SMA Major Permit conditions that pertain to this PD III Step. There is number 1 most
18 importantly I think is that the project will be developed in substantial compliance with the
19 representations that were made to the Commission. So that basically...this is a SMA
20 requirement but it really parallels with the purpose of a PD II is you filing to build what you said
21 you were gonna build. Number 6, that best management practices be implemented. Number 9,
22 that archaeological monitoring would be implemented. Number 10, that in the event of historic
23 resources including human skeletal remains are identified that all work would stop, the site
24 would be protected and SHPD would be called to investigate. Number 11 that the tones of the
25 buildings that were proposed would be grayed down. That was a UDRB recommendation.
26 Another UDRB recommendation is that the plant palette, the quantity of different species of
27 plants be reduced for the project site.

28

29 So regarding flora and fauna initially in 2004 there was a biological resource survey done by
30 Bob Hobdy. He noted that the site had been disturbed previously. That there were native
31 species on site but all of those species were generally occurring in the region and that none of
32 those species were identified as threatened or endangered. On March 28, 2014 U.S. Fish and
33 Wildlife commented on the project. They expressed concerns with the regard to the Blackburn
34 Sphinx Moth and a Nene and so Bob Hobdy went and revisited the site to update his study and
35 conclude that the project would not have an impact on these species. That updated study was
36 sent to U.S. Fish and Wildlife in our agency comment response. Prior to the initiation of a
37 ground disturbing activities which the project is currently doing under an issued grading permit,
38 Goodfellow Brothers flew the project site with a drone to document the condition of the site.
39 That's provided here.

40

41 At this time, I'd like to bring up Mike Dega from Scientific Consultant Services to talk a little bit
42 about the archaeological investigation. I would like to point out that a letter, a memo prepared
43 by Mr. Dega was presented to the Commission prior to this item.

44

45 Mr. Mike Dega: Good afternoon Commissioners, Director. I'm Mike from SCS Archaeology. I
46 was a PI for this project. We completed archaeological inventory survey in August of 2004.
47 What is inventory survey? That's a baseline archaeological study where we walked up and

1 down that entire landscape looking for things on the surface, sites, artifacts, shell, anything that
2 we can see, landscape modifications. We did 87 transects across this 9-acre parcel which is
3 intensive post interval spacing. We found no archaeological sites, no historic properties of any
4 time period. What we did find during the AIS was interesting a lot of bulldozer push piles. We
5 found out about 80 percent of this area has been modified in the past during our survey. The
6 push piles were linear shaped rocks. You know you get a bulldozer and they pushed them
7 along the eastern side in a linear fashion. In some places where there were existing roads
8 through the parcel, we found half circular things that we call C shaped. I can see why people
9 might consider that an archaeological site, but they were bulldozed next to the roads and they
10 all have the bulldozer scar marks on the rocks. They probably did it from the golf course and
11 creating roads through this area. So the AIS did not reveal anything expect for disturbance in
12 the parcel and push piles. We also had a lot of asphalt piles as well.

13
14 Okay, so the SHPD approved our inventory survey document April 19, 2005. We only did
15 survey. We did not test this parcel. Why? Because it was 80 percent disturbed and we blue
16 rock, bedrock are common in the area. There wasn't a lot of soil. We didn't find any indication
17 on the surface that there would be anything subsurface. We do not do this in the vacuum. At
18 that time period Melissa Kirkendall was the head of SHPD on Maui. We talked with them.
19 Should we test? Where should we test? And she agreed, she came out, she said, yeah this
20 parcel's pretty disturbed so let's move on. We recommended monitoring just as a precaution
21 during any ground altering activity just in case. You never know 100 percent because we don't
22 dig 100 percent. That's why we went for the archaeological monitoring which commenced in
23 February. As Ian's going to talk about in a minute. He's going to talk about in a minute the
24 monitoring justified the AIS. To date, we have found nothing as well in all the earth moving
25 activity over the last three months. So I'll bring up Ian if you don't mind. He'll fill you in on that.

26
27 Mr. Ian Bassford: Aloha Commission Members. Ian Bassford, SCS Archaeology. We started
28 ground work on Makalii on February 21st of this year. The 20th was the initial groundbreaking
29 blessing. After that blessing I walked the parcel to double check myself, to be as thorough as I
30 can and as Dr. Dega noted there was a lot of previous disturbance. There were stockpiles all
31 over the place, asphalt. There was a significant amount of old pipe from other construction
32 sites. It's not uncommon to use an offsite area as a stockpile area so your job site does not get
33 crowded.

34
35 With our monitoring methodology we have had two full-time monitors on that job since
36 February 21st up till currently. Right now on site they have several different machines. Three-
37 quarters of those machines are focused on rock breaking activities. You have two excavators,
38 one with a hydraulic hammer that's just chipping away at the rock outcrops. Then you have a
39 support excavator that's moving that processed material to a secondary or tertiary pile where
40 they processing it further down, reducing that material into workable material so they can use
41 that for cutting their pads. There's not a lot of dirt out there. So all deposits in Makena have the
42 tendency to be very shallow not exceeding about 50 centimeters or about two and a half feet.
43 At this time, we have not had any findings on site. There's been a lot of speculation in rumor
44 mill but nothing has been confirmed. My people are trained. They've been doing this for a long
45 time and I'm very sure that if they found anything, if there was anything on site we would have
46 found it. We do have a sensitive area which is one of the reasons why we have stayed on site.
47 There is a sand patch that's migrated across the road from the old dune structure that the

1 Kea Lani is built one. When the Kea Lani was built that was all built on an old sand dune next to
2 Wailea Point. There was significant amount of archaeology during the Kea Lani Hotel as well as
3 across the street on the Kea Lani Hotel which is the Palauea Village Complex. While we
4 haven't found anything to date it is a sensitive area and that is the reason that we recommended
5 full-time monitoring. Any questions?
6

7 Mr. Robinson: Not at this time.
8

9 Mr. Bassford: Thank you very much.
10

11 Mr. Robinson: Jordan and just to help you it's from our last meeting there was the specifics of
12 why we're back here and I believe besides the archaeological topic we also wanted to we going
13 over the drainage again. I know with the time I want you to make sure that you use it as wisely.
14

15 Mr. Hart: That's fine. So from this...thank you very much Chair, from this point forward we're
16 gonna go into comparing the original plans versus what we submitted and you have in front of
17 you.
18

19 Mr. Robinson: Okay, thank you.
20

21 Mr. Hart: So the comparison of PD Step II and Step III plans. So this is the site plan that we
22 presented to the Planning Commission and the Urban Design Review Board for our project. If
23 you look at the site plan throughout this project, the plans that you have in front of you, you're
24 gonna see that those are consistent.
25

26 This is the best management practices plan and erosion control plan, Sheet C4 and C5. C4 is
27 the layout of the erosion management pieces and then C5 is the details of how those pieces will
28 be implemented and what onsite crews need to do in order to protect nearshore waters.
29

30 One of the comments that we received from the Urban Design Review Board was that the
31 project would gray down its colors. And so Armstrong Development responded to that. So the
32 specific condition says that the applicant tone down and gray the color palette chosen for the
33 project in order to soften the visual impacts and reduce reflectivity in the project. So this is the
34 revised concept renderings. I don't want to say concept. This rendering is taken directly from
35 the CAD drawings and it's turned into the 3-D graphic. So this is an exact computer rendering
36 of these plans that you have in front of you with the proposed colors that are on the project
37 there. So significantly toned down from what was initially shown which had several different
38 colors in the same structure.
39

40 What you're seeing here is typical elevations. You can see that there are several different
41 model types and these model types they're typically the same as far as the elevations are
42 concerned and without flipping through all of those what you can do beginning on Sheet 1A-201
43 you can see that if you flip through each of these unit types that they will be substantively the
44 same substantively the same that we presented to the Planning Commission.
45

46 Here is the layouts that were presented to the Planning Commission. And here is the plans that
47 are proposed. This is the elevation of the community center building and this is the elevation of

1 the community center building in the plans set in front of you.

2
3 Regarding landscape, the Planning...the Urban Design Review Board and the Planning
4 Commission made it a condition that the applicant reduce the number of plant types. A total of
5 21 different plant species were removed from the plant palette. Ten trees which I could read if
6 the Commission's interested in, ten different shrub types, and one groundcover type were
7 removed. It was confirmed by the landscape architect that all of the plants that were selected
8 are in the appropriate zone, Zone 3 of the Maui County Planting Plan, third edition. This is the
9 landscape plan within the plan set that you have.

10
11 So that was a broader overview of the main components of what the design is as far as the
12 conceptual elevations, the site layout, BMPs and the landscape plan. But we can also go into
13 detail on any single sheet that you'd like to address. But I would suffice to say that the concept
14 design has remained consistent, the unit count, this mass of the structure, the uses and here we
15 are. Thank you.

16
17 Mr. Robinson: That's it? Anybody like to have public testimony at this time? Anybody would
18 like to speak? Seeing none, Commission now is the time for questions. I'm sorry, public
19 testimony is now closed. Sorry. Now for the Commission if we have any questions at this time
20 for the development? Commissioner Kahu Hill.

21
22 Kahu Hill: Mahalo Chair. Aloha. I want to say mahalo for providing the archaeological
23 inventory and survey and the archaeological assessment even though I didn't get the EIA I
24 know that the cultural importance of this area and this parcel is located in Paeahu in this
25 ahupuaa and it's adjacent to a very culturally significant sites including heiaus and fishing
26 villages, hale mua, burials and recent findings have led to the documentation of habitation,
27 ceremonial, agricultural features. This land is so close to Palaeua Cultural Reserve and this
28 ahupuaa that a pueo could just fly from your lot over there across the street. And I believe it's
29 really imperative just to follow the archaeological monitoring plan that's been in place and
30 absolutely enforced.

31
32 I understand from reading, AIS that a full-time monitor is to be on the property at all times during
33 construction. That's what it said from the 2005 documentation and other things I read and that
34 an archaeologist will be there for each piece of active equipment. I was just given some
35 paperwork and it said monitoring involved a fully trained, degreed archaeologist closely
36 observing any excavation work on the parcel. So I'm really wanting to know have you had a full-
37 time archaeologist on site since you initiated the project.

38
39 Mr. Hart: We'll have our archaeologist reply.

40
41 Kahu Hill: Mahalo.

42
43 Mr. Robinson: And please reintroduce yourself. Thank you.

44
45 Mr. Bassford: Ian Bassford. Yes, we have two full-time monitors on site at all times five days a
46 week.

47

1 Kahu Hill: That was my main question. And is there a separate archaeologist for each piece of
2 working equipment? How does that work?

3
4 Mr. Bassford: Yes.

5
6 Kahu Hill: There is.

7
8 Mr. Bassford: Yes.

9
10 Kahu Hill: Okay, mahalo.

11
12 Mr. Bassford: Thank you.

13
14 Mr. Robinson: Okay, Commissioners? Anyone else? Jordan, my question is regarding the
15 drainage and has to go with the capacity. I was trying to read this as far as I could, my concern
16 is we just approved a few projects in this area. I notice on some of the pictures that it shows
17 that we're putting screening on the street side gutters you know to protect in case there's any
18 debris or sediment. In this plan, my question is why is anything even getting to the street. So
19 what I'm concerned is where is the drainage stopping, stopping on the property and what you
20 guys, I'm assuming you guys have underneath drainage. And I'm sorry I couldn't look through
21 this as quickly to find out where it is. C-200? There's a construction phase and then there's a
22 post construction. So I understand the post construction and silt fences and I'm also looking at
23 is after when the silt fences are gone.

24
25 Mr. Hart: Right so, the screen you're talking about like rolled screens that are put in front of
26 storm drains and things like that.

27
28 Mr. Robinson: Yeah.

29
30 Mr. Hart: So those are only during the construction phase basically while soil is bare and you're
31 caring out your BMPs. And through the construction process you're building your whole
32 retention system and when that's fully operational then you're removing all of those construction
33 level BMP pieces. So you know how could muddy water reach a storm drain, you know, an
34 unexpected large storm event and that's why you have those measures in place in order to
35 catch silt if it were going to happen in that situation. But the BMPs are in place in order to
36 manage those issues as best as can be done and we are doing those things and implementing
37 those plans. And then as far as the overall permanent drainage plan for the project you know
38 that's being built at this time.

39
40 Mr. Robinson: So do you have a current plan? That's not a next phase is it? Shouldn't we
41 already have that the current retention of all the rainwater for the project?

42
43 Mr. Hart: The civil drawings?

44
45 Mr. Robinson: Yes and no.

46
47 Mr. Hart: Yes, there are civil drawings in the plan set.

1
2 Mr. Robinson: I know. I'm sorry, I just said I didn't have enough time to go through it all.

3
4 Mr. Hart: Sure. Okay, I misunderstood what you were asking.

5
6 Mr. Robinson: I want to clarify my question to you because what it is, is with the grade of this
7 hill with the amount of water that can flow and the normal absorption of water that's going to a
8 side of a hill is I'm not sure on the topography there. I know Makena has a lot of porous rock, lot
9 of volcanic rock that we're using now and I see where we're doing a lot of ground cover. We're
10 putting soil, and sand, and mix so if you just have...I'm hoping you have the calculation which I
11 assume you do of what are we retaining on post construction.

12
13 Mr. Hart: Sure we absolutely do and that's really analyzed in a detailed manner. In the SMA
14 review we did have our civil engineer present for the SMA hearing. And then it's also in a more
15 detailed level analyzed by Public Works when they're reviewing and approving a subsurface
16 retention system which is what we're...we're undertaking that process now. The Planning
17 Department is...well, Planning Commission which will report back to the Department that we've
18 passed our PD Step III is one of the many bodies that's reviewing this same plan set at this
19 time.

20
21 Mr. Robinson: I'd still like to get some numbers and what is the...and is it off a 50-year storm,
22 a 100-year storm? We just saw some events this past week. I just want to make sure there's a
23 lot of things being built in that area. I just want to make sure, you know, we're getting ahead of
24 it.

25
26 Mr. Hart: Yeah, I'd need to review some things to quote for you the volumes.

27
28 Mr. Robinson: Okay.

29
30 Mr. Hart: It be a moment to do that.

31
32 Mr. Robinson: You want me to take a quick break?

33
34 Mr. Hart: That would probably be best yeah.

35
36 Mr. Robinson: We'll take a five-minute break. Thank you.

37
38 A recess was called at 3:31 p.m., and the meeting was reconvened at 3:36 p.m.

39
40 Mr. Hart: Aloha Commissioners, Jordan Hart, Chris Hart and Partners. So the question was the
41 storm durations that were analyzed, our civil engineer analyzed a 10-year, one-hour, a 50-year,
42 one-hour, and the 50-year one year was anticipating an increase in...sorry, increase of 24 cubic
43 feet per second. And the proposed project...the project propose to retain the increase based on
44 a 50-year one-hour duration storm. And so the plan set with our civil sheets which includes the
45 drainage system are being reviewed by Public Works currently.

46
47 Mr. Robinson: And Jordan thank you 'cause I know this wasn't part of the question of what

1 we're here for for the approval so I appreciate you answering that. And I also had a question
2 regarding you know BMPs. You know it's projects continually evolve and is it the conditions that
3 we put become the BMP or does it carry over to Public Works and out of our jurisdiction?
4

5 Mr. Hart: When we're requesting a grading permit, the best management practices are based
6 on Public Works current best management practices. This is not the best management
7 practices that may have been in place when the SMA Major Permit was approved.
8

9 Mr. Robinson: Thank you for that clarification. Commissioners any other questions?
10 Commissioner Tackett?
11

12 Mr. Tackett: So since we're doing a Step III which is a comparison of whether or not this is
13 exactly what you guys said that you were gonna do in the first place, correct?
14

15 Mr. Hart: The only thing I would say, substantively the same. So I wouldn't say exactly
16 because you're at a concept level when you're at PD Step II and SMA Major Permit, but I would
17 say, generally yes. Yes. There will be a few things that are changed but nothing significant.
18

19 Mr. Tackett: Kind of a, kind of a big set of information. I wish I had Step II in to reference
20 against III.
21

22 Mr. Hart: Sure. So one thing I can say in reply to that is that I can go back through the...let me
23 just back up. When you're SMA level, you only show let's say seven drawings. You know some
24 elevations, some perspective renderings a few floor plans. But when you go to construction
25 level you know that's 259 sheets because you have to really get into the details about what's
26 really gonna be built. And so we're comparing approximately 7 drawings to 259, you know,
27 sheets. And that's where it becomes pretty labor intensive which is why I was saying that that it
28 has been common for the Commission to waive review because it's...you really get into the
29 minutia whereas the Commission's time is really generally you know confirming that what's
30 being developed is appropriate for the community and environment which I believe was done
31 when we were granted our SMA Major Permit.
32

33 Mr. Robinson: Director, you'd like to comment?
34

35 Mr. Spence: I'd also like to comment that what is presented to the Commission at SMA hearing
36 the commission may add conditions onto any kind of approval that could somewhat change the
37 plans. So these plans what's presented before you reflect the conditions of that approval. So if
38 you add a condition on about drainage or you condition about reducing the plant palette or
39 something like that, all these things are gonna be reflected in these final plans. So they're
40 following along with what you have...what this Commission has told them to do. And at the
41 Phase III is we look at this, Tara looks at this and just confirms this is following along with the
42 approvals of Phase II and the SMA Permit.
43

44 Mr. Robinson: Commissioners it's still on us. I mean we still have to be comfortable with it.
45 We're a bare quorum and we don't want to hold it up, but at same ...(inaudible)... I want to
46 make sure that each one of you is comfortable with this project, that all your questions are
47 answered. If it's still a little fuzzy we have time. You know, you want to ask a different question

1 to make you feel more comfortable. I think a slower decision that's correct is better than a
2 rushed decision that's not. With that said, do any of the Commissioners want to get any
3 clarification at this time on any outstanding questions? Seeing none, do we have a motion?
4 Commissioner Carnicelli?

5
6 Mr. Carnicelli: I move to approve the Step III.

7
8 Mr. Hudson: Second.

9
10 Mr. Robinson: Second by Commissioner Hudson. Discussion? Commissioner Carnicelli.

11
12 Mr. Carnicelli: Thank you Chair. I just in briefly I'm just going to say that I do believe that the
13 applicant is proceeding in the way with which they had basically said that they were going to
14 and that there's no reason in my mind that they have not and so then for I'm going to go ahead
15 and vote in favor of the motion. Thank you.

16
17 Mr. Robinson: Corp. Counsel?

18
19 Mr. Galazin: Thank you, Chair. I would just point the Commissioners to you know the County
20 Code, Section 19.32.020(c) which describes what Step III Approval is supposed to include and I
21 think that's already in the staff report. And if any Commissioner is disinclined to vote in favor of
22 approval that it's on the record exactly what the criteria in that subsection they feel is not being
23 met by these plans. So make sure just for clarity of the record.

24
25 Mr. Robinson: Thank you. And I will say Commissioners that having a plan this large is not
26 easy to pass through that quick. I think there is the SMAs. I think that there's a whole lot of new
27 Commissioners that weren't here when it first came through. Unfortunately that's how
28 construction works in Hawaii, by the time there's a new commission, you know, they have to
29 start all over again. It's one of those catch-22s we're in. But if there isn't any more questions
30 I'm going to call for a vote. Commissioner Carnicelli?

31
32 Mr. Carnicelli: No, no I was just voting.

33
34 Mr. Robinson: Please don't invalidate this we're bare quorum. Okay, Director.

35
36 Mr. Spence: Okay, Commissioners the motion is to pass the Phase III Approval.

37
38 Mr. Robinson: All those in favor?

39
40 Mr. Tackett: Could I speak to it?

41
42 Mr. Robinson: Yes, you may speak to the motion.

43
44 Mr. Tackett: I'm not in favor of the motion at this point and it's not because I'm not in favor, it's
45 just I need some time to review the things that are being discussed here today. It's a lot to do in
46 just a few minutes.

47

1 Mr. Robinson: At this time Commissioners I'm going to give the floor to the Director. I want to
2 make sure that your decision is based on what we're allowed to do here, Director.

3
4 Mr. Carnicelli: Point of order Chair. We still need to get the votes.

5
6 Mr. Robinson: I'm sorry. We could finish that. All those in favor was three. All those opposed?
7 One.

8
9 Mr. Spence: One opposed.

10
11 Mr. Robinson: It's three to one. The motion does not pass.

12
13 **It was moved by Mr. Carnicelli, seconded by Mr. Hudson, and**

14
15 **The Motion to Approve the Planned Development Step III, FAILED.**

16 **(Assenting – L. Carnicelli, L. Hudson, A. Hill)**

17 **(Dissenting – C. Tackett)**

18 **(Excused – P.D. La Costa, T. Gomes, S. Castro)**

19
20 Mr. Robinson: Director?

21
22 Mr. Spence: Commissioners, that section of the Code, 19.32.020(c) what it says is, upon
23 approval of the Step II preliminary plan which previous commission approved, that's already
24 approved, the owner shall proceed to prepare a Step III unified site building program which
25 includes among other things construction plans in accordance with Title 18 which is Subdivision
26 Code, site plan showing grading, landscaping, protected open spaces, location of each building
27 and structure, building plan of each building and structure, and financing and planning program.
28 The Planning Director shall review the Step III unified site and building program and shall notify
29 the commission of the Planning Director's review. The commission may review and take final
30 action on the Step III unified site and building program or waive its review and allow the
31 Planning to take final action. Upon approval, the owner may proceed to finalize the planned
32 development. So Commissioners this really what this is going back to is what this Step III is
33 about is is this pretty much the same with you know with slight changes, due to BMPs and other
34 things and conditions by this Commission is this essentially the same as what was approved by
35 the previous commission?

36
37 I genuinely appreciate the concern over archaeology and that's one of the main reasons why
38 this came back. That's really not a part of this Phase III Approval. The drainage, that's not so
39 much a part of this. I mean, it goes into the construction of course, but really this...you're
40 saying does this match that. Does this Phase III match what was approved at Phase II? And I'll
41 just say in the Planning Department's mind it does and this should go forward with an approval.
42 But that's...I'm not the decision making body. It's up to the Commission.

43
44 Mr. Hart: Chair would it be possible to make a suggestion?

45
46 Mr. Robinson: One second please Jordan. I think it came back here for the correct reasons. I
47 think we had testimony saying that they weren't doing the things that were supposed to match

1 up with the monitoring and then we had confirmation of that today. I think the process is
2 working. But I also think part of the process is making sure each Commissioner who has been
3 approved by the Council and nominated by the Mayor has his concerns addressed. And I want
4 to make sure that that Commissioner you understand that there's certain things that we do have
5 the power to do today and there's certain things that we don't. We can...is we're allowed to
6 defer to ask for more information. But if we do that is we have to make sure that we some
7 tangible information that we're looking for. The last meeting we had some information we asked
8 him to come back. I think that is the proper time for to give him all, if there is something there
9 that you'd like to ask more to get questions or take some more time. I'm totally with you with
10 that. I think if you can ask Jordan any more questions to try to move you to that comfortable
11 stuff I think that's what we're here for. We're here to make sure that you understand as much
12 as you want to.

13
14 Mr. Tackett: I'm just asking to review II against III which I believe that's what we're here for.
15 Right now everybody's telling me that III is II, okay. I'm okay that III is II if everybody says that
16 III is II. But I would prefer to see II and III compare them and make a decision that way.

17
18 Mr. Robinson: I hear you. Jordan is II the seven-page report that you had?

19
20 Mr. Hart: I presume. The PD Step III application that I submitted the letter.

21
22 Mr. Robinson: Well, we're comparing II to III to make sure that everything is correct. And so III
23 is—

24
25 Mr. Hart: Oh were you referring to approximately seven sheets. What I was going to do is back
26 up in my presentation and I could show that now, okay?

27
28 Mr. Robinson: Let's do that. Thank you.

29
30 Mr. Hart: So this is the overall site plan that was presented to the Urban Design Review Board
31 and the Planning Commission which shows the layout of the buildings, the roadways, recreation
32 center, pool. And then this is the BMP plan but it also shows the building footprints all in the
33 same location, roadway all in the same location, community center and pool in the same
34 location. BMP plans. This is a perspective rendering which is a typical indication of what the
35 building will look like...would look like at that time, this is the PD Step II submittal. And then
36 there was a request that we tone down the graphics. And then this rendering is made using the
37 CAD file for the structures so this is the building that will be built, typical building for these units.
38 So that's the character of the building and then the actual construction level drawing character
39 of the building is the same.

40
41 These are the elevations of the buildings basically...and these are all beginning on Sheet 1A-
42 201 and it goes down. It's about 12 sheets because there's different unit types but it will show
43 you as you flip through those pages that all of these...this dotted line moves through all these
44 unit types and you'll see that they're all substantively the same design that we presented to the
45 Urban Design Review Board and the Planning Commission.

46
47 These are the unit...the floor plans which have remained consistent. And then this is the

1 community center or the residence club. So this is the actual rendering that was shown to the
2 Urban Design Review Board and the Commission and then this is Sheet 2A-201 which is
3 virtually the same thing. The landscape plan we were specifically asked to reduce 21 species.
4 So this is the concept level landscape plan that was shown to the Urban Design Review Board
5 and the Commission and then this is the actual proposed landscape plan in the project and
6 substantively the same thing except that there were 21 species that were deleted.

7
8 So that's the summary version of it, but like I said, our power point presentation it showed a
9 couple of perspective interiors which are not really relevant to the review. Those are covered in
10 the floor plans. And then there was one set of elevations that was presented which I did submit
11 to the Planning Department which was forwarded to the Commission but I didn't include in this
12 version and that is this here in paper was submitted to the Department and the Commission and
13 it's just a colored version, let me back up a couple slides of a flat image of this same typical
14 elevation and it's basically just indicating to the Commission that we've been consistent with the
15 style of the buildings and the elevations. And so then inside of each of these you have footing
16 details, you know, electrical sheets, all of the minutia of what is actually inside of the walls of all
17 these buildings. But as far as when you're on a concept level of the SMA Major Permit and
18 you're showing...you're basically looking at exterior graphics and where the design is
19 substantively the same which is why the Department's recommendation was that it is consistent.

20
21 Mr. Robinson: Please introduce yourself.

22
23 Mr. Wayne Muraoka: Wayne Muraoka. I'm with Armstrong Development and the Project
24 Manager for this project.

25
26 Mr. Robinson: Aloha.

27
28 Mr. Muraoka: Sorry to take time but I wanted to make sure that we addressed your question.
29 The project has remained the same since we got our SMA and Planned Development Step II
30 Approval. It has always been since that time 68 units, it remains 68 units. Four units per
31 building, remains four units per building. The footprint of each building has remained essentially
32 the same. Any changes that were made were as they're refining the engineering design and
33 working to get grades level from street to building, you know whether it's two steps or four steps
34 that's gonna be required. Those types of changes may have occurred but the design of the
35 building has remained the same. The floor plans remain same. The essential square footages
36 have remained the same. The locations of each building on the site plan have remained the
37 same as well as the recreation center which has always been in that same location of the same
38 size.

39
40 The changes that Jordan showed we made...the architecture has always been that mid-century
41 modern style with the sloped roofs, with a slight separation kind of making it more of a indoor,
42 outdoor Hawaiian feel to what was traditional mid-century type of architecture. But we were told
43 that our first plan was a little too garish, a little too loud, too many details and too many colors
44 flashing around. So we did make significant changes to the color palette. We toned it down so
45 it wouldn't be such a harsh visual impact to people going by the project. So we got to very
46 neutral colors. We improved the level of finishes that would show some trim but not overdone.
47 We took some of the patterns that were in the trims of the building and simplified them. Those

1 are the types of changes we made in response to comments we received from the Commission,
2 from the UDRB and also from some of our buyer prospects who remarkably said pretty much
3 the same thing.

4
5 But aside from that, the project is what it was. There's a lot of details that go into the
6 construction level drawings because that's what actually has to be built but we've stayed very
7 true to the concept and the vision and the plans that were submitted at the conceptual stage at
8 Planned Development Step II.

9
10 Mr. Robinson: Commissioner Tackett.

11
12 Mr. Tackett: So the things that you have said all seem to be the right thing to have done. What
13 all I'm saying is that I would like to see II and I would like to see III and I would like to make a
14 comparison between the two before I put my yes vote onto it. So, if you're telling me that
15 everything that is in Step II and everybody here is agreeing that everything that they put on the
16 screen was everything that was included in Step II and I've had all the knowledge for Step II and
17 those seven slides to compare it to this then so be it. But I would feel better if I had all the
18 documentation from Step II to compare to Step III and then make a determination. That's how I
19 would prefer it.

20
21 Mr. Robinson: Director?

22
23 Mr. Spence: Let me ask Tara, in this report to the Commission dated today what's in the Step II
24 that's not...pretty much I would think most of the documentation from the Step II is in this
25 report?

26
27 Ms. Furukawa: Everything's pretty much the same, so...

28
29 Mr. Spence: Okay, is it—

30
31 Ms. Furukawa: Other than the landscaping and the color palette.

32
33 Mr. Spence: Okay, so the Phase II is in this report presented to the Commission?

34
35 Mr. Robinson: Please, Jordan?

36
37 Mr. Hart: Jordan Hart, Chris Hart and Partners. The recommendation that I wanted to make
38 earlier in recognition of time constraints, in recognition of Commissioner Tackett's concern on
39 the volume of material is would it be appropriate for the Commission to consider whether or not
40 it wanted to waive its review and allow the Department to go sheet by sheet which is what ZAED
41 does and then they confirm with Current Division that we did represent all of the things that
42 we're showing. This is in my opinion pretty much a...it's a tedious process and there are staff
43 people who do this full time. The Commission is afforded the right to not waive its review but
44 then they become the body that goes page by page which is not enough time to do that in this
45 meeting. Meanwhile we are in a construction project and we would like to proceed to pulling our
46 retaining wall permits. It's completely understandable but there are people who are responsible
47 and whose obligation to verify that this is being done and I do think that they're...it would be

1 appropriate to assign it to them if that could be done today.

2

3 Mr. Robinson: Commissioner Tackett, I don't want to go through every page and be the body
4 that has to approve this all ...(inaudible)... I think what you're asking is very fair. I think the
5 comparison in what we normally look at with SMAs...but I think what's happening is because
6 the SMA process went through the prior commission before you and I came on and they already
7 gave their approvals is this step was more of a for us to make sure that the SMA and them are
8 relatively doing the same thing and it's Spence and his Department to make sure that they
9 follow every single thing. And I think that's where we're at right now. I think we're at where if
10 we feel confident that they are following through with what they are and then they have to...and
11 then they're the body to make sure that it's every single one. But again, I respect whatever your
12 vote is and I always want to make sure you're comfortable. But I think what we're here today is,
13 I think we're here to either ask the questions that we did last month and to do this...I think this
14 thick docket is more confusing us about what we're supposed to be doing as if we're the
15 ones supposed to go through all this. I think they presented it to us as in case we want
16 information, but I don't think that's something that we're supposed to be even looking at. I think
17 it's more of the construction side...(inaudible)...going that way, but that's just, that's just my
18 feelings.

19

20 Mr. Tackett: So to get a yes vote out of me I would have to compare the two.

21

22 Mr. Robinson: Okay. Commissioner Carnicelli?

23

24 Mr. Carnicelli: Chair, I just...I'm not gonna make the motion, I'm just gonna ask the Chair would
25 the Commission consider waiving its review that way it's just like as Jordan said, we still can
26 waive our review and it's then done by the Administration, it's done by the Department so then
27 that way, you know, Commissioner Tackett may not have to do that. So I don't know if you're
28 comfortable waiving your review or it's like no, I want to review...I want to do that or not.

29

30 Mr. Robinson: Well, if you make a motion we can find out.

31

32 Mr. Carnicelli: Okay, I make a motion that we waive our review of the Step III.

33

34 Mr. Hudson: Second.

35

36 Mr. Robinson: Commissioner Hudson seconds. Director.

37

38 Mr. Spence: The motion is for the Commission to waive review of the Phase III, Step III.

39

40 Mr. Robinson: Discussion on the motion? Commissioner Tackett.

41

42 Mr. Tackett: So we're here to review and I want to review and so until I do review I'm not in
43 favor of that motion. So, that's what I thought we're here for is to review II and III and without
44 having II I cannot review III, so...

45

46 Mr. Robinson: Commissioner Carnicelli?

47

1 Mr. Carnicelli: I withdraw my motion.

2

3 Mr. Robinson: Does anybody have a motion to defer?

4

5 Mr. Hudson: So move.

6

7 Mr. Carnicelli: Well, let's get this—

8

9 Mr. Hudson: I withdraw my second, and move to defer.

10

11 Mr. Carnicelli: Okay, second.

12

13 Mr. Robinson: We have a motion on the floor to defer. Director?

14

15 Mr. Spence: The motion is to defer.

16

17 Mr. Carnicelli: Clarification Chair?

18

19 Mr. Robinson: Yes?

20

21 Mr. Carnicelli: To the next meeting?

22

23 Mr. Hudson: I agree to the next meeting, May 8th.

24

25 Mr. Robinson: May 8th.

26

27 Mr. Spence: Okay.

28

29 Mr. Robinson: All those in favor?

30

31 Mr. Spence: That's five ayes.

32

33 Mr. Robinson: Item's been deferred.

34

35 Mr. Spence: Let's get the exact Planning Commission report and all the exhibits and that will
36 include the Phase II so you can see exactly what the previous Commission approved.

37

38 Mr. Hart: Thank you.

39

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

41

42 **VOTED: To Defer the Matter to May 8, 2018 Meeting in Order for**
43 **Commissioner Tackett to Review and Compare the Step II and**
44 **Step III Plans.**

45 **(Assenting – L. Carnicelli, L. Hudson, A. Hill, C. Tackett,**
46 **K. Robinson)**

47 **(Excused – P.D. La Costa, T. Gomes, S. Castro)**

1
2 Mr. Hudson: Commissioner Hudson is unable to keep his quorum with us. I'd like to see if
3 there's a motion to defer the following items to the next meeting as well?
4 Commissioner Carnicelli?

5
6 Mr. Carnicelli: I move to defer Item E-1, Peter Lord and Lisa Lord to the next meeting
7 June 8...May 8th, sorry May 8th.

8
9 Mr. Robinson: Would you consider moving all agenda items not taken today so we don't have
10 to go through each one.

11
12 Mr. Carnicelli: What else do we have left?

13
14 Mr. Robinson: Director's Report, everything.

15
16 Mr. Carnicelli: Oh, Director's Report, everything, okay. Move to—

17
18 Mr. Robinson: Corp. Counsel?

19
20 Mr. Galazin: Yeah, it would probably be best just stop where you are and just know that these
21 items wouldn't be, wouldn't be finished. You wouldn't have to physically actually take a vote to
22 defer them if you just lose quorum and you don't get to them. It's just an item you don't get to, it
23 gets rolled over. If you're making a motion to defer, you're taking an affirmative action so that
24 would be my recommendation.

25
26 Mr. Carnicelli: I withdraw my motion Chair.

27
28 Mr. Robinson: Commission, why? I mean, and I guess it's my opinion. I understand what he's
29 saying but I think the people should know when they're going to be on the docket. They got
30 bumped once, that's all. So I think if you defer it to the next meeting we can make sure it's on
31 the agenda or if we just stop it might not be that's just my...

32
33 Mr. Galazin: And Chair if I could speak a little bit more. If...I wanted to get into the whys of
34 some particular agenda item you might not want to defer it that would probably be something I
35 would have to discuss in executive session.

36
37 Mr. Robinson: Okay, at this moment we're losing quorum, Planning Commission for today is
38 now closed. Thank you.

39
40 The remainder of the items on the agenda was not taken up due to losing quorum. Items will be
41 rolled over to the next agenda.

42
43 **E. UNFINISHED BUSINESS**

- 44
45 **1. PETER LORD and LISA LORD requesting a State Land Use Commission**
46 **Special Permit in order to operate the Aloha Spirit Maui Short-Term Rental**
47 **Home, a two (2)-bedroom short-term rental home located in the State**

