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**MAUI PLANNING COMMISSION
REGULAR MINUTES
MAY 8, 2018**

A. CALL TO ORDER

The regular meeting of the Maui Planning Commission was called to order by Vice-Chairperson Keaka Robinson at approximately 9:08 a.m., Tuesday, May 8, 2018, Planning Conference Room, First Floor, Kalana Pakui Building, 250 South High Street, Wailuku, Maui.

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

Mr. Robinson: Good morning. Today is May the 8th and this is the Maui Planning Commission. For those of you who were not here at the last session Chairperson Higashi resigned from the Commission and I, as Vice-Chair, I'm acting Vice-Chair and taking the position and we'll be going through...if there's a motion we can go through elections and elect a new Chair or we can just continue on as me always being Vice-Chair. That would be at the discretion of the Commission.

We have here today, we have Commissioner Carnicelli.

Mr. Carnicelli: Good morning Chair.

Mr. Robinson: Commissioner Kahu Hill.

Kahu Hill: Good morning Chair.

Mr. Robinson: Commissioner Hudson.

Mr. Hudson: Good morning Chair.

Mr. Robinson: Commissioner La Costa.

Ms. La Costa: Aloha Chair.

Mr. Robinson: Commissioner Castro.

Mr. Castro: Good morning Chair.

Mr. Robinson: And Commissioner Tackett.

Mr. Tackett: Good morning Chair.

Mr. Robinson: I'd like to officially call this meeting to order. Thank you. Before we get into our agenda is there any motion on the board to address the election?

B. Election of Chair and Vice-Chair if the current Vice-Chair is elected as Chair for the remainder of the 2018-2019 Commission Year as Chair Richard Higashi resigned at the April 24, 2018 Maui Planning Commission meeting.

1 **Election of Chairperson**

2
3 Mr. Robinson: Commissioner Carnicelli?

4
5 Mr. Carnicelli: Chair, I would like to make a motion to formally elect Keaka Robinson as the
6 Chair of the Maui Planning Commission.

7
8 Mr. Hudson: I would like to second that motion.

9
10 Mr. Robinson: Commissioner Hudson second.

11
12 Mr. Carnicelli: Speak to the motion?

13
14 Mr. Robinson: Yes, you may Commissioner Carnicelli?

15
16 Mr. Carnicelli: I just think that it makes no sense to not have a Chair and only have a Vice-
17 Chair. The reason why you have a Chair and Vice-Chair is because, you know, Commissioner
18 Robinson may not be here every time and then suddenly we're kind of scrambling when he's not
19 here as to who is going to run the meeting. So I just think that it's appropriate to have a Chair
20 and I think that Commissioner Robinson is the right person for that position.

21
22 Mr. Robinson: Thank you. Any discussion on the motion? Is there any other nominations from
23 the Commission for Chair? Seeing none, Director?

24
25 Mr. Spence: Commissioners the motion is to elect Keaka Robinson to be the Chairman of the
26 Maui Planning Commission. All in favor raise your right hand or one of your hands. That's six
27 ayes. That's unanimous.

28
29 **It was moved by Mr. Carnicelli, seconded by Mr. Hudson, and unanimously**

30
31 **VOTED: Keaka Robinson as Chairperson for the Remainder of the**
32 **2018-2019 Commission Year.**
33 **(Assenting – L. Carnicelli, L. Hudson, A. Hill, C. Tackett,**
34 **S. Castro, P.D La Costa)**
35 **(Excused – T. Gomes)**

36
37 Mr. Spence: Congratulations Mr. Chairman.

38
39 Mr. Robinson: Thank you. Commissioner Carnicelli?

40
41 **Election of Vice-Chairperson**

42
43 Mr. Carnicelli: Chair I'd also like to make a motion to elect Larry Hudson as the Vice-Chair of
44 the Maui Planning Commission.

45
46 Mr. Castro: Second.

47

1 Mr. Robinson: We have a second from Commissioner Castro. Is there any other nominations
2 for Vice-Chair? And discussion on the nomination? Director?

3
4 Mr. Spence: Commissioners, the motion is to elect Commissioner Larry Hudson as the Vice-
5 Chair of the Maui Planning Commission. All in favor? Okay, that's six ayes. Thank you.
6 Welcome Mr. Vice-Chair.

7
8 Mr. Hudson: Thank you.

9
10 **It was moved by Mr. Carnicelli, seconded by Mr. Castro, and unanimously**

11
12 **VOTED: Larry Hudson as Vice-Chairperson for the Remainder of the**
13 **2018-2019 Commission Year.**
14 **(Assenting – L. Carnicelli, S. Castro, A. Hill, C. Tackett,**
15 **P.D La Costa, K. Robinson)**
16 **(Excused – T. Gomes)**

17
18 Mr. Robinson: Director, Item C.

19
20 **C. Resolution thanking former Commissioner Richard Higashi**

21
22 Mr. Spence: Commissioners we have a Resolution for Commissioner, outgoing Commission
23 Higashi that I'd like to read into the record:

24
25 WHEREAS, The Maui County Planning Commission was established in 1958; and

26
27 WHEREAS, since April 2014, Richard Higashi has served as a member of the Maui Planning
28 Commission; and has served as Vice-Chairperson of the Maui Planning Commission from
29 August 2017 to March 2018; and Chairperson of the Maui Planning Commission for the month
30 of April 2018; and

31
32 WHEREAS, Richard Higashi, has served the Maui Planning Commission with dedication and
33 provided valuable guidance in serving the needs of the people of Maui County; and

34
35 WHEREAS, Richard Higashi resigned on April 24, 2018, now therefore

36
37 BE IT RESOLVED, by the Maui Planning Commission that it does hereby express its deepest
38 gratitude and appreciation to Richard Higashi for his service during the past four years and
39 does hereby extend its best wishes in his future endeavors; and

40
41 BE IT FURTHER RESOLVED, that copies of this resolution be transmitted to the Honorable
42 Alan M. Arakawa, Mayor of the County of Maui and the Honorable Mike White, Chairperson of
43 the Maui County Council.

44
45 Mr. Spence: No action is needed.

46

1 Mr. Robinson: I think we thanked Commissioner Higashi at the last meeting. Castro or
2 Commissioner La Costa have anything to add or are we good? Okay, seeing none, Director.

3
4 **D. PUBLIC TESTIMONY - Public testimony will be taken when each agenda item is**
5 **discussed. Testimony will be limited to a maximum of three (3) minutes.**
6

7 Mr. Robinson: First we'd like to apologize for the last meeting we ran out of quorum and we had
8 somebody that had to come back. We apologize about coming back. Thank you for your
9 patience. Director.

10
11 Mr. Spence: Commissioners we're on Item E, Unfinished Business. First is Peter Lord and
12 Lisa Lord requesting a Land Use Commission Special Use Permit to operate the Aloha Spirit
13 Maui Short-Term Rental in Lahaina and our Staff Planner this morning is Ms. Kim Willenbrink.

14
15 **E. UNFINISHED BUSINESS**
16

- 17 1. **PETER LORD and LISA LORD requesting a State Land Use Commission**
18 **Special Permit in order to operate the Aloha Spirit Maui Short-Term Rental**
19 **Home, a two (2)-bedroom short-term rental home located in the State**
20 **Agricultural District at 915 Kai Hele Ku Street #B,**
21 **TMK: (2) 4-7-010: 026-0002, Launiupoko, Lahaina, Island of Maui.**
22 **(SUP2 2017/0015) (K. Willenbrink) (Public hearing conducted on**
23 **January 9, 2018.)**
24

25 **The Commission may take action on this request. The 120-day deadline to**
26 **take action on the request is May 9, 2018.**
27

28 Ms. Kim Willenbrink: Good morning Mr. Chair and Members of the Commission. Nice to meet
29 you Commissioner La Costa and welcome to your new job. I think you will enjoy it. This is a
30 great group of people. I came to work at the Planning Department last July as most of you
31 know. Prior to that I worked for the Office of Council Services.
32

33 Mr. Robinson: Excuse me, please introduce yourself.
34

35 Ms. Willenbrink: Oh, thank you. Hi, my name is Kimberly Willenbrink and as I said prior to that I
36 worked for the Office of Council Services for 12 years. I'm also a resident of this County and it
37 means a great deal to me and may I thank all of you for your hard work and dedication. Thank
38 you.
39

40 Okay, at its meeting of January 9, 2018 this matter came before. This body voted to defer the
41 matter to obtain further information. The item is rescheduled for your review and
42 recommendation today. The owner applicants Peter and Lisa Lord are seeking approval of a
43 State Land Use Commission Special Permit to operate a short-term rental home in West Maui in
44 the State Agricultural District on approximately 2.42 acres of land. The street address is 915
45 Kai Hele Ku Place in Launiupoko.
46

47 As you are aware Ordinance No. 4315 was enacted in May 2016 permitted STRHs in the

1 County in the State Agricultural Zoning District with a State Special Permit.

2
3 There were no comments from the State related to the proposed STRH. There were no reports
4 filed with the Police Department and there were no Requests for Services. There are no other
5 STRHs within the 500-foot radius but the Department notes that there is an approved
6 implemented farm plan for the property that is not anticipated to be negatively impacted. The
7 farm plan consists of citrus, Kaffir lime, avocado, banana, mango, papaya, pineapple, bamboo
8 and tropical flowers and it occupies approximately 53 percent of the land.

9
10 The subject property is currently serviced by the Launiupoko Water Company, LLC which has
11 an easement on the property with a tank to provide water service to the area. In addition, the
12 2002 subdivision plat map delineates a topographical feature running through the property as
13 part of a 100-year flood inundation limits. However, the dwelling and the agricultural features
14 are not, I repeat are not located in this area. You are here today to approve the State Special
15 Permit. If you approve the State Special Permit, the STRH Permit will be approved
16 administratively. Ms. Debbie Mitchell is the consultant for this application. She is here today to
17 deliver a presentation and to follow up on your questions previously and to answer any further
18 questions that you may have. The owner-applicants, Mr. and Mrs. Lord are also here today to
19 answer questions that you may have. After the presentation, I will provide the Department's
20 recommendation. If there are no objections I will invite Ms. Mitchell to come to the podium.
21 Thank you very much.

22
23 Ms. Debbie Mitchell: Thank you very much. Good morning Commissioners, Commissioner
24 Robinson.

25
26 Mr. Robinson: Good morning.

27
28 Ms. Mitchell: My name is Debbie Mitchell and I am a consultant for Pete and Lisa Lord who are
29 the owners of a two-bedroom home at 915 Kai Hele Ku Drive in Launiupoko. This home is
30 located south of Lahaina in the Launiupoko development and it is mauka of the highway. As we
31 zoom in you can see the Launiupoko development on the bottom right of the slide and you can
32 see where the subject property is located. And moving in, this is the entire Launiupoko
33 development and you can see that the subject property is at the far end, far north end of the
34 property.

35
36 Zooming in on the property, moving in as you see the water tank that Kim mentioned is located
37 here and the main street, Kai Hele Ku runs along this direction and then the house is located
38 right here. Moving in farther you can see the link of the driveway which is here, this is the main
39 street and the driveway that goes all the way down to the house. Again, moving you can see
40 how much of the land that the water tank does take up.

41
42 It's a permit application for two bedrooms and as Lisa mentioned or sorry, as Kim mentioned the
43 lot size is 3.318 acres. This the street, the main street, Kai Hele Ku Street and the driveway to
44 the residence begins here. There you go. Again, it is a lengthy bamboo lined driveway and it
45 does much for sound abatement from the house itself to any surrounding houses.

46
47 At the last meeting Mr. Robinson you mentioned a concern about the Fire Department being

1 able to reach the house, so we took that to heart and went to the Fire Prevention Department
2 and was instructed by the Fire Chief to go back to Planning...or to Building Department and find
3 the original permit applications which shows a Fire Prevention Bureau Buy Off on the side of the
4 lot and the way it's laid out. Additionally, they also...the Building Department also gave me this
5 slide which shows approval by the Planning Department. So though that driveway was well
6 within the required width. And additionally there is another route for fire trucks to take. It starts
7 at the street right before Kai Hele Ku and it is a wide driveway, gravel driveway which leads right
8 up to the house. Here's the house here. So there is adequate, we believe adequate space for
9 fire trucks to respond on either side.

10
11 There is substantial parking. There's a two-car garage, large two-car garage and since it's
12 a...only a two-bedroom home you won't be having...you have a maximum of two cars there. So
13 there's quite room and especially for turn-around in this area so you're not backing out into the
14 street.

15
16 The house itself is located on the upper area so you have a great view out to the ocean. It has
17 a pool in front and a koi pond in the eastern part. This is the views on all four sides of the
18 property. As you can see there still is a lot of mature foliage which really assists with sound
19 abatement for any neighbors. This is the layout of the house. It is a two-bedroom as you see,
20 quite large garage, office and laundry, kitchen and living room, and two baths. Bath one here
21 and bath two here. The entry to the house, the kitchen, living room, and these are the two
22 bedrooms. They have two outdoor showers which are lovely and two baths inside the house.
23 Again, the office and the laundry. Outdoor amenities there is a large front deck overlooking the
24 pool and there is a barbeque and again, the koi pond that I mentioned. And finally the pool
25 which looks out over...in a westerly direction.

26
27 As Kim mentioned the farm plan has been approved and is adequate for these purposes using
28 53 percent of the usable land. It was an amazing feat because the...there are quite a few
29 challenges with the land. They had to get creative to do some planning but it was approved by
30 the Rulan Waikiki's group. So that is the farm plan.

31
32 And then also Mr. Robinson you mentioned some concern about the community water tank on
33 the property that perhaps it might be accessed. And I went to show that is surrounded by a
34 fence entirely around the water tank itself with barbed wire. In some instances there's more
35 than...there are two fences as you can see it surrounds completely the fence. This is the only
36 entry and it's heavily padlocked. So we think that shows that it is a fairly secure area. As Kim
37 mentioned this is a 100-year flood plain so that takes a portion of the property.

38
39 Here are the fruit orchards and as you can see there's quite...there's a lot of hills and things that
40 they've just been really creative in working out ways to add. The farm plan was approved prior
41 to their purchasing the house, but they then added to it to create more agriculture.

42
43 On the administrative side all the neighbors within 500 feet were notified about the permit and
44 the public hearing. One protest letter was received from a neighbor who was within 500 feet of
45 the house. And a general protest letter was also received which was not picking this one
46 particularly but just saying they did not approve of the short-term rental operations in the
47 neighborhood. We did reach out to these people by letter and then by phone. The gentleman

1 who lives at the houses within 500 feet does not live here full-time. He is in Colorado. So we
2 tried to reach him at both addresses and were unsuccessful.

3
4 As Kim, again as Kim mentioned there are no other short-term rental homes within 500 feet and
5 we did receive seven total letters of support for these property owners. Three are from adjacent
6 homes. So three of the four adjacent neighbors provided support letters and as you'll see I think
7 I handed out one of these to you in the little colored packet but you can see here the pink is the
8 subject property and then there are the three neighbors here, right here. This Number 7 is a
9 board president and we did reach out to him and he said that...this letter is also in your packet,
10 he said that he could not as a board member provide a letter but he fully supported their
11 application and appreciated them doing the legal thing. As you can see this is the neighbor that
12 we were not able to reach. That long driveway from here to here that we really feel that the
13 mature landscaping will sincerely help with the sound abatement for this neighbor. And then
14 this was another neighbor down here that was protesting generally. We did also receive four
15 letters of support from neighbors outside of the 500-foot radius.

16
17 These are three support letters. These are three adjacent neighbors. As you'll see in this one
18 this is a driveway to the Lord's house right here and this is the neighbor on the other half of the
19 CPR'd lot that has supported. This here, this neighbor is somewhat critical in that the pool in
20 the front of the house is probably where there would be noise since it's blocked in the back by
21 heavy foliage and he is in full support. He provided a letter for that. And then additionally the
22 neighbor here, the next door neighbor to the south also provided a letter of support. And there
23 is one lot here that is vacant and we heard nothing from the owner of that lot.

24
25 The protestor, Wood, he was the gentleman within 500 feet. We just attempted to show the
26 distance on the road. This is the driveway to the Lord's home and then up here to the driveway
27 of the protestor.

28
29 We'd like to thank you very much for your consideration. We believe that we have satisfied the
30 requirements for this permit and we ask for your approval. Thank you very much. By the way,
31 the owners are here if you wish to ask any questions at all. Thank you.

32
33 Mr. Robinson: Hi, at this time we're gonna open the floor up for anybody with public testimony?
34 Seeing none, the recommendation from the Department. Oh, I'm sorry, closing public
35 testimony. May I have the recommendation from the Department please?

36
37 Ms. Willenbrink: Yes, this is Kim Willenbrink again, Planning Department. The Department's
38 full analysis is included in the staff report. The Department has no additional analysis or
39 comments to add. The application complies with the applicable standards for a State Special
40 Permit. In consideration of the foregoing, the Planning Department recommends that the Maui
41 Planning Commission adopt the Planning Department's report and recommendation as its
42 findings of fact, conclusion of law and decision and order and to authorize the Planning Director
43 to transmit said written decision and order on behalf of the Planning Commission. Thank you.

44
45 Mr. Robinson: Commissioners at this time do I have any questions for the applicant?
46 Commissioner La Costa?

47

1 Ms. La Costa: Mahalo very much for your presentation. I happen to live in that neighborhood
2 and it is a great place to live and we do have several STRs. I have never heard any kind of
3 issues. I know that there are a few people who protest because they just don't like the idea in
4 general. However, I think that my big concern is with the fire truck and the lane. I know that the
5 lot below is not built on yet so I'm just wondering if there's a way when that does occur to let the
6 owners know that their lot may be used as an alternate for a fire truck. I know if there's any kind
7 of easement or any kind of...anything you can do about that property, but that might be helpful
8 because that would be my only concern.

9
10 Ms. Willenbrink: Mr. Chair?

11
12 Mr. Robinson: Yes.

13
14 Ms. Willenbrink: I cannot answer that question. Perhaps the owners or Ms. Mitchell can?

15
16 Mr. Robinson: Yeah, it's a question from the question so if you can?

17
18 Ms. Mitchell: I'll have Pete Lord answer.

19
20 Mr. Robinson: Okay, and Mr. Lord please introduce yourself again.

21
22 Mr. Pete Lord: Hi, my name is Pete Lord. I don't know, I actually don't know the legal answer to
23 your question as far as how do you create an easement. The owner of the house below...well,
24 the caretaker that lives there full-time is a world's nicest guy. I mean he gives us eggs and that
25 kind of thing and so I'm sure if it's his choice he'd be all for keeping an easement or something
26 like that.

27
28 I think the other thing I want to bring up is that what Debbie found out was that the Fire
29 Department did approve the main driveway to the house and there are trucks, large trucks that
30 go into the water storage area as well. So I don't really think there's an issue there. I don't
31 know that the alternative route would ever be needed. But if somebody ever did build we could
32 certainly go ask to see if we could get like some kind of an easement to use that in the case of
33 emergency.

34
35 Mr. Robinson: Commissioner Kahu Hill.

36
37 Kahu Hill: Morning Chair. Peter, aloha.

38
39 Mr. Lord: Aloha.

40
41 Kahu Hill: I did drive by the property and noticed that was a barrier of the bamboo was really
42 nice for privacy and I seen that your water tank is very secured. I'm noticing on the one letter in
43 opposition today where it says we're experiencing a water shortage in farm and landscaping
44 many of us are struggling to adjust to the water by the State Water Commission. I'm just again
45 wondering about the water tank. I saw that you had just presented that there's two padlocks it
46 looks like on that gate. Who is accessing that and where does this water go for the community
47 and how many houses or land does this go?

1
2 Mr. Lord: Honestly I don't know that answer to that part of it. It's the potable water that's stored
3 there. And it's whoever the water, West Maui...if it's West Maui Water. I've talked to a couple
4 of workers there or just from being out there. It's not related to the...the issue right now in the
5 neighborhood is that they're diverting supposedly 80 percent of the ag water so the
6 neighborhood is losing ag water that's been going on for a while and I know P. Denise probably
7 knows about that. It's a big issue in the neighborhood right now is the loss of the ag water. So
8 we're in the process of getting it, you know, the plumbing redone so that we can actually water
9 the trees and stuff like that with the potable water in the event that we lose all the ag water. But
10 in answer to your question it's a County...it's either a County or the Water Department that
11 owns it and they lock it and unlock it and maintain.

12
13 Kahu Hill: So you don't have a key to that gate?

14
15 Mr. Lord: No.

16
17 Kahu Hill: Okay.

18
19 Mr. Lord: No. It's just physically it's an easement on our property. We have nothing. We're
20 blocked out just like everybody else.

21
22 Kahu Hill: Okay, mahalo.

23
24 Mr. Robinson: Commissioner Carnicelli?

25
26 Mr. Carnicelli: So my question's actually for the Department and I don't know Kim if you can
27 answer this or Director. So I'm gonna go about the farm plan so as you know we know when
28 you put one dwelling on there you have to have a plan. When the second dwelling gets put up
29 then you have to have that plan implemented. Fifty percent of the usable land must be in
30 agriculture. I saw the thing that you put up there saying that 53 percent of it was used in ag but
31 is that just this CPR'd part or is that for the entire property including the other property on there?

32
33 Ms. Mitchell: Thank you, Debbie Mitchell. That is for the entire lot both sides.

34
35 Mr. Carnicelli: Okay, thank you.

36
37 Mr. Robinson: And we are here for a SUP like Commissioner Carnicelli was going to and with
38 farm plans and we've had this challenge prior with these permits where the farm plans hadn't
39 been implemented, where farm plans was supposed to have a dollar amount and somehow
40 that's been kind of been grayed area over. It's not as clear cut as it used to be you know with
41 receipts. And I guess the Department has been a lot more flexible granting these farm, you
42 know, these farm adequate permits. Having said that, Commissioner La Costa?

43
44 Ms. La Costa: Mahalo Chair. As far as the water tank goes, the water tank is owned by West
45 Maui Land and the access is by Launiupoko Irrigation Company. So Dave Manami who
46 happens to run both the both and nonpotable companies if you will has access to that and he
47 lives directly above the end of the street. So Dave is within seconds if has to get there to unlock

1 the gate and also there are workers there usually during the day. Mahalo.

2

3 Mr. Robinson: Any other questions Commissioners? Commissioner Kahu Hill?

4

5 Kahu Hill: Mahalo Chair. I just wanted to know if we vote yes on this do they then own this
6 name, Aloha Maui Spirit? Asking Corp. Counsel just 'cause I don't understand.

7

8 Mr. Robinson: Corp. Counsel?

9

10 Mr. Galazin: Commissioner Kahu Hill, if the name is registered or if it's the name of an LLC
11 then yes, that would be their name. Personally I have not looked into it whether or not it's
12 something that they've done. I'm not sure it technically germane to the criteria that we're
13 looking at today. Interesting question but not one that I have looked into.

14

15 Kahu Hill: Mahalo.

16

17 Mr. Robinson: I have a question and it can either be for Commissioner La Costa since you're
18 familiar with that water. So as a resident you purchase your water from West Maui Land?

19

20 Ms. La Costa: Launiupoko Irrigation Company, right.

21

22 Mr. Robinson: And they're the one that control it. So when I see that we have the Fire
23 Department signing off, they're in charge of the fire control but do you think that West Maui Land
24 should be signed off on this also to make sure that they agree with the access instead of the
25 one in charge and make sure you guys all have water or do you think since the Fire Department
26 signed off on it it must be okay for them as well?

27

28 Ms. La Costa: The Fire Department and I had a conversation when I did my property and West
29 Maui Land, Launiupoko Irrigation wasn't involved at all and they said they didn't want to be
30 because it was the Fire Department and Fire Control rather than them.

31

32 Mr. Robinson: Okay.

33

34 Ms. La Costa: So I can check with Mr. Manami if you want me to.

35

36 Mr. Robinson: Okay, thanks. And Wendy have you guys had a chance to just confer with West
37 Maui Land that they have no problem with this being a...you got the signatures which is great. I
38 just wanna...I didn't know that that was another party involved with the water tank.

39

40 Ms. Mitchell: Debbie Mitchell, no we have not had that conversation. We just spoke with the
41 Fire Prevention Chief. He gave us that information.

42

43 Mr. Robinson: Thank you. Director, you wanted to add something?

44

45 Mr. Spence: Just a little bit about private water systems. The water system at Launiupoko is
46 considered a private system. It's not operated by the County at all. But it still falls under the
47 regulations. Private water systems are heavily regulated. First it falls under the State

1 Department of Health, the water quality, those kinds of things that could be one of their locks on
2 the gate. It's also regulated by the Public Utilities Commission as for the rates that West Maui
3 Land can charge its customers for water. It also falls on the Water Commission on Water
4 Resources Management as how much water can be withdrawn from wells and the different
5 sources. So you have a lot of entities that are involved in this system. But when West Maui
6 sells a piece of property they are obligated, I mean one of the things that comes with that is
7 access to the water. So otherwise nobody would buy. So they're required to provide that water
8 so it's...I guess as far as the building permit goes, I know the Fire Department when they look at
9 a set of building plans they do look at the driveway, they do look at the access, so that's...and
10 they know that that...the source of water has to be there in order to fight fires. So knowing all
11 those things they can sign off knowing that their trucks can get to the structure. They're looking
12 at and they're really sticklers about this, the access, the turnaround within the property itself,
13 how to get in and out. It's not just a simple process. They are very concerned about fire safety
14 and they would not sign off on those building permits unless they were entirely satisfied that fire
15 access is satisfied.

16
17 Mr. Robinson: Corp. Counsel?

18
19 Mr. Galazin: Thank you, Chair. And did want to pose a question to the Department both for
20 clarification and for the edification of the members here. As noted in the staff report, it says that
21 there is one permitted STRH within 500 feet of the application which means that it would fall
22 under the review of a State Special Use Permit within the Ag District and that if a Special Use
23 Permit is approved pursuant to those criteria then the STRH Permit would be reviewed and
24 either approved or disapproved administratively. However, I see in the staff report it says that
25 there is one but I heard orally represented that are zero and that there were two pending. I'd
26 just like to know because the length of time what is the current status today?

27
28 Ms. Willenbrink: Thank you for that question. I clarified at the January 9th meeting that the first
29 time I went in and did the 500-foot those numbers came up. I went back and verified that when
30 Debbie said, Kim can you check on that? And there are indeed none, and I handed that out at
31 the last, January 9 meeting.

32
33 I do feel compelled just to mention that this was deferred several times as you know to get
34 questions answered. The 120-day period is tomorrow. Any other questions?

35
36 Mr. Robinson: Actually that's not accurate but we don't have to worry about that yet.

37
38 Ms. Willenbrink: Okay.

39
40 Mr. Robinson: Is there any other questions from the Commission? I'd like to have some
41 clarification please. This was all about the water tank and to make sure that this Commission
42 doesn't put in jeopardy water for all the residents there with water shortage, whether it's fire
43 suppression or just basic, you know, just basic living and I'm reading where the Fire Department
44 signed off. The Fire Department signed off on a building permit over a dozen years ago, but
45 was there discussions about, about having this as a transient accommodation with not residents
46 here and did they have any concerns about that and if there is a letter in this packet somewhere
47 where it states that you guys had that communication.

1
2 Ms. Willenbrink: I did not speak to the Fire Department. We did reach out for agency
3 comments, there were none I believe to Fire. I could double check on that. And I think Ms.
4 Mitchell is the one that was in contact with the Department of Fire.

5
6 Mr. Robinson: And I think that was the concern, you know prior for this and so yeah,
7 Ms. Mitchell if you have anything that could help with that please?

8
9 Ms. Mitchell: Debbie Mitchell. Yes, I spoke to the Chief of the Fire Prevention Department and
10 he, although did not give us any note in writing referred me to the Building Department. He said
11 look up the original plans, if you see a Fire Department buy off, then that means that we have
12 approved that. So that was my only interaction with him other than to go down to Permitting
13 down here and pull those two slides that I showed you, but he did not provide anything in
14 writing.

15
16 Mr. Robinson: Thank you. So Commission we are here with the application. They have been
17 here twice. I think you've heard the concerns from the Commission as well as the replies from
18 the applicant. Do we have any discussion or any motions? Commissioner Carnicelli?

19
20 Mr. Carnicelli: I make a motion to approve as recommended by Staff.

21
22 Mr. Robinson: Commissioner La Costa?

23
24 Ms. La Costa: Second.

25
26 Mr. Robinson: Would you like to speak to the motion?

27
28 Mr. Carnicelli: Thank you Chair. Yeah, to me you know obviously we've seen this thing a few
29 times. I come down to the seven neighbors that wrote letters of support, two that had concerns.
30 For me the fire part is you know, as the Department, the Fire Department said, they signed off
31 on the building permit initially. They're okay with it. Just because the use is gonna change
32 doesn't necessarily mean the fire access is gonna change. So that's why for me I'm gonna go
33 ahead and support the motion.

34
35 Mr. Robinson: Okay, any other discussion on the motion? I have a question. The alternate
36 access to the water tank, I don't know how we can address that with another property owner
37 that doesn't exist there, but I think that is something that maybe your board might want to bring
38 up, the homeowner's association might want to bring up on that because it's a water tank. You
39 know, not that there's gonna be any nefarious people up there, but you just never know and a
40 road could get blocked, a car could get stalled, but hopefully that would be fine. Having seeing
41 no more discussion, Director?

42
43 Mr. Spence: Commissioners, the motion is to approve the Special Use Permit as recommended
44 by Staff. All in favor? That's six ayes. Motion carries.

45
46 Mr. Robinson: Congratulations.

47

1 **It was moved by Mr. Carnicelli, seconded by Ms. La Costa, then**
2

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

9 Mr. Robinson: Next on the agenda do we have Mr. Hart and Partners representatives here? Or
10 would you guys like a quick recess?
11

12 Mr. Spence: I don't know, their attorney...oh, they're here.
13

14 Ms. Furukawa: Oh, I guess he is here. Wayne Armstrong is gonna—
15

16 Mr. Robinson: Do you need to set up a second for that?
17

18 Ms. Furukawa: Yes.
19

20 Mr. Robinson: We'll take a five-minute recess.
21

22 A recess was called at 9:47 a.m., and the meeting was reconvened at 9:55 a.m.
23

24 Mr. Robinson: Planning Commission back in session. Commissioner, I mean, not
25 Commissioner, Director?
26

27 Mr. Spence: Okay, Commissioners we are on Item E-2. This is Chris Hart and Partners on
28 behalf of Wailea Land Corporation. This is to waive or review, we're already in review of the
29 Step III Planned Development and Tara do you want to give an overview or...
30

31 **2. CHRIS HART & PARTNERS on behalf of WAILEA LAND CORPORATION**
32 **requesting a Planned Development Step III approval for the proposed**
33 **Makalii at Wailea (Wailea MF-15) Multi-Family Development at the corner of**
34 **Wailea Alanui Drive and Kaukahi Street at TMK: (2) 2-1-008: 120, Wailea,**
35 **Island of Maui. (PD3 2018/0002) (SM1 2013/0016) (PD1 2013/0004) (PD2**
36 **2013/0004) (T. Furukawa)**
37

38 **The Commission previously reviewed this application at its April 10, 2018**
39 **meeting and decided not waive its review and review the request. The**
40 **Commission reviewed the request at its April 24, 2018 meeting and**
41 **deferred the matter.**
42

43 **The Commission may take action on the application.**
44

45 Ms. Tara Furukawa: Okay.
46

47 Mr. Robinson: Tara, I think we've heard it a couple of times. I think if we give more time to

1 Commissioner Tackett to go ahead and ask his questions, I think we can go straight at it.

2

3 Ms. Furukawa: Okay.

4

5 Mr. Robinson: That way Commissioner if you're agreeable to that? Any objections to that?

6

7 Commission Members: No.

8

9 Mr. Robinson: Okay, thanks.

10

11 Mr. Tackett: So number one, I'd like to thank you guys for this huge amount of documentation
12 that I received. And upon the substantial review process that it took to go over it, what you guys
13 represented was exactly what you guys said. So it was...I appreciate you allowing me the
14 opportunity to see the difference between II and III, but I am more than comfortable to vote on
15 the issue at this time and that's all I have on that.

16

17 Mr. Robinson: Thank you. Do we have any public testimony at this time? Without objections
18 I'd like to close public testimony.

19

20 Mr. Carnicelli: No objection.

21

22 Mr. Robinson: Commission do we have a motion on the floor?

23

24 Mr. Tackett: Since I made the trouble in the first place, I'd like to move to approve the third step,
25 thank you.

26

27 Mr. Hudson: I'll second it.

28

29 Mr. Robinson: Second by Commissioner Hudson. Discussion? Commissioner, I think it was
30 great what you did. I think as this Commission we don't want to be influenced or feel that we
31 have to vote just because we should. You know, we're here to share all our experiences and
32 make sure that we feel comfortable and we support what you did and we're glad that you feel
33 comfortable. Director?

34

35 Mr. Spence: Commissioners, the motion is to approve the Step III Planned Development
36 Approval. All in favor? Six ayes. Thank you. Motion carried.

37

38 Mr. Robinson: Thank you. Congratulations. Hope I did that quick enough for you.

39

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

41

42 **VOTED: To Approve the Planned Development Step III as Recommended by**
43 **the Department.**

44 **(Assenting – C. Tackett, L. Hudson, L. Carnicelli, A. Hill, S. Castro,**
45 **P.D La Costa)**

46 **(Excused – T. Gomes)**

47

1 Mr. Robinson: Next agenda.
2

3 Mr. Spence: Okay Commissioners we're on Communications from Mr. Gale Notestone, the
4 Chair of the Hana Advisory Committee transmitting the Committee's recommendations for the
5 request from Mr. Klee Irwin and Morphic Science for a Special Use Permit for a short-term
6 rental home in the Ag District out in Hana and Ryan Quigless is our Staff Planner this morning.
7

8 **F. COMMUNICATIONS**
9

- 10 1. **MR. GALE NOTESTONE, Chair of the Hana Advisory Committee to the**
11 **Maui Planning Commission transmitting: the Committee's**
12 **recommendations on the request from MR. KLEE IRWIN, of MORPHIC**
13 **SCIENCE, for a State Land Use Commission Special Permit in order to**
14 **operate Kawika's Hill, a short-term rental home permit located in the State**
15 **Agricultural District at 1400 Hana Highway, TMK: (2) 1-2-003: 040, Hana,**
16 **Island of Maui. (SUP2 2015/0004) (R. Quigless)**
17

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

20 Mr. Ryan Quigless: Aloha and good morning Chair and Director, Commission Members.
21

22 Mr. Robinson: Aloha Ryan.
23

24 Mr. Quigless: My name is Ryan Quigless, Planner and Landscape Architect with the Maui
25 County Planning Department. We meet here today to review and discuss the HAC
26 recommendation, Hana Advisory Committee recommendation for approval on a Special Permit
27 to operate Kawika's Hill, a two-bedroom short-term rental home in the State Agricultural District
28 on approximately 1.8 acres located along Hana Highway at 1400 Hana Highway, Hana, Maui,
29 Hawaii, TMK: (2) 1-2-003: 040. And I'd also like to reiterate and note at this time that the public
30 hearing was held with the Hana Advisory Committee and that we are here today to request
31 MPC final approval. Would you like me to go over the items that were discussed in the public
32 hearing?
33

34 Mr. Robinson: Is this a public testimony item?
35

36 Mr. Spence: Yes.
37

38 Mr. Robinson: I'd like to see if there's any public testimony on this item at this time? Seeing
39 none, and without objection I'd like to close public testimony.
40

41 Mr. Carnicelli: No objection.
42

43 Mr. Robinson: Okay, please carry on.
44

45 Mr. Quigless: So I'll go over a few of the items that were discussed at the public hearing at
46 Hana. The applicants have an implemented farm plan consisting primarily of cattle grazing
47 operations. Detailed images of the property and cattle were provided in a supplementary packet

1 to the Hana Advisory Committee. The applicants have no Requests for Service on file nor have
2 they had any neighbor complaints or violations with the County. The applicants have five letters
3 of support which were also provided to the Hana Advisory Committee during the public meeting
4 and there are no permitted short-term rental home operations within 500 feet of the subject
5 property. Currently there are 17 permitted short-term rental homes in the Hana Community
6 Plan region. The short-term rental home cap for the Hana Community Plan is 30. Currently
7 there are 11 permitted bed and breakfast homes in the Hana Community Plan region and the
8 bed and breakfast cap for the Hana Community Plan region is 48.

9
10 Because of the total acreage of the property the following State agencies were transmitted to for
11 comments on the proposed use of the property. The State agencies are the Office of Planning,
12 the State Land Commission and neither of them had any comments. The analysis that we used
13 to review the project for the State Special Permit was were making sure that the project was in
14 conformance with the goals, objectives, and policies of the Hawaii State Plan. It will also
15 provide an additional opportunity for employment and economic growth in the visitor industry.
16 The subject property is in the State Agricultural District and short-term rental use is allowed with
17 the issuance of a State Special Permit. The subject property is located in the County
18 Agricultural District as well and Maui County Code, 19.65 allows for the use of a dwelling within
19 the County Agricultural District as a short-term rental with issuance of a Short-Term Rental
20 Home Permit. If the Hana Advisory approve recommendation to the MPC and for the State
21 Special Permit and upon your approval the Short-Term Rental Home Permit can be approved
22 administratively. Are there any further questions regarding the project at this time?

23
24 Mr. Robinson: Commission? Commissioner Kahu Hill?

25
26 Kahu Hill: Mahalo Chair. You were about to share some other information as far as
27 testimonies?

28
29 Mr. Quigless: We have letters of support from neighbors in the community and those were
30 provided to the Hana Advisory Committee during the public meeting. As far as any other letters
31 of support that was it.

32
33 Mr. Robinson: Commissioners? Commissioner La Costa?

34
35 Ms. La Costa: Mahalo Chair. Question for you. There is cattle grazing lease that is in effect?

36
37 Mr. Quigless: Correct.

38
39 Ms. La Costa: For ten years?

40
41 Mr. Quigless: Correct.

42
43 Ms. La Costa: And was started in 2014.

44
45 Mr. Quigless: I believe so.

46
47 Ms. La Costa: What impact will those cattle have on the short-term rental? Is there a fenced off

1 area where they will not interfere for health and safety reasons?
2

3 Mr. Quigless: That's exactly right. So the 1.8 acres is what has been fenced off for the short-
4 term rental use, and the cattle operation will not interfere with the residents and the guests.
5

6 Ms. La Costa: Okay. I have one more question.
7

8 Mr. Robinson: Commissioner La Costa.
9

10 Ms. La Costa: Thank you very much Chair. The name of the owner Morphic Science Inc. is
11 there any kind of commercial activity that will be going on or is it just short-term rental?
12

13 Mr. Quigless: I spoke with the property owner about that and the property owner clarified that
14 there will be no other operations other than the grazing operation and the short-term rental
15 operation on the property. Also to note that the owner of Morphic Science supplied
16 documentation saying that he's a 100 percent owner of that.
17

18 Ms. La Costa: Mahalo.
19

20 Mr. Robinson: Thank you. Any other questions Commissioners? Commissioner Carnicelli?
21

22 Mr. Carnicelli: So my question Ryan is were they operating a short-term rental operation prior to
23 this?
24

25 Mr. Quigless: That information wasn't disclosed. The owner's representative is here as well
26 maybe she might be able to answer something about that.
27

28 Ms. Iwalani Poaipuni: Aloha everybody my name is Iwalani Poaipuni. It used to be operated a
29 short-term rental prior to it being required as a permit and then they stopped once it became
30 that a permit was required to have a short-term rental they stopped and went into the process of
31 getting a permit.
32

33 Mr. Robinson: Commissioner Carnicelli?
34

35 Mr. Carnicelli: Does that disqualify them?
36

37 Mr. Spence: No, if they stopped renting prior to the enactment of the Short-Term Rental Home
38 Ordinance as I recall I want to say 2014, I'd have to look it up, there was no law banning them in
39 place. If they were operating after the law was in place then there was a specific portion of the
40 Short-Term Rental Home Law that would ban them for five years, but if they stopped before
41 then then there's nothing prohibiting them from applying and obtaining a permit.
42

43 Mr. Robinson: Commissioner?
44

45 Mr. Carnicelli: Were you operating during that time?
46

47 Ms. Poaipuni: No.

1
2 Mr. Carnicelli: Okay, thank you.
3
4 Mr. Robinson: Yeah, and Ryan I think there was no NOV's or RFS's on this property?
5
6 Mr. Quigless: That's correct.
7
8 Mr. Robinson: So Commissioners, any other questions? I have two questions. The first
9 question is the community plan and I saw there's some discussion in the minutes there about
10 the community plan talking about accommodations and ...(inaudible)...accommodations that we
11 have this going on with the Paia as well as some other things coming up. Is this complying with
12 the community plan or do we still have some ambiguity of what it's about right here.
13
14 Mr. Quigless: I believe it is compliant with the community plan. I think one of the operative
15 statements in the community plan is that the short-term rentals should be concentrated to the
16 Hana Town itself as close as possible.
17
18 Mr. Robinson: The urban.
19
20 Mr. Quigless: Urban. And then as far as improving local employment with the operation itself
21 that's the property owner's plan is to hire locally from the Hana community.
22
23 Mr. Robinson: Well, and it's a financial benefit for Hana community, right? Is that's what in the
24 community plan?
25
26 Mr. Quigless: Right.
27
28 Mr. Robinson: Anything that's going to be a benefit for the Hana community not just for the
29 owner.
30
31 Mr. Quigless: Right.
32
33 Mr. Robinson: Right. So a short-term rental who does he have to employ? Is there a property
34 manager that they're employing or is he self-managing?
35
36 Mr. Quigless: Property manager.
37
38 Mr. Robinson: Property manager.
39
40 Mr. Quigless: Yeah, it's a designated manager.
41
42 Mr. Robinson: Okay, and that takes care of that. Great. My second question is we've had
43 cattle grazing before on these permits and we're always concerned about the type of wire using.
44 If we're using bull wire, if we're using electrical, can you touch on that Ryan?
45
46 Mr. Quigless: I do know that he has a hog wire fence that contains the cattle. I don't know if...I
47 don't think it's electric, but I do know that the neighbors have worked with him to make sure that

1 it will contain the cattle and none will escape. There's no holes in the fencing.

2

3 Mr. Robinson: Was there any discussion about restricting bulls on this property while it was
4 rented out?

5

6 Mr. Quigless: There was no discussion of that.

7

8 Mr. Robinson: Okay, that's something that you know, have cattle, and that's something that's
9 always a concern of renter's kids they don't understand sometimes and they'll grab a ti leaf and
10 think a bull is calf or a heifer. That may be a condition that we might want to consider. And if
11 you could...so are you asking us to defer to Hana or are you asking for us for the permit?

12

13 Mr. Quigless: So it's already been referred to Hana for the public meeting and then we're here
14 for final approval based on their recommendation for approval.

15

16 Mr. Robinson: Okay, thank you. Commissioners any...Kahu Hill.

17

18 Kahu Hill: Mahalo Chair. I just wanted to know if there's anything for us to learn about the
19 water.

20

21 Mr. Quigless: I believe it's a private system, catchment. I don't know anything more than that,
22 so...the catchment system is contained on site and only serves this particular property.

23

24 Kahu Hill: And is that catchment on the property for this rental or where the cattle are?

25

26 Mr. Quigless: It's on the property for the rental. Yeah, approximately 100 feet away from the
27 house itself.

28

29 Kahu Hill: Mahalo.

30

31 Mr. Robinson: Commissioners? So we're here for final approval. Do we hear a motion?

32

33 Mr. Carnicelli: Recommendation?

34

35 Mr. Robinson: Oh, I'm sorry Ryan. Would you like to present the recommendation from the
36 Planning Department please?

37

38 Mr. Quigless: Planning Department recommends approval.

39

40 Mr. Robinson: Thank you. Commissioner Carnicelli?

41

42 Mr. Carnicelli: I'd like to make a motion to accept the Hana Advisory Committee's
43 recommendation and approve.

44

45 Kahu Hill: I second.

46

47 Mr. Robinson: Kahu Hill second. Would you like to speak to the motion?

1
2 Mr. Carnicelli: Yeah, just briefly Chair you talked to this before where you know it's Hana's
3 community. You know we defer to Hana for a reason, you know they understand their
4 community better than we do. The fact that they had I think it was five or seven people in
5 support. So the community's behind this, their community, and so therefore, I think that it's just
6 appropriate for us to accept what they want in their community. So I'll be supporting the motion.
7 Thank you.

8
9 Mr. Robinson: Any other discussion? Commissioner La Costa?

10
11 Ms. La Costa: My question was about your comment about the bulls and the folks who would
12 be staying there if there were one in the pasture.

13
14 Mr. Robinson: Well, our Commission can ask for a condition. And a condition could be that while
15 there are...the house is being used as an accommodation that there be no bulls on the property
16 for safety reasons. That's something that the Commission you know can ask for.
17 Commissioner La Costa.

18
19 Ms. La Costa: Then we would have to amend the motion to include that?

20
21 Mr. Robinson: Yes. We could have the motion, we also vote on an amendment to doing that. If
22 you would like to do that we could get a second vote on that and then go back to the approval.
23 We can do that way instead of having to amend the motion. We could just vote on a...if you
24 would like to put a condition we could vote on the condition.

25
26 Ms. La Costa: Yes.

27
28 Mr. Robinson: Okay.

29
30 Ms. La Costa: Please I'd like to include that so that we have one motion rather than have two
31 motions.

32
33 Mr. Carnicelli: There is a motion on the floor. So you would have to amend the motion.

34
35 Mr. Robinson: Yeah.

36
37 Mr. Spence: Make a motion to amend the motion.

38
39 Mr. Robinson: Yeah.

40
41 Ms. La Costa: I hereby move that we amend the motion currently on the floor to include
42 verbiage on no bulls during occupancy.

43
44 Mr. Carnicelli: Chair, I'll accept that as a friendly motion.

45
46 Mr. Robinson: Okay, and second?

47

1 Mr. Carnicelli: You accept it as well?

2

3 Kahu Hill: I do. I just think with what P.D La Costa is saying really could see the need for
4 possible fencing, a gate that the visitors coming there would not have access as well and their
5 lodging to go into the property, this ag land and for the cattle.

6

7 Mr. Robinson: Is we haven't voted on it yet, but is that something or you or your applicant like to
8 speak to to make sure that they're comfortable with that?

9

10 Mr. Quigless: That's been discussed with the applicant prior, the interference of the cattle with
11 the operation. I think it's a great idea also. We can ask the property owner's representative to
12 comment.

13

14 Mr. Robinson: Okay.

15

16 Ms. Poaipuna: Aloha.

17

18 Mr. Robinson: Let me clarify what we have in front of you. It's we're recommending for
19 approval of your permit with a condition and the condition is that while you have people staying
20 there with the accommodations is that you do not have a bull on the property for the safety of
21 tourists at your property or other people that could possibly be staying there. And we're hoping
22 that you agree with that safety precaution that we're asking for.

23

24 Ms. Poaipuna: I agree with it.

25

26 Mr. Robinson: Thank you so much.

27

28 Kahu Hill: And the gate?

29

30 Mr. Robinson: Yeah, well if you have cattle, you gotta have a gate, yeah. Thank you. Director?

31

32 Mr. Spence: Okay Commissioners the motion is to approve as recommended by the Hana
33 Advisory Committee and as amended by this Commission to include a condition that there be
34 no bulls present while the visitors are occupying the dwelling. All in favor? That's six ayes.
35 Thank you.

36

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

38

39 **VOTED: To Approve the State Land Use Commission Special Permit as**
40 **Recommended by the Hana Advisory Committee and the Department**
41 **as amended to include a condition no bulls be present on the**
42 **property when unit is being rented.**

43 **(Assenting – L. Carnicelli, A. Hill, P.D La Costa, L. Hudson,**

44 **C. Tackett, S. Castro)**

45 **(Excused – T. Gomes)**

46

47 Mr. Spence: Just a note Mr. Chairman?

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Mr. Robinson: Director?

Mr. Spence: Commissioners if you're interested the community plan for this area is very interesting. It says to discourage vacation rentals outside the Hana urban area, it does not say to prohibit. So...

Mr. Robinson: Was that the Hana Community Plan or Maui Community Plan.

Mr. Spence: Hana Community Plan.

Mr. Robinson: Director?

Mr. Spence: Maybe with the next iteration of the Maui Island Plan. Okay, Commissioners the next one's going to be really brief. Is Luana Development Partners, LP submitted an annual report for the Honua Kai Resort, North Beach and with us this morning is Ms. Candace Thackerson.

2. LUANA DEVELOPMENT PARTNERS, LP submitting the annual report regarding the disbursement of funds in the Settlement Agreements for the Honua Kai Resort, North Beach Park, and Related Improvements at TMK: (2) 4-4-014: 006 and 008, and 4-4-001: 010, Kaanapali, Island of Maui. (SM1 2004/0017) (C. Thackerson)

Condition No. 32 of the SMA approval (SM1 2004/0017) states:

That an annual report shall be filed with the Maui Planning Commission on the disbursement of the funds in the Settlement Agreements for their information.

Ms. Candace Thackerson: Aloha Commissioners.

Mr. Robinson: Aloha.

Ms. Thackerson: So we're here again. As you know, every year annually you guys receive this letter which is just a disbursement of the funds. It was a condition placed on the original SM1 Permit at the time that body, that commission back in 2004 decided that they wanted every year them to send a letter to this body showing disbursement of the funds. Lately this body has been asking how the funds have been spent as particularly the ones that go to the West Maui Preservation Association. And every year I send them a letter, I give them a call, and I don't get any response. So that's the same tune as it is today. So I can continue to do that. Really today we're just acknowledging receipt of the letter. There's really nothing in the condition prior that says they have to release how the funds are spent. It just said that they have to give you this report every year.

Mr. Robinson: Commissioner Carnicelli?

1
2 Mr. Carnicelli: Candace, I have...could you please clarify the charitable contributions that can
3 be tracked or maybe not be tracked in Item D.

4
5 Ms. Thackerson: Oh you mean how they're spending their money?

6
7 Mr. Carnicelli: No it's just...from what I gather here it says you know that okay, .25 percent of
8 the sales prices of the close of escrow is supposed to go to a nonprofit, but when resales are
9 handled by outside brokers we can't track that so how do we know if that's being done or not?

10
11 Ms. Thackerson: We have no way to track that. They only can track it through ...(inaudible)...

12
13 Mr. Carnicelli: And we can't do transfer fees anymore.

14
15 Ms. Thackerson: No.

16
17 Mr. Carnicelli: So basically it's just kinda like it's a nice thing but it may or may not be
18 happening.

19
20 Ms. Thackerson: Yeah, and we also have no way to track or really any authority over you know,
21 demanding for them to release how they're spending their funding.

22
23 Mr. Carnicelli: Okay.

24
25 Ms. Thackerson: Because at that the time it was not the way the condition was worded. The
26 condition states, that an annual report shall be filed with the Maui Planning Commission on the
27 disbursement of funds in the settlement agreement for their information. It's not, you know, it's
28 not for review or approval, it's just for your information.

29
30 Mr. Robinson: Commissioners, anything? Commission, I've been here three years and I've
31 seen this three years and it's taken up 15 or 20 minutes of our time with no powers, no anything.
32 Is this something that we might want to make a motion to defer review going further considering
33 most of these things have already been disbursed? Commissioner Tackett?

34
35 Mr. Tackett: I just have a question to Corp. Counsel, do you feel that what is going on is
36 appropriate? You know should there be...I mean, is there any way to make these people
37 accountable for the substantial amount of money that they got, to know that it went to something
38 positive, you know?

39
40 Mr. Robinson: Corporation Counsel?

41
42 Mr. Galazin: Thank you Chair. This goes so way far back that honestly I couldn't even be
43 tracking it at this point let alone what the Department's able to do right now. And you know as
44 Candace pointed out really this information comes in on an annual basis just because that's a
45 term of the settlement agreement but really there's little else that you folks do with it other than

1 listen to it. And I think if you wanted to defer that condition, you know defer...waive that review
2 moving forward, it's perfectly acceptable.

3
4 Mr. Robinson: And waiving the review means that not that they're not turning the information
5 into the County, it means that we're not looking at it to know what we're looking at. But again,
6 you know it's...yes, Candace?

7
8 Ms. Thackerson: And that might be something that Corp. Counsel might want to touch on
9 because I'm not sure if the Commission can amend 'cause then you would be amending the
10 terms of the permit. Because the permit...the approval letter states that they have to do this so
11 you would be then amending that or removing that condition or amending it to say that you just
12 want it to be filed with the Planning Department and then I look at and I can file it in the
13 appropriate place. I don't know if it has to be something brought by the applicant to amend their
14 own permit. I don't know if that's something the Commission can just decide to amend approval
15 conditions.

16
17 Mr. Spence: I know the Commission's rules say that if...in the case where there was an
18 intervention you know there's requirements for public hearings and stuff like that in order to
19 amend a permit. So doubt the applicant would want to go through the time and everything to
20 amend. When this thing comes before the Commission annually 50 years from now...

21
22 Mr. Robinson: Okay so we wasted—

23
24 Mr. Spence: They can always just say we don't want to see it.

25
26 Mr. Robinson: Yeah, so let's stop the bleeding. Any questions?

27
28 Mr. Carnicelli: We wasted more time talking that we should—

29
30 Mr. Robinson: Yeah, yeah.

31
32 Ms. Thackerson: Yeah, and I'm the one that has to do them every year so...

33
34 Mr. Robinson: Seeing no question, Director next item.

35
36 Ms. Thackerson: Thank you.

37
38 Mr. Spence: Thank you Candace. We're on Director's Report. Commissioners this is a
39 notification that we intend to process a time extension administratively for Item A is the Kraus
40 Company, Inc., requesting SMA Permit for a two-year time extension to initiate construction of
41 the Downtown Kihei Project. Candace is also our planner for this one.

42
43 **G. DIRECTOR'S REPORT**

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

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

3
4 **a. THE KRAUSE COMPANIES INC. requesting a Special Management**
5 **Area Use Permit two (2)-year time extension to initiate construction**
6 **of the Downtown Kihei project and related improvements at TMK: (2)**
7 **3-9-002: 020, Kihei, Island of Maui. (SM1 2012/0006) (C. Thackerson)**

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

12
13 Ms. Candace Thackerson: Aloha. So before you, you have a request to waive review of a two-
14 year time extension request for the Downtown Kihei Project and related improvements that was
15 approved back in 2012. So you can either you know, waive your review and allow them to have
16 a two-year time extension or you can vote to want to see it in full review as you saw earlier with
17 the PD II document there before you. You can waive your review or you can ask for it to come
18 back. And the applicants are here if you have any specific questions about the project or little
19 details.

20
21 Mr. Robinson: Commissioner Carnicelli?

22
23 Mr. Carnicelli: So Director, I'm not...I mean in reading this I see that there's really not anything
24 substantial that's changed to make me personally at least from what I see want to rereview the
25 SMA Permit. But the question that I have is 'cause we've had a couple of these come through
26 while I've been here and we grant them for a specific time, for specific reason, and in here it
27 says, okay, due to escalating construction costs over the last several years that basically the
28 process has been delayed. Well, construction costs aren't going down and so part of us
29 granting a permit is to say okay, what's the viability of the project and are they going to complete
30 it? And that's why we give you okay, two years or three years or whatever it is we give to
31 complete it. And then just saying okay, well we didn't complete it so give us more time. In our
32 review of this or waiving of review of this how much of that of what I just said can or does come
33 into consideration of reviewing an extension of an SMA Permit?

34
35 Mr. Spence: I'm not entirely clear—

36
37 Mr. Carnicelli: Okay, well I'm just saying is what if I'm just going you know what I don't think that
38 that's a viable reason just because you said oh, construction costs went up and that's why we
39 didn't do it and we want an extension. I'm going well, sorry that's not a good enough reason.
40 I'm saying as an example.

41
42 Mr. Spence: I mean, what's before the Commission today is either you're going to waive review
43 and we will go ahead and administratively grant an extension or you want to see the project.

44
45 Mr. Carnicelli: Right.

1 Mr. Spence: If not, it's not...and all you would be acting on if you don't want to waive your
2 review is the time extension. You're not reopening the permit itself. You could, I mean at the
3 end of it you could say we don't want to grant a time extension, but that's the extent of it.

4
5 Ms. Thackerson: I would like to say that this is the applicant's first time extension.

6
7 Mr. Carnicelli: Okay. I'm just trying to wrap my head around you know, if somebody just says
8 oh you know we've got all of our permits but oh the timing was wrong so we're just gonna sit on
9 it. We'll just get...you know we're gonna get an extension so I'm just trying to...I mean I don't
10 want to stop projects 'cause we need housing and we need to build but I'm also don't want you
11 know people to think that okay, I'm just gonna sit on something and not do it and you know, like
12 the only reason I got was that construction costs have gone up. You know, and that's why we
13 didn't do it within the time frame that we said that we were gonna do it when we showed up here
14 in front of the planning commission before. And I do get that all we're doing today is just
15 deciding whether or not we want review or not and I do understand that. And I'm not saying that
16 I do want to review it. I'm just trying to clear on, you know do we have a criteria as to what's
17 justifiable for an extension or not.

18
19 Mr. Spence: No, you don't have a criteria, it's just a decision by the Commission whether or you
20 want to waive review or not.

21
22 Mr. Carnicelli: Got it. Thank you.

23
24 Mr. Robinson: Commissioners any questions for the applicant? Commissioner Castro?

25
26 Mr. Castro: Candace, so this is their first extension?

27
28 Ms. Thackerson: Yes, this is their first extension. And to touch on that point a little bit with
29 Commissioner Carnicelli, you know I have in the years of doing this before the Commission, and
30 sometimes when I come up and it's their fourth or fifth request that's when the Commission
31 sometimes can feel this has gone on for too long or whatever it may be, but usually a first,
32 things happen, you know, it's not...the date is at least 2012, it's not like 2001, a time extension.

33
34 Mr. Castro: Thank you.

35
36 Mr. Robinson: Commissioners? Commissioner Kahu Hill.

37
38 Kahu Hill: Mahalo Chair. I know what we're here to vote for I just had a question 'cause I've
39 watched this wetlands next door for so long and was right next to it before they built the thing
40 called Longs and Azeka III. It said that qualified biologist would be there on the clearing to see
41 about nests and things. I just wondered what's in place to protect the waters for the wetlands
42 that are next door because it's quite a big project.

43
44 Ms. Thackerson: Do you mean currently what's in place or what will be in place during the time
45 of construction?

46
47 Kahu Hill: Yeah, what will be in place?

1
2 Ms. Thackerson: I believe the applicant can answer that for you. Oh good they're here. Keep
3 that question now that they're present.

4
5 Ms. Gwen Hiraga: Good morning Commissioners, Gwen Hiraga.

6
7 Mr. Robinson: Aloha Gwen.

8
9 Ms. Hiraga: Hi. David Pyle can will respond to your question Commissioner Hill.

10
11 Kahu Hill: Yeah, I know it's not on here but I just would really like to know 'cause it's such a
12 precious area what is in place for the wetlands right there just to protect the water or the
13 construction that could...the dust coming over there, what's in place to be aware of the birds
14 that wetlands area?

15
16 Mr. Robinson: Please introduce yourself.

17
18 Mr. David Pyle: I'm sorry, David Pyle. First we are...we're staying away from the wetlands
19 mostly with the construction.

20
21 Mr. Robinson: Mr. Pyle I apologize, you're so tall that the microphone is not picking up your
22 testimony. Feel free to hold it if you want.

23
24 Mr. Pyle: How's this?

25
26 Mr. Robinson: Yeah, that's fine.

27
28 Mr. Pyle: I know I always have that problem. Most of our construction is away from the
29 wetlands and we have a buffer zone between the existing, those existing engineered wetlands
30 that are there. And there's a buffer zone even from our construction from the wetlands. There'll
31 be some grading because we need to grade some storm management that's in our plan. Also
32 in the ultimate construction of the buildings as a requirement of the flora and fauna report is that
33 we turned away development away from the wetlands beyond the buffer because the birds don't
34 like humans looking over them. They don't mind having development around them, but they
35 don't want people watching them all the time. And so we've followed all the recommendations
36 of our flora and fauna report on that. Does that answer your question?

37
38 Kahu Hill: It does pretty much. Mahalo for taking the time to answer that question.

39
40 Mr. Robinson: Commissioners any other questions? Candace I have a question. My question
41 is with all the change...you know this is SMA and all these changes that I see happened the
42 nine, has this happened since the SMA was originally approved or is this these nine changes
43 were approved with the SMA?

44
45 Ms. Thackerson: The nine—

46

1 Mr. Robinson: You moved the pad here, our parking level went from two to three stories, our
2 theatre got moved to this side, you know its heights have changed.

3
4 Ms. Thackerson: Oh you mean the site plan modifications?

5
6 Mr. Robinson: Yeah.

7
8 Ms. Thackerson: Okay, so the site plan modifications those are amendment to permits that they
9 come in and the Department makes a call of whether or not it's a substantial change and should
10 come before the Commission or if it's something that we can approve administratively. It looks
11 like the Ann Cua was the planner on this and that she found the changes to be nonsubstantive
12 and approved them and the date of the letter would e 2016 so that happened during the time
13 that their permit was not expiring 'cause when it's granted so much time so they made some
14 changes because this is their first extension.

15
16 Mr. Robinson: So Commissioners that's something that I think that we could look at. These are
17 changes that happened with different heights, different things, different SMA rules for our area is
18 that something if, you know we wanted to have review or to be comfortable with 'cause you
19 know even though our Department says it's not substantial when you go from two levels to three
20 levels, when you move parking out of a certain area or flood zone and different things for
21 catchment it could be for the better. You know we just didn't get the privy to that and with the
22 Special Management Area that's something that you know that you might wanna look at. You
23 have any questions Commissioners? Thank you. At this time, Director?

24
25 Mr. Spence: So Commissioners what you're being asked today is if you want to waive your
26 review or if you want to review the time extension or if you want to see it. So we would have a
27 motion one way or another.

28
29 Mr. Robinson: Commissioner La Costa.

30
31 Ms. La Costa: Mahalo. I move that the Commission review the project in its entirety because of
32 the changes that have occurred.

33
34 Mr. Spence: Commissioner La Costa, we would not...all you're doing is deciding whether to
35 waive review or not. You're not reviewing the entire project again.

36
37 Ms. La Costa: I withdraw my previous motion.

38
39 Mr. Spence: Basically if the Commission decides not to waive its review what you would be
40 doing is you be asking the developer to provide some additional explanation other than what's in
41 the letter on why you would, why you should grant an extension or not. And just a comment Mr.
42 Chair, this is a very popular project with wide support the Kihei Community Association which as
43 you know, doesn't...don't often support development. This is more than a decade in the making
44 and it received...the developer did it right, he went out to the community, said what do you want
45 to see, et cetera, et cetera, so this is just...I know that there's no commissioners here when
46 it...from when this SMA Permit was first approved and so I'm just providing this bit of
47 information that this was a very popular project with the community and with the Commission.

1
2 Mr. Robinson: Commissioner Carnicelli.

3
4 Mr. Carnicelli: I make a motion to waive review.

5
6 Mr. Castro: Second.

7
8 Mr. Robinson: I have a motion to waive review. We have a second. Any discussion? It's I
9 personally is when I read this I see a lot has been changed. It could be for the better. I still
10 think it's a popular project. I still think that we're for it but when I see increased size of Building
11 A, G, H and J with a slight reduction of M that's not just a little. You know when I see a parking
12 structure go from two stories three stories, I see view planes not being addressed. And when it
13 comes to the community and the community stands behind a project that is popular and then
14 the project changes without the community knowing because it's done administratively I think
15 that's when we lose the transparency. I don't think 15 days or 30 days is going to kill this project
16 because there might be some comments on the new way they're doing it. Hopefully it's done
17 correctly but moving a few things is one thing, moving five buildings or changing sizes I think
18 that's more than just a minor change. You know when you have nine different things happen
19 after an SMA Permit. This is the first time I've seen nine different changes happen since I've
20 been here for three years. I've seen one or two and that's just my feeling as a Commissioner.
21 Commissioner Carnicelli.

22
23 Mr. Carnicelli: Yeah, is I agree Chair, 'cause I mean, that is the part that is a little bit concerning
24 is to say okay, maybe if you look at each one of those nine individually oh, not substantial, not
25 substantial, no substantial, but then collectively are they substantial. But if we don't waive
26 review and it comes before us the only decision we have is to grant them their extension with
27 those nine or to not grant their extension and they start all over and so that's the part that I'm
28 weighing right now is going okay, if we don't waive our review, we review it and we say no we're
29 not going to give you the extension then their SMA Permit dies. So that's my concern.

30
31 Mr. Robinson: Corporation Counsel.

32
33 Mr. Galazin: Thank you Chair. And I appreciate everyone's comments on this and I think the
34 Director spoke to it a little bit previously but you know that's what the technical professional
35 planning staff is trained and designed to do is to look at the changes and decide whether or not
36 they rise to a substantial level such that needs to come before this body whether it's appropriate
37 and the determination's made within the Department that while there are a number of changes
38 collectively it's not substantial enough, and as Commissioner Carnicelli pointed out, yes what's
39 before you right now is just do they get an extra two years or not. Do you want the Planning
40 Department to just give them the extra two years or do you want weed through everything and
41 then say yes, you can have two more years. But it is the Planning Staff which has the expertise
42 to go through and review with the minutia of all these changes the, you know, height changes,
43 view planes what have you and make those determinations and we rely on that professional
44 expertise within the Department to a large extent when we look at these things. Thank you.

45
46 Mr. Robinson: Thank you. Having said that it's we are tasked with the SMA not the Planning
47 Department, not the Planning Department employees, you know they're in charge of looking at

1 things and doing their discretion and with the history of me looking at projects we always seem
2 to try to change a little bit especially with the sight planes, especially with the view planes and
3 everything might be great but we really don't have any information on the changes except for
4 what's saying we did as far as the elevations and that is my concern. But you know, I leave it to
5 the Commission. Commissioner Kahu Hill.

6
7 Kahu Hill: Mahalo for sharing that. I drive Liloa and the roundabout many times a day and I
8 think the height of things, new things that I did not get to see everything as far as the changes
9 but I know it's come up a couple times so I also have a concern about changes, the level of
10 parking, the level of people since there's so much congestion near the roundabout in that area.
11 I don't know what to propose on that, but I'm just having concerns about how big it is for that
12 area.

13
14 Mr. Robinson: Any other discussion? Director for the—

15
16 Mr. Spence: Just to comment—

17
18 Mr. Robinson: Don't have to comment, you can—

19
20 Mr. Spence: --maybe to expound on Mr. Galazin's...his explanation of the expertise of Planning
21 Staff. You know when someone comes to us and says, okay as a result there's many reasons
22 why there may be what we consider nonsubstantive changes to a project. It could be changes
23 in the law, changes in grading ordinance or whatever that...or in this case you know there could
24 be as the applicant goes through that there may be some things that are just not feasible, we go
25 through and Staff compares what was approved by the Commission and to what the changes
26 are and they go, is there going to be a change in traffic, is there going to be change in drainage,
27 is there going to be a change in any of these things, and so when we can comfortably draw the
28 conclusion that no, there's not a substantive change then we're comfortable writing these kinds
29 of letters. But we go through the same...we pay very close attention to what the Commission
30 says and approved prior to issuing this kind of letter. So we're very comfortable that it's
31 substantively the same project.

32
33 Mr. Robinson: Commissioners? Well, it's Director to your point it's when I see a parking garage
34 going from two stories to three stories on Liloa that's a visual change and I think it would help
35 the Commission if when we got this as an agenda item and we're to review it to have more
36 information of the changes and says this was changed, this was changed, this was changed,
37 the pros and cons, then we can get pass this and we can help save the developer's time.

38
39 Mr. Spence: Okay.

40
41 Mr. Robinson: But as a Commission if we're just to approve something looking at a flat plane
42 where there's elevations involved that's not something that I'm comfortable with and it's only
43 review, it's not a change of a SMA, it's not a designation that we don't see that's fit, it's just
44 making sure that we saw the changes as a Commission that were put forth, you know, we
45 concur that you know, it's the view lines are still there. And you know, what I've read on this it's
46 I see where there's the reasons for moving the parking 'cause it was in the flood zone which I
47 think is great. Kihei, we don't want parking in the flood zones. I think the reasonings for doing

1 it, but I still think as a SMA and our criteria of what we should follow is it would help us if you
2 guys gave us the information, of us trying to guess it and then would be easier for us to waive
3 review it.

4
5 Mr. Spence: We'll make sure that next time we bring something like this before the Commission
6 the additional information is there.

7
8 Mr. Robinson: And you know it goes with Plan III with Commissioner Tackett. You know, we're
9 rotating, we have so many Commissioners new, in and out and you know, it's we all want to do
10 what's best for the community to make sure that when we put our vote up we're comfortable
11 with it.

12
13 Mr. Spence: Okay. Commissioners the motion is to waive review.

14
15 Mr. Robinson: All those in favor.

16
17 Mr. Spence: All in favor? That's four ayes. Those opposed, two opposed.

18
19 Mr. Robinson: I'm opposed.

20
21 Mr. Spence: Okay, so the motion fails.

22
23 **It was moved by Mr. Carnicelli, seconded by Mr. Castro, and**

24
25 **The Motion to Waive Review of the Time Extension, FAILED.**

26 **(Assenting – L. Carnicelli, S. Castro, L. Hudson, C. Tackett)**

27 **(Dissenting – A. Hill, P.D La Costa, K. Robinson)**

28 **(Excused – T. Gomes)**

29
30 Mr. Spence: Is there another motion?

31
32 Mr. Robinson: Commissioner Carnicelli.

33
34 Mr. Carnicelli: What happens if this gets deferred? I mean if we just end up four-three, four-
35 three the other way now, what then? Is there a timeline on this one as well or does it just we
36 don't waive review or does it automatically say if we don't waive then it automatically does come
37 to us is that what it is?

38
39 Mr. Robinson: Corp. Counsel.

40
41 Mr. Galazin: Yeah I mean you are being asked to affirmatively go ahead and waive your review
42 and if you do not make an affirmative vote to waive that review then that will come to you. I
43 would also point out, again what we're talking about is a time extension that the time isn't even
44 up yet. They could put a shovel in the ground tomorrow then you don't have anything to look at
45 any more.

46
47 Mr. Spence: Exactly.

1
2 Mr. Galazin: So if want to see everything that's within your purview and that's why you're here
3 to be asked whether you want to look at it or not but just really keep a focus on mind that what
4 we're talking about is their request for extra time reasonable given their explanation and really
5 you're not here to look at changes in the project. If their request says we need extra time
6 because of X, Y and Z, you believe X, Y and Z seem reasonable then you can grant that time
7 extension if you are not waiving review.

8
9 Mr. Robinson: I think I understand the rules. Commissioners you guys understand where we're
10 at, right? Okay. So waiving review has failed. So where do we go from here.

11
12 Mr. Spence: I guess if there's no other motion then we'll schedule a further review.

13
14 Mr. Carnicelli: Yeah, we don't need a motion to review.

15
16 Mr. Robinson: And again, you know, and Commission is we won't slow anything down, we just
17 wanna, we just wanna see what they're seeing 'cause they already have the plans. So
18 hopefully—

19
20 Mr. Carnicelli: If I could Chair?

21
22 Mr. Robinson: Yeah, Commissioner Carnicelli.

23
24 Mr. Carnicelli: But again, we're not reopening the SMA.

25
26 Mr. Robinson: That's what I'm saying, that's what I'm saying, it's just review.

27
28 Mr. Carnicelli: You know, I mean, it's yeah.

29
30 Mr. Robinson: It's just review.

31
32 Mr. Carnicelli: It's just a review to see...it's a review their reason why they haven't started not
33 the changes. It's just the reason why they haven't started is what we would be reviewing not the
34 nine changes. That's the part that you know is difficult.

35
36 Mr. Robinson: If they're gonna get the...if they're gonna get the SMA done in time to put the
37 shovel in the ground.

38
39 Mr. Carnicelli: Right.

40
41 Mr. Robinson: If not, then it will come for a review.

42
43 Mr. Carnicelli: Right.

44
45 Mr. Robinson: Yeah. Director.

46
47 Mr. Spence: Okay Commissioners we will reschedule for your review.

1
2 Ms. Thackerson: Of the time extension.

3
4 Mr. Spence: Of the time extension.

5
6 **The time extension will be scheduled for review at a future meeting.**

7
8 Mr. Spence: Candace...okay, the next one is Maui Land and Pine requesting an
9 SMA...requesting a two-year time extension in order to initiate construction of the Kapalua
10 Central Resort Project.

11
12 **b. MAUI LAND AND PINEAPPLE COMPANY requesting a Special**
13 **Management Area Use Permit two (2)-year time extension in order to**
14 **initiate construction of the Kapalua Central Resort Project at**
15 **TMK: (2) 4-2-004: 049. Kapalua, Island of Maui. (SM1 2006/0029)**
16 **(PH2 2006 /0006) (C. Thackerson)**

17 **The Commission shall acknowledge receipt of the request. The**
18 **Commission may decide whether to waive its review or review the**
19 **time extension request at a future meeting.**
20

21 Ms. Candace Thackerson: So for this particular permit it's kind of a moot point. They don't
22 need a time extension anymore as the document I passed out before you on the table earlier
23 they have put the shovel in the ground per se. To say they initiated construction just about two
24 weeks ago on May 2nd. The letter was issued by the Department so this is moot point. They
25 don't need a time extension to initiate construction. So thank you. Thanks for coming. Thanks
26 for playing.

27
28 Mr. Spence: Thanks Candace.

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

33
34 **a. VALLEY ISLE RESORT AOA receiving a SMA Emergency Permit**
35 **by letter dated March 29, 2018 for the installation of sand bags to**
36 **extend the sandbag revetment for property situated at 4327 Lower**
37 **Honoapiilani Road, TMK: (2) 4-3-010: 004, Kahana, Lahaina, Island of**
38 **Maui. (SM3 2017/0009) (J. Buika)**

39
40 Mr. Spence: Commissioners under Director's Report No. 2, we are letting you know about we
41 issued an SMA Emergency Permit to the Valley Isle Resort. This is just for your notification and
42 review purposes. If you have any questions about this we can get back to you on that.

43
44 **3. SMA Minor Permit Report submitted with the April 24, 2018 agenda packet**
45

1 **4. SMA Exemptions Report submitted with the April 24, 2018 agenda packet.**

2
3 **5. SMA Minor Permit Report**

4
5 **6. SMA Exemptions Report**

6
7 Mr. Spence: We also have as a part of your report No. 3 and 4 your Minor Permits Report and
8 your SMA Exemptions Report. If you have any questions on that? Otherwise the Commission
9 is just supposed to acknowledge review.

10
11 Mr. Robinson: Commissioners, any questions? Seeing none...

12
13 **7. Discussion of Future Maui Planning Commission Agendas**

14
15 a. **May 22, 2018 agenda items**

16
17 Mr. Spence: Future Planning Commission Agendas, so Commissioners at your May 22, 2018
18 regular meeting you will have three public hearings. One is Maui Electric Company requesting
19 an SMA Permit in order to construct a stormwater retention basin for a 50-year, one-hour storm.
20 That's at Maalaea. The second one will be Mr. Edward Chang, Board Trustee of John and
21 Kamaka Kukahiko of the Makena Corporation requesting a Conditional Permit and then
22 Mr. Byron Knight requesting a Short-Term Rental Home Permit in Paia. And then you'll have
23 Director's Report for Designation of the Hana Advisory Committee Mr. David Goode,
24 Department of Public Works, he's gonna be requesting an SMA Permit for Keanae Road safety
25 improvements in Keanae and then we'll also have another notification of an SMA Emergency
26 Permit for Mr. Joseph Higgins of Allana Buick and Bers, Inc., it might be a typo in there, to repair
27 to sinkholes at Papakea Resort on Lower Honoapiilani Highway on the west side.

28
29 Mr. Carnicelli: Chair?

30
31 Mr. Robinson: Commissioner Carnicelli?

32
33 Mr. Carnicelli: Just to let you know I will not be here for that meeting. I will be on the mainland
34 at mother's 80th birthday party.

35
36 Mr. Robinson: Live stream? Commissioners, I'd like to request for a future agenda, you know,
37 the next meeting or the one after if we could go over certain I don't know how to state this, how
38 conditions work when we put conditions on people. To see when we put this in place how
39 conditions can be taken off or what is the levy of the Planning Department they have with those
40 types of conditions? I think even my third year I'm still not 100 percent sure on some of that
41 works. I know we had workshops a lot on all the floods and things like that. But I think if we can
42 go back to you know what our rights are, what we should...you know, what we could do a better
43 job with and deciding and what our enforcement is on top of that.

44
45 Mr. Spence: Enforcement of conditions.

46
47 Mr. Robinson: Yeah.

1
2 Mr. Spence: Okay, we can request that.

3
4 Mr. Robinson: If in 30 days, you know I think that be great. Commissioners any other concerns
5 or any other questions? Commissioner La Costa?

6
7 Ms. La Costa: The Valley Isle Permit, Hololani also has an issue as does Royal Kahana and
8 can you bring me up to date on those other resorts as well.

9
10 Mr. Spence: Rather than making that...I mean, we can get you a report for the Commission as
11 a whole or you can just talk to the Department if you want and we can put you in touch with the
12 staff planner.

13
14 Mr. Robinson: Okay, Kahu Hill.

15
16 Kahu Hill: Mahalo Chair. I just wondered is there a place that I get a little bit more educated
17 learning and to have a anthropologist, archaeologist or archaeologists on site for certain project,
18 what is it when...how to look at it when it's next to a wetlands or a place that projects life here
19 and bird species?

20
21 Mr. Spence: That's...I think that's probably gonna fall under what the Chairman is asking how
22 do we enforce the conditions and stuff. I think for the project that you want to see the review of
23 their time extension that is one of the conditions that you mitigate certain things. So we can
24 wrap that into this discussion if you want on how conditions work or I could get you this
25 information in general?

26
27 Kahu Hill: Either way, I'm just looking that like on this one before they grade the land they were
28 gonna have somebody come out and survey it. But during the whole project there's nobody
29 looking at the wetlands. It's sounds like he's placed a barrier and things but like how do we
30 know and we're looking at precious area.

31
32 Mr. Robinson: Yeah, and I think Director that's where most of the...you know, its BMPs are in
33 place, you know when you deal with wetlands, you deal with Federal and State and you know
34 and so it comes out of the...(inaudible)...County's purview but then they have to follow certain
35 regulations in different areas and so there's layers upon layers of ...(inaudible)...regulation and
36 who's in charge of enforcement. Wetlands I don't think they're County level. I think that goes to
37 State and Federal.

38
39 Mr. Carnicelli: Federal.

40
41 Mr. Spence: Well, it's State too. So when we're dealing wetlands like in this case, we're also
42 dealing with DLNR, we're dealing U.S. Fish and Wildlife and probably the Army Corp of
43 Engineers. So well that may be an ...(inaudible)... I can look back into that. But there's
44 numerous regulations in place to protect those wetlands from nearby development and
45 mitigation that needs to be put in place and all kinds of things, so...but we'll get you that
46 information.

47

1 Kahu Hill: Mahalo.

2

3 Mr. Robinson: Any other questions. Seeing none, Planning Commission is adjourned.

4

5 **H. NEXT REGULAR MEETING DATE: MAY 22, 2018**

6

7 Mr. Carnicelli will not be at the May 22, 2018 meeting.

8

9 **I. ADJOURNMENT**

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11 The meeting was adjourned at 10:50 a.m.

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Submitted by,

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Carolyn Takayama-Corden

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Secretary to Boards & Commissions II

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19

20 **RECORD OF ATTENDANCE**

21

22 **Present**

23 Lawrence Carnicelli

24 Steven Castro

25 Kahu Alalani Hill

26 Larry Hudson, Vice-Chair

27 P. Denise La Costa

28 Keaka Robinson, Chair

29 Christian Tackett

30

31 **Excused**

32 Tina Gomes

33

34 **Others**

35 William Spence, Director, Planning Department

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

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