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**MAUI PLANNING COMMISSION
REGULAR MINUTES
MAY 22, 2018**

A. CALL TO ORDER

The regular meeting of the Maui Planning Commission was called to order by Chairperson Keaka Robinson at approximately 9:05 a.m., Tuesday, May 22, 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.)

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

Mr. Robinson: ...Maui Planning Commission it's May 22nd. I'm Chairperson Robinson. We have Commissioners Kahu Hill, good morning. Kahu Larry Hudson, I mean Commissioner Larry Hudson.

Mr. Hudson: Morning Chair.

Mr. Robinson: Commissioner La Costa.

Ms. La Costa: Aloha Chair.

Mr. Robinson: Commissioner Castro.

Mr. Castro: Good morning Chair.

Mr. Robinson: Good morning. Commissioner Tackett.

Mr. Tackett: Good morning Chair.

Mr. Robinson: Good morning. And Commissioner Gomes.

Ms. Gomes: Good morning Chair.

Mr. Robinson: Thank you very much. We have a, we have nice size agenda we should get this through done as possible. I know we are gonna lose quorum or possibly lose quorum at a certain time or might be just exact, so we're gonna try to hopefully go through this as quickly as possible today. First on the agenda, Director?

Mr. Spence: Good morning Commissioners. We are...you have three public hearings before you this morning. The first one is Ms. Sharon Suzuki, President of Maui Electric Company. They're requesting an SMA Permit for a drainage basin. So with us this morning is Mr. Keith Scott.

1
2 **C. PUBLIC HEARINGS** (Action to be taken after each public hearing.)
3

- 4 1. **MS. SHARON SUZUKI, President of MAUI ELECTRIC COMPANY, LTD**
5 **requesting a Special Management Area Use Permit in order to construct a**
6 **storm water retention basin sized for a 50-year, 1-hour storm south of the**
7 **existing Maalaea Generating Station at 1000 N. Kihei Road, TMK: (2) 3-8-**
8 **005: 025 (por.), Maalaea, Island of Maui. (SM1 2017/0006) (K. Scott)**
9

10 Mr. Keith Scott: Good morning Chair, Members of the Commission.

11
12 Mr. Robinson: Good morning.

13
14 Mr. Scott: Thank you for reading out the item. Just should note before presentation starts that
15 this project takes place on 9.6 acres of an approximately 25-acre parcel. The balance of the
16 parcel being the generating station itself. I'd like to introduce Karlynn Fukuda with Munekiyo
17 Hiraga and she'll make the presentation to you.

18
19 Ms. Karlynn Fukuda: Thank you Keith. Good morning Chair and Members of the Maui
20 Planning Commission. My name is Karlynn Fukuda of Munekiyo Hiraga. We're before you
21 today regarding the Special Management Area Use Permit for the proposed Maalaea
22 generating station stormwater retention basin. Next slide please.

23
24 Joining me today from Maui Electric Company, the applicant, Mahina Martin, the Director of
25 Government and Community Relations. I think she's on her way. She'll be here shortly. But
26 also representing Maui Electric Company, the applicant, is Mathew McNeff, the Power Supply
27 Manager. From Hawaiian Electric who is assisting with project management we have Katie
28 Kubo, the Project Manager and Kirk Tomita, the Senior Environmental Scientist. Our civil
29 engineering consultant from HDR, Inc., is Troy Ching and joining me today as Planning
30 Consultant is Yukino Uchiyama. Next slide please.

31
32 The request before the Planning Commission today is to approve the Special Management Area
33 Use Permit for the Maui Electric generating station stormwater retention basin. To provide you
34 some background on the project the site is located or is identified at TMK: (2)3-08-005: 025, it's
35 a portion or we'll also refer to it as Parcel 25. The existing use of the site is a vegetated buffer
36 zone. The project area is actually as Planner Keith Scott mentioned it's a 9.6-acre portion of
37 that 25-acre parcel, but even within that we're only using approximately 5.8 acres of that 9.6
38 acres. The owner and applicant for the project is Maui Electric Company.

39
40 This is a regional location map to provide you with some context for the site. We have here in
41 the red circle the MECO Maalaea Generation Station. You see here we have Honoapiilani
42 Highway. We have the former Mokulele Highway now known as the Maui Veteran's Highway
43 and then we have North Kihei Road here. Next slide please.
44

1 Again to provide you with more context we see the outline here of Parcel 25 and that's the entire
2 site and then the shaded area that we see here is the approximately 5.8 acres that will be
3 utilized for the project site. North Kihei Road runs here heading up this way would take you to
4 Honoapiilani Highway into the Waikapu area and heading down this way would take you into
5 Kihei. Next slide please.
6

7 The construction of the stormwater retention basin at the MGS site will allow for more retention
8 of stormwater on site from the MGS to protect downstream areas including ocean and adjacent
9 wetlands. Here's an aerial photo of the site, again the boundaries of Parcel 25 are
10 approximately here. This is the existing driveway in the MGS site and you see the MGS
11 improvements. The dotted line that you see here in black is the approximately nine-acre site
12 and then red outlying area that you see here in the photo is the approximately 5.8 acres where
13 the improvements are proposed. I did want to point out also that the Kealia Pond Refuge site is
14 located adjacent to the MGS site as well as former agricultural lands owned by HC&S.
15

16 This is a site plan of what's being proposed today. I would like to note here that there are five
17 outfalls that are currently located in this buffer area and these outfalls are part of the existing
18 drainage system for the MGS site. The existing drainage system that is within the site when
19 there's rain and it runs off the runoff goes through the drainage system that's within the site and
20 then the outfalls come out to, already to this buffer area where we're proposing the use.
21

22 I would also like to note that as part of what we're proposing to improve it's a little bit hard to see
23 on the screen here but I believe you have copies as well, the green that we see here is an
24 approximate two to three-foot high vegetated buffer or retention berm that will be installed. The
25 blue that you see here is a graveled access road for maintenance of the retention basin once it's
26 constructed and then the pink that we see here is a drainage swale that will help direct the water
27 that comes from outfall 3, 4, and 5 to the larger area of the proposed retention basin. We do
28 note that there is a existing wetland on a portion of the Parcel 25 but the distance from the
29 wetland to the closest improvements that are proposed as part of the retention basin is
30 approximately 150 feet and that's at its closest point. Next slide please.
31

32 So now again providing a written overview of what we are proposing to do. The area affected
33 by the improvements is approximately 5.8 acres of that 9.6-acre site. We are proposing to
34 construct a single stormwater retention basin and for reference if the MGS for example were to
35 be constructed today for that full parcel that we had shown and we'll show again in a second,
36 the 25 acres, the County requirement for stormwater retention basin for a 50-year, one-hour
37 storm would be 41,000 cubic feet. With the retention basin that we are proposing to construct
38 today, the estimated capacity will be 74,000 cubic feet. So essentially we'll be able to retain a
39 lot more than what the County requires us, the stormwater on site.
40

41 As I mentioned a two to three-foot tall earthen berm will be installed to provide the retention
42 capacity. They are unable to dig down into the ground because the water table in this area is
43 too high so they're building up to provide retention capacity. The drainage swale that I
44 mentioned will be constructed to direct the stormwater discharge from the outfalls to the larger
45 retention basin area. There will be a 12-foot wide gravel access road that will be installed to

1 help provide for maintenance of the retention basin. There will be some limited removal of
2 existing trees mainly kiawe and we have some site photos that we'll show you in a little bit and
3 vegetated brush within the project site to allow for the retention basin to be constructed and
4 visual buffer between North Kihei Road and MGS facility will be maintained. So once there's
5 the removal of some trees and brush there will be replacement of other materials and we're
6 currently considering Milo, Hau, and Naupaka.

7
8 So again, we have the site plan here just to again, provide you with that overview of what we're
9 proposing to do. We have the, again, the green that we have here is the two to three-foot high
10 retention berm that will be built up. The blue is the gravel maintenance road and the pink that
11 we have here is the drainage swale to direct water towards the larger part of the retention basin.

12
13 In terms of community outreach Maui Electric Company did hold a meeting with South Maui
14 community leaders and representatives from the environmental and conservation groups on
15 May 1st to talk about the project. You see here a list of invitees that were invited to attend and
16 participate in the meeting and of this list, this and this is not the full list, but of this list the only
17 party that was not able to attend was the Maalaea Village Association.

18
19 I do want to note that some of the comments that were received at the community meeting that
20 we held so there was a suggestion from the Kihei Community Association to incorporate their
21 best management practices plan that they have on their website for the project and in review of
22 that by the civil engineer, applicable portions of the BMP plan will be incorporated. There were
23 regional drainage concerns and impacts to Maalaea Bay that were talked about. And MECO
24 will be meeting with the South Maui restoration group, the collation, the coalition rather, sorry, of
25 organizations in the area that have been formed to discuss drainage options for larger, more
26 regional context.

27
28 There were comments about archaeology review for the area and we did note that State Historic
29 Preservation Division has reviewed the archaeological literature review and field study that was
30 done for the project and concurs that no historic properties would be affected. I believe that
31 letter is Exhibit 8 in your staff report.

32
33 There were also comments about whether biological assessments were completed for flora and
34 fauna in this area. And Hawaiian Electric did have their environmental scientist go out to the
35 site and review and there were no species of concern for either flora or fauna that were found
36 during the survey.

37
38 I'd next like to go into some site photos. So this view is looking at the MGS site is located to the
39 left. The North Kihei Road is located here. So you see again the buildup of the existing kiawe
40 trees that are in the area. Next slide.

41
42 This is looking from basically North Kihei Road is behind you and you're looking into the site.
43 The buffer area, the MGS facility is sort of visible through the trees there which is what that's
44 meant to do.

45

1 The next slide, this is a view from inside the buffer area itself and this is a view of one of the
2 outfalls that again I talked about earlier that existing...there's a gravel bed here so the runoff
3 from the existing drainage system does enter into the gravel bed here and you can see the
4 MGS facility in the background, but again, we're standing inside of the buffer area.

5
6 And then this is the northeast view from the buffer zone, again North Kihei Road would be
7 behind you. This is the wetland area that's located on Parcel 25. Kealia Pond is located further
8 on the right here. But this is looking...the MGS facility would be located back in this direction
9 here.

10
11 To conclude we are requesting the Planning Commission approval of the SMA Use Permit
12 application for the MGS retention basin facility and our team is ready and here to answer any
13 questions you may have. This concludes our presentation. Thank you very much.

14
15 Mr. Robinson: Thank you. At this time we're gonna take public testimony. Public testimony we
16 will take for each individual item at the time the item is being heard. You will have three minutes
17 to speak. I will read out the list of the names. If there is no list...I'll just ask general. Nobody
18 signed up?

19
20 Mr. Spence: Nobody signed up.

21
22 Mr. Robinson: Okay, seeing there's no list, just let me ask is there anybody at this moment that
23 would like to speak on this item? Seeing none, public testimony is closed. At this time, we'll
24 open up questions for the Commission if anybody has to MECO at this time.
25 Commissioner La Costa.

26
27 Ms. La Costa: Thank you, Chair. I have several questions for you please. Thank you for giving
28 us the distance to the wetlands from the project. What is the actual distance to the ocean?

29
30 Ms. Fukuda: I'll defer to the Civil Engineer, Troy Ching.

31
32 Mr. Troy Ching: Hi, I'm Troy Ching from HDR. I actually don't have that answer for you right
33 now but we can look it up. It is mauka of the North Kihei Road. So that will serve as a barrier
34 between the ocean and the retention basin but we can look into that for you and get you that
35 answer.

36
37 Ms. La Costa: Okay, because the wetlands does go directly into the ocean so I'm thinking
38 about any kind of overflow that may impact.

39
40 Mr. Ching: So in terms overflow. So any overflow from the retention basin is going to run along
41 the mauka side of North Kihei Road and then it eventually gonna enter Kealia Pond which does
42 enter the ocean.

43
44 Ms. La Costa: Thank you.

45

1 Mr. Ching: You're welcome.

2

3 Ms. La Costa: I have—

4

5 Mr. Robinson: Yeah, I know and Commissioners if we can just ask one and then check back
6 with me so that everybody goes, it so...'cause somebody might be doing the same line of
7 question that you have inside there, but anyway go ahead with your next question.

8

9 Ms. La Costa: Thank you Chair. If there is an overflow of the retention, if we get really heavy
10 rains as we have before will it affect the generating plant in any way? I see that there are
11 outflows and there are graveled areas for the outflow to go, but would there be a situation where
12 with the retention basin that may overflow and affect the generating plant?

13

14 Ms. Fukuda: So I'll defer to Troy Ching on that one. I do know that the MGS site is elevated
15 above say even the neighboring properties, the former HC&S lands so I think that the way that
16 the drainage basin has been designed would not have it flow unless it was a catastrophic event,
17 but I'll defer to Troy Ching.

18

19 Mr. Ching: Hi, Troy Ching again from HDR. So the top elevation of the berm is set at 9 feet and
20 the Maalaea Generating Station the lowest elevation is at about 11 feet so it would not impact
21 the Maalaea Generating Station.

22

23 Mr. Robinson: Thank you. Go ahead. And I apologize when Troy comes if you could then
24 reintroduce just to make sure the recording that we know it's still you coming back.

25

26 Ms. Fukuda: Sure. Okay.

27

28 Mr. Robinson: Thank you.

29

30 Ms. La Costa: In the permit process it shows that there is a million dollar liability policy that the
31 County is shown as additional insured. If there were any kind of incident would that be enough
32 coverage to be able to remedy it, remediate it and put it back to where it was before the
33 incident?

34

35 Ms. Fukuda: Karlynn Fukuda, Munekiyo Hiraga. So thank you for that question Commissioner.
36 I believe that that's the standard policy that the County has set you know for all projects
37 irrespective. ...(inaudible)...I think it's separate from maybe any insurance policies that Maui
38 Electric may have to insure its facilities themselves. I don't know if that necessarily answers
39 your question but...and I don't know if Matt if you have anything further that you want to add, but
40 I believe that if there was a catastrophic event where there was damage to the MGS facility that
41 they have their own insurance policies that would cover the repairs for the facility itself.

42

43 Ms. La Costa: Thank you.

44

1 Mr. Robinson: I have a question before...(inaudible)... So I guess one of my question is I
2 guess is are we looking at a retention basin now because things have changed, are we looking
3 at a prevention basin for king tides, are we looking for a combination. You know this is a very
4 essential part of our island and of course that power plant's very important. 'Cause we already
5 assume that you already have enough retention and the water it's still 50 years so since this is a
6 new thing I want to try and get a grasp of what we're trying to accomplish here.

7
8 Ms. Fukuda: Karlynn Fukuda, Munekiyo Hiraga, so the...and again, you know I'll defer to
9 Hawaiian Electric if they have anything further to add but the understanding is is that the basin
10 is being proposed today to provide for extra protection for any kind of retention of runoff that
11 occurs in that area. It's a preventative measure as you've mentioned. I don't know that
12 necessarily king tides played a role into it but there have been several large, you know, rainfall
13 events that have occurred and the MGS facility itself is a important facility for the County or for
14 you know Maui Island. So it's basically more preventative but is there anything else that you
15 wanted to...okay, so...

16
17 Mr. Robinson: Yeah, and if I could add, is we don't have many people voluntarily adding
18 retention basins without, without a reason and it sounds great but if you could help us
19 understand how this is, why you're doing it for the benefit that I think it would help us.

20
21 Mr. Kirk Tomita: Good morning, I'm Kirk Tomita with Hawaiian Electric, Environmental
22 Department. So we've always been looking for ways to improve the stormwater management at
23 the Maalaea Generating Station. So it has a...that particular buffer area has an unusual
24 ordinance attached to it. So previously it was understood that we couldn't do any work within
25 that area. So we thought we couldn't make any stormwater improvements. We were just
26 limited to the footprint of the existing facility which as you saw is pretty well built out. But after
27 we recently reviewed that ordinance it appeared that you know a retention basin in that area
28 was possible. So we've been trying to look at different ways to manage stormwater at that
29 facility since the early '90s, but again it has that ordinance attached to it. So I would say
30 probably about three or four years ago we reviewed that ordinance and again, it looked like
31 there was some room for improvement as far as stormwater. So that's when we began working
32 with the County and we're quite happy that there is a possibly we could get this retention basin
33 constructed and again, further manage the storm water there. So currently I think this might
34 help you Commissioner is that the stormwater currently flows through the buffer zone and does
35 eventually get to the wetlands under today's conditions. So this retention basin would sort of
36 limit the amount...it would take a big storm event for the stormwater from the facility to make it
37 to the wetlands. Currently, you know, your moderate size events, the stormwater would just
38 flow through the buffer zone and eventually get to the wetlands.

39
40 Mr. Robinson: Thank you. Commissioner Tackett.

41
42 Mr. Tackett: So my question was the same one that was just asked but to go a little bit further
43 down the line. My understanding this water that we're talking about it's primarily rainwater is
44 that...so...thank you that's...if I could get an answer to that question. Thank you.

45

1 Ms. Fukuda: Karlynn Fukuda, Munekiyo Hiraga. Troy Ching has confirmed yes, that that's the
2 case.

3
4 Mr. Tackett: Thank you.

5
6 Mr. Robinson: Commissioner Hill.

7
8 Kahu Hill: Mahalo Chair. I just wanted to know, mahalo and aloha, I just wanted to know what
9 precautions that you're putting into place to protect Kealia Pond and the wetlands?

10
11 Ms. Fukuda: So Commissioner...Karlynn Fukuda, Munekiyo Hiraga, thank you Commissioner
12 for the question. The retention basin has the buffer I believe. I'm not sure if you're asking once
13 construction is complete or during construction.

14
15 Kahu Hill: During construction.

16
17 Ms. Fukuda: Oh, during construction.

18
19 Kahu Hill: And mostly I'm looking that you're talking about 150 feet and it's a large area and
20 Maalaea and Kealia Pond just trying to look at the sensitivity of the pond and the environment.

21
22 Ms. Fukuda: Yeah, so Karlynn Fukuda again. So during construction there are best
23 management practices that will be in place during the earth work that will be done including the
24 installation of dust fences and silt fences around the construction area to limit runoff or things
25 coming beyond the construction area.

26
27 Kahu Hill: Mahalo. Can I ask one more question Chair?

28
29 Mr. Robinson: Yes, Commissioner.

30
31 Kahu Hill: Mahalo. I notice that you did a archaeological study in 1996 and there hasn't been
32 anything since then I believe and I wanted to understand which acreage and the 9.6 or in this 5
33 acres that you're presenting that has been studied.

34
35 Ms. Fukuda: Karlynn Fukuda, Munekiyo Hiraga, so Cultural Surveys Hawaii had actually done
36 a literature review as well as a field investigation of the site. I believe it was in July of 2016 and
37 so that's the report that got submitted to State Historic Preservation Division for review and
38 approval and we did get concurrence from SHPD that they felt that no historic properties would
39 be affected.

40
41 Kahu Hill: Okay, and one last question. I see that it was 9.6 acres and today you're presenting
42 five. Is it the same area?

43

1 Ms. Fukuda: It is. So the 9.6 is if you look is this whole area that includes the existing wetland
2 as well as where the buffer area. So where the improvements are proposed if we look at just
3 area of this total 9.6 acres we're looking at only 5... approximately 5.8 acres.

4
5 Kahu Hill: Mahalo.

6
7 Mr. Robinson: Commissioner Gomes, and Karlynn it's just when you switch speakers you have
8 to—

9
10 Ms. Fukuda: Okay, sorry.

11
12 Mr. Robinson: Thank you for being so diligent, but that I just want to make sure.

13
14 Ms. Fukuda: Okay.

15
16 Mr. Robinson: Commissioner Gomes.

17
18 Ms. Gomes: Thank you. I just have a question, thank you so much, in regards just I agree with
19 the questioning of Commissioner Kahu Hill in regards to you know what protection or at least
20 the preventative measures in regards to Kealia Pond and the wildlife specifically to it. You know
21 I'm wondering statistically because we're talking about in regards to buffering in a big storm, I
22 mean that's what was mentioned in the event that we do have one. Is there any numbers that
23 you have because in my experience and the...when we talk about flooding in Kihei a lot of it is
24 not happening in this area to my understanding so why this specific area? I mean, is there an
25 answer why Maui Electric or this specific area is chosen for this?

26
27 Ms. Fukuda: Thank you for your question. So Maui Electric you know owns the entire parcel
28 and where the retention basin is proposed is meant to help them control and keep their
29 stormwater...their stormwater from leaving their site. They want to keep it onsite and have it not
30 go, you know, to the wetlands or to the ocean ultimately. So that's basically, it's a preventative
31 measure that they're trying to do at this point. They larger regional context of drainage, you
32 know, it's gonna take more than Maui Electric and there are those in Maalaea that have already
33 recognize that. When we met with the community on May 1st that was brought up that there's a
34 coalition that is formed to try and come up with a larger context and Maui Electric is gonna be
35 participating in that discussion with the group.

36
37 Ms. Gomes: Chair, I have couple more questions.

38
39 Mr. Robinson: Commissioner Gomes.

40
41 Ms. Gomes: Thank you. And so the preventative measures with Kealia Pond this is still
42 ongoing is that correct? You know as far as runoff or anything 'cause I...if I'm not mistaken I
43 could have sworn that it was stated that it was gonna go into like mud flats, I mean, just old term
44 mud flats it was gonna go into, into mud flats versus the ocean is that correct?

45

1 Ms. Fukuda: So currently and I can defer to Troy Ching to explain further but my understand is
2 that without the berm there right now because there's the outfalls that exist as part of the
3 existing drainage system for the MGS the runoff does go into this buffer area. And right now if
4 there was a really big storm event, the water, you know once it filled up in this area naturally can
5 just travel. You know it hit North Kihei Road. Again, if it floods over North Kihei Road the mud
6 flats are located in this...across the street, yeah from North Kihei Road so that's possible. But
7 with the berm that they're proposing to install, that will keep it more of the runoff water within the
8 MGS site.

9
10 Ms. Gomes: So Chair, sorry.

11
12 Mr. Robinson: Commissioner Gomes.

13
14 Ms. Gomes: So this is to protect I guess the station. This is to my understanding is this is this
15 what the buffer is made for is to protect Maui Electric in specific the station, I mean—

16
17 Ms. Fukuda: So the—

18
19 Ms. Gomes: I'm looking at...I'm looking at you know the site photo that's provided here. I mean
20 this is fairly far from neighboring you know residential individuals and once in the past
21 experiences with the flooding that we've had we're talking about police and fire or emergency
22 teams that are out actually on the road with vehicles stuck in South Kihei Road or within you
23 know residential areas. So is it to protect this particular station?

24
25 Ms. Fukuda: Yes.

26
27 Ms. Gomes: That's, that's the purpose.

28
29 Ms. Fukuda: Yes.

30
31 Ms. Gomes: Specifically.

32
33 Ms. Fukuda: Well and not only to protect but also to keep their runoff water from adding to the
34 other runoff of water that's already coming from...can we go to the regional...so you know the
35 MGS site is here, when the rain comes, you know it can come from mauka and there's you
36 know other lands that are around so there's...there's a lot of water that runs off when you have
37 a big storm event, yeah. So they're trying to keep whatever runoff comes from their site on their
38 site again to protect it from coming onto the wetlands or eventually to the ocean. You know the
39 other areas that's a bigger context, yeah. It takes...it's gonna take more than just Maui Electric I
40 think they want to be part of the solution. They want to be part of the conversation that goes on.
41 I'm not sure that I'm answering your question, but I...

42
43 Ms. Gomes: Well, I just, I'm sorry, that you know statistically I mean, you know, a big...I mean
44 God forbid and we've been blessed that we haven't been hit with something very huge. I am
45 thinking of Kealia Pond, the wildlife, I am thinking about conservation that is what I'm thinking

1 about. I mean, I don't want to see something just to put there, I mean and I understand it's very
2 important for Maui Electric to protect the material or their you know what they have. But also to
3 protect the conservation that is provided there. I mean I think it's a highly important for that, for
4 that to be a big consideration as well because as we start develop which is inevitable you're just
5 gonna just continuing spiraling into taking away this type of ...(inaudible)...and I'm you know I
6 don't want to see irresponsible development for no reason just because we want to protect this
7 and then we're just gonna just start taking away, you know, wildlife, conservation, stuff that has
8 been there and we're, you know, we've got turtles, we've got...you know I mean, we wouldn't
9 put up one sign to all these things to protect and then have a...we don't get hit with big storms.
10 You know that's why statistically do you have a number on how has been done statistically as
11 far as—

12

13 Ms. Fukuda: In terms of?

14

15 Ms. Gomes: A big storm being hit and how it's affected Maui Electric.

16

17 Mr. Troy Ching: Hi, Troy Ching again from HDR. So in terms of protecting downstream areas
18 like Kealia Pond so the stormwater retention basin will retain or kind of prevent the stormwater
19 from discharging off Maui Electric's property. So we did look at the Rainfall Atlas for Hawaii. So
20 the maximum monthly total precipitation for this area on average is 3.14 inches. So our
21 retention basin is designed to hold I think it was about 4 ½ inches and that's 4 ½ inches draining
22 within a 48-hour period.

23

24 Ms. Gomes: And when...how many times have that happened? I mean you guys are...

25

26 Mr. Ching: So I also looked at the rainfall data and did a statistical analysis so the 98 percent of
27 the events in the area were all below 3 inches total.

28

29 Ms. Gomes: Okay. All right, I just wanted to state that that's a comment of mine is that you
30 know the conservation of what's surrounding, what I understand you want to protect you know is
31 important so taking into consideration of that.

32

33 Mr. Ching: Okay.

34

35 Ms. Gomes: And then another question for the Director. The request for 50-year is that normal
36 50-year, a 50-year request, is that?

37

38 Mr. Spence: Well it's a request for a basin that will hold a 50-year, one-hour...one-hour event?

39

40 Unidentified Speaker: Yes.

41

42 Mr. Spence: So that's a County standard.

43

44 Ms. Gomes: Okay, thank you. Thank you.

45

1 Mr. Robinson: Commissioner La Costa.

2

3 Ms. La Costa: Mahalo again. Being again that the retention basin is next to the power plant is
4 there a way that any kind of runoff would have diesel pollutants or other pollutants in it that
5 could affect that area?

6

7 Ms. Fukuda: Karlynn Fukuda. I'll defer that question to Kirk Tomita.

8

9 Mr. Tomita: Morning again. Kirk Tomita with Hawaiian Electric. So right now I mean the facility
10 has a Stormwater Permit with the State of Hawaii, an NPDES Permit for stormwater discharges.
11 So...and they also have a Stormwater Pollution Control Plan which requires them to implement
12 best management practices to minimize the pollutants from the power plant that get discharged
13 to the buffer zone. So they do sweeping and they manage materials in a specific manner to
14 minimize the amount of pollutants discharged from the facility. So this retention basin would
15 further protect the downstream areas by again minimizing the amount of stormwater that is able
16 to flow directly to Kealia Pond.

17

18 Ms. La Costa: Additional question. In the past have you had pollutants that have sat because
19 of the rainwater and then seeped into the groundwater or into the Kealia Pond area?

20

21 Mr. Tomita: So, I mean there's always material being discharged with the stormwater so you
22 get silt, the metals from the facility so that's just normal regardless of how much sweeping and
23 management we do. There's always gonna be some pollutants I'll call it that comingles with
24 stormwater. So again, the purpose of this basin would be to limit the ability of that material to
25 move offsite.

26

27 Ms. La Costa: Thank you.

28

29 Mr. Robinson: Commissioner Kahu Hill.

30

31 Kahu Hill: Mahalo Chair. Do you anticipate any of the adjacent ag lands and though things are
32 changing of course in that areas for that runoff to be going into this area in that future and that
33 possible chemicals or pollutants?

34

35 Mr. Tomita: So currently the facility sits and the basin is designed the ag land runoff actually
36 goes around the facility so it would not flow into the basin itself and that's what it currently does.

37

38 Mr. Robinson: Commissioners any other questions? One second I have a question for you.
39 First a comment. The map that we got for the retention basin is wasn't the easiest to follow
40 'cause it' a line going up and down instead of showing us a basin with, with distances and with
41 depths, I mean that helps as a Commission save a lot of time in understanding what the volume
42 is and how to get and that's what we're used to. Just seeing the line on a map doesn't tell us
43 how high the wall is or kind of a perception of where we could see it. You guys could have a
44 picture and even have a highlighted line on the picture. I know it's not you folks but you know
45 your consultant so that we can actually, you know, grasp of what's happening here.

1
2 But my question to you is on the topography is we have a retention basin towards, towards the
3 ocean so is the topography from, from mauka to makai consistent or are we on a platform and is
4 there swales going on the opposite side of the property 'cause, 'cause the retention basin which
5 I think is what we're doing is we're trying to keep pollutants away and from spreading on top of
6 the property which we're thankful that you guys are doing that. So my concern is to make sure
7 the topography is all flowing towards this basin or is there an opportunity for pollutants to follow
8 back towards the mauka side of the property that might be at a lower laying area.
9

10 Mr. Tomita: So the current flow is all headed towards the buffer zone. It's all...it would all flow
11 into the retention basin.
12

13 Mr. Robinson: Thank you so much. Commissioners any other questions? Commissioner
14 Castro.
15

16 Mr. Castro: How long do you anticipate this project to take and is there gonna be any effect to
17 the roadway, South Kihei Road?
18

19 Ms. Fukuda: I'll defer to Troy Ching.
20

21 Mr. Ching: Troy Ching from HDR. So we're anticipating construction duration will be probably
22 about six months. We don't anticipate any heavy impacts to North Kihei Road. The contractor
23 is gonna be required to bring in soil off site to construct the berm, but the way that if you look at
24 the area it's likely that they would be coming from maybe Ameron's or HC&D's baseyard area
25 so traveling along Maui Veteran's Highway, making the right turn onto North Kihei Road and
26 then making a right turn into the MGS driveway. So we don't anticipate the trucks backing up
27 traffic or anything like that. Also because the area is constrained they're not gonna be able to
28 bring in large loads at one time.
29

30 Mr. Castro: Thank you.
31

32 Mr. Robinson: Commissioner La Costa.
33

34 Ms. La Costa: Another question for you please. You discussed the berm. It's gonna be made
35 of top soil?
36

37 Mr. Ching: So it's gonna be made...so we're gonna reuse whatever existing soil we can on site,
38 but then we're gonna have to bring in kinda like a clay soil. We're also gonna use impermeable
39 liner within the berm.
40

41 Ms. La Costa: So that it won't be able to washed away if we get a really heavy event. Is there
42 going to be any kind of vegetation...(inaudible)...

43
44 Mr. Ching: The plan is to grass the berm with I think we're doing a mixture of ...(inaudible)...,
45 rye and I think seashore.

1
2 Ms. La Costa: Thank you.
3
4 Mr. Robinson: Thank you. Before I ask for a motion I have just one last question. So you
5 stated that you worked with a bunch of environmental groups and not one of them wanted to
6 have a comment on a wetland area at all? No comments? No Input? No, we love it?
7
8 Ms. Fukuda: You mean in terms of...Karlynn Fukuda, Munekiyo Hiraga, you mean in terms of
9 the project itself or—
10
11 Mr. Robinson: Well, just of any...I mean 'cause like I said we're used to having a lot of
12 testimony from at least one of those five especially at a wetland and I've got none. And I know
13 you guys have met with them so I was hoping that if they gave you some positive feedbacks
14 with some letter 'cause I know they like to write letters with letterheads that you guys would
15 have included that in the package.
16
17 Ms. Fukuda: Yeah.
18
19 Mr. Robinson: And so before...I just want to make sure that I'm not missing something here,
20 but...
21
22 Ms. Fukuda: Yeah, as far as I know you know I thought and unfortunately and maybe Mahina
23 was delayed and she may have been the best one to respond to that question, but I did attend
24 the meeting with the groups and you know, I think there weren't concerns necessarily on the
25 project. We had let them know that this meeting was happening today so as you said, if they
26 wanted to testify and had concerns I imagine that they would have been here, but we did not
27 receive any letters from them in support, you know of the project either.
28
29 Mr. Robinson: Thank you so much. Commissioners do we have a motion?
30
31 Mr. Spence: ...for the recommendation?
32
33 Mr. Robinson: Oh I'm sorry let's get the recommendation. Sorry.
34
35 Mr. Scott: That's quite all right. If you want to make a motion on nothing that's up to you. The
36 Department recommends approval of the project with eight condition, five of which are standard
37 conditions.
38
39 Mr. Robinson: Thank you. Commissioners? Commissioner Tackett.
40
41 Mr. Tackett: So my motion is gonna be approve as it's asked for. The way I see it is and I have
42 a construction background even your residential house if you have an Architect 80 roof you got
43 tar, you got stuff like that that comes off your roof. If you have a truck that's mechanical in
44 nature sometimes they develop issues. You could end up with a leak. Could be two, three, four
45 weeks before you figure out it that it has a leak you might not figure out it has a leak on a dirt

1 road for a long time if it's a minor leak. So the way I see this issue is that there's no profit for
2 Maui Electric for putting in the extra control zone. What they are gonna do is water is already
3 washing during the largest events is already washing whatever dips or whatever minor amounts
4 of just the cost of humans having power on this earth is already on the big events going into the
5 pond. And so as I see this it's just a way to further protect the turtles, further protect the pond
6 and make sure that the majority of whatever happens to come from the generation of power for
7 all of our benefit of this island gets just a second, just a second barrier of protection. So I'm very
8 grateful that you guys are forward thinking and that you're trying to add this in because if you
9 didn't, if you did nothing it would be cheaper, wouldn't cost you nothing and that stuff would
10 continue to flow into Kealia Pond. So to me it's pretty, it's—

11
12 Mr. Robinson: Do we have a second?

13
14 Mr. Tackett: --it's pretty good.

15
16 Mr. Hudson: I'll second.

17
18 Mr. Robinson: Commissioner Hudson have the second.

19
20 Mr. Hudson: Chair?

21
22 Mr. Robinson: Would you like to speak to the—

23
24 Mr. Hudson: May I speak to the motion/

25
26 Mr. Robinson: --the motion, yes.

27
28 Mr. Hudson: I agree with the motion as it was presented. I think most of the questions here
29 have been asked and answered. Right now there's only a buffer zone that exists. The plan on
30 making improvements for the 50-year flood with an increase of 33,000 more cubic feet than
31 what is required. They very candid in their response to protect an important portion of the
32 infrastructure and they're going to follow best management practices. Here's the bottom line,
33 right now there's really nothing protecting Kealia over there. There's nothing protecting the road
34 or the ocean. So we yes, they're protecting their own facility but it's an important facility. This is
35 a good thing. Thank you.

36
37 Mr. Robinson: Anybody else would like to have discussion?

38
39 Kahu Hill: Yes.

40
41 Mr. Robinson: Kahu.

42
43 Kahu Hill: Mahalo. I just want to say that I also support this. I think it's extremely important that
44 we stay aware of all of our island residents and the inhabitants of Kealia Ponds and those
45 visiting and our wetlands and to protect them and I hope with this power and understanding that

1 we all need this that you guys are sensitive and stay connected to the South Maui community
2 and what's needed to be aware of the wetlands and the migrations of the birds and the life and
3 also our oceans in that area 'cause it does all affect all of us and we want to protect them so
4 mahalo.

5
6 Mr. Robinson: Any further discussion? Seeing none, Director.

7
8 Mr. Spence: The motion is to approve as recommended by Staff.

9
10 Mr. Robinson: All those in favor?

11
12 Mr. Spence: That's six ayes. Motion carries.

13
14 Mr. Robinson: Motion carries. Congratulations. Thank you for being proactive.

15
16 **It was moved by Mr. Tackett, seconded by Mr. Hudson, then**

17
18 **VOTED: To Approve the Special Management Area Use Permit as**
19 **Recommended by the Department.**
20 **(Assenting – C. Tackett, L. Hudson, A. Hill, T. Gomes, S. Castro,**
21 **P.D. La Costa)**
22 **(Excused – L. Carnicelli)**
23

24 Mr. Robinson: Next on the agenda, Director.

25
26 Mr. Spence: Okay Commissioners the next agenda item is Mr. Edward Chang, a board trustee
27 of John and Kamaka Kukahiko of Makena Corporation. They're requesting a Conditional Permit
28 to conduct weddings in Makena, and our Staff Planner this morning is Ms.
29 Candace Thackerson.

30
31 **2. EDWARD CHANG, Board Trustee for JOHN AND KAMAKA KUKAHIKO OF**
32 **MAKENA CORPORATION requesting a Conditional Permit in order to utilize**
33 **the property for small scale special events, weddings, and ceremonies at**
34 **their property located in the A-2 Apartment District at 5034 Makena Road,**
35 **TMK: (2) 2-1-007: 079, Makena, Island of Maui. (CP 2017/0004)**
36 **(C. Thackerson)**
37

38 Ms. Candace Thackerson: Okay, good morning Commission.

39
40 Mr. Robinson: Good morning.

41
42 Ms. Thackerson: So the project we have before you is to obtain a Conditional Permit to allow
43 approximately 110 small scale and had listed as 50 but they're actually gonna cap it 49, just so
44 that's a correction on the record. Special events, 49 guests maximum special events per year
45 at the Kukahiko Estate located at 1534 Makena Road, TMK: (2) 2-1-007: 079. So that's what's

1 before you today. Your role today as the commission is to review and give a recommendation
2 as County Council will be the approving body behind this permit today.

3
4 I also have before you there two letters of testimony that were against the project. One of them
5 Thomas Savage, I called him and I spoke with him directly and he has withdrawn his comments
6 but I still wanted to introduce them for the record. His comments were namely to protect the
7 shoreline access which the family and the applicant has agreed to do. I personally snorkel
8 down there and it's always open over by what we slang call you know the Five, Five Caves and
9 stuff, that snorkeling point and he had some concerns about the noise or the number of events.
10 And when I told him that it was going to be limited to 110 he felt more comfortable. So I was
11 able to get ahold of him. The other letters I was not able to get ahold of them. They didn't put
12 their phone numbers or emails so sometimes I get a hard copy letter and I can't contact people
13 back to talk to them or to tell them to look at the staff report on line.

14
15 Also in front of you I have some proposed conditions. They were stated in the staff report. It's
16 not anything new. We just thought to make it easier for our Zoning and Enforcement later to go
17 out and things like that when it comes to that time to list them in the approval letter so that was
18 an oversight on my part. So I just made them a little more specific so it's easier for anyone in
19 the future looking at the permit and I'll go over those at the time of recommendation.

20
21 For now, I'll turn it over to Rory Frampton and he's gonna just give a short presentation on the
22 project.

23
24 Mr. Rory Frampton: Thank you and good morning Commissioners. My name is Rory
25 Frampton. I'm here representing –

26
27 Mr. Robinson: Good morning Rory.

28
29 Mr. Frampton: Good morning. The Kukahiko Family and with me today we have Ed Chang
30 who's the...on the Board of Trustees. Also, Ransom Piltz, who's on the Board of Trustees as
31 well. Mariah Gill is an environmental consultant that's helped me put the application together.
32 She's here as well. So I'll quickly go through our slideshow.

33
34 So again, the project description the property itself consists of a main dwelling approximately
35 3,400 square feet in size, a detached garage and an accessory secondary dwelling. The land
36 use designations are zoning is A-2, Apartment, the community plan is Public/Quasi-Public, it's in
37 the State Urban District and within the Urban Growth Boundary.

38
39 The request is an after-the-fact approval of a Conditional Use Permit in order to continue using
40 the property for events such as weddings, receptions, vow renewals and photo shoots and to
41 establish compliance with the County Code. It doesn't involve any new construction or ground
42 altering activities.

43
44 The project need, and I'll let Ed Chang speak to this in a little bit...in more detail, but this
45 property has been in the family, has been owned by the family since 1883. The Kukahiko

1 Corporation was formed when over time there were multiple heirs of the property and there
2 were so many heirs you couldn't really subdivide the property so they formed a corporation in
3 order to be able to maintain the ownership and again, Ed Chang will add a little bit more
4 information there. And in the area, you know, the homes have been...are rather elaborate. The
5 property's very valuable and the real estate or the real property taxes have really sky rocketed
6 and they're upwards of \$50,000 a year for this property and so they've turned to small scale
7 ceremonies and weddings in order to generate revenue so they can keep the property in family
8 hands and to allow the property to be used by the family for special events and special
9 occasions so it's like a family beach house.

10
11 So they have a lot of event rules and they're all listed in the staff report. The number of guests
12 are limited to 49. There's a event coordinator has to be on property at all times. The owner, the
13 representative of the owner has a right to enter the property at any time. The times are limited
14 between 8:00 a.m. and 10:00 p.m. and the attendees have to leave 15 minutes before the end
15 of the event. Of course, there's no...they don't allow for illegal drugs or violent, abusive
16 behavior. Soft music is the only music that's allowed. It may be limited amplification if they ask
17 the owner. The music has to stop by 9:30. There's rules regarding compliance with Liquor
18 Control laws. The caterers have to comply with Department of Health. There can't be any big
19 spotlights or decorative lights or major light like flood lights and that type of stuff. Any service
20 that's more than 20 people they gotta have a shuttle service. There's limited parking available
21 on site and there's...you know, there's no fire dancing or drums or aerial drones or
22 ...(inaudible)...poppers are not allowed. So these are all house rules that when they signed the
23 contract the people who were using the facility agreed to. These are all in place and have been
24 put in by the applicant.

25
26 Other requirements that we're working with Candace on and if we're successful with the
27 Conditional Permit, we'll have to get an SMA Minor Permit and Shoreline Setback Assessment
28 to allow for the temporary placement of minor structures and activities within the shoreline area.

29
30 So here's a map that's a little hard to see out there but it's out on the point at Makena. Here's
31 Makena Bay or Makena Landing and the hotel is just down the coast a little ways. Across the
32 street you have Hale O Makena...well, across the street is Makena Place and you have Hale O
33 Makena Condo community and there's various condominiums and the golf course in the area.
34 This is an aerial view with the Kukahiko property at this area. You can't see the three
35 dimensional aspect here but the road goes up a steep hill. These houses are at a higher
36 elevation. There's the Kukahiko property at the lower elevation and the shoreline access runs
37 right along the property to this point and it's a very popular swimming and diving spot off the
38 coast as Candace noted. On this northern portion of the property is where there's an area
39 where they can have the guest parking and then a lot of times the caterers park interiorly so you
40 have the main house, the garage, and the ohana and adjacent to the property is a family
41 graveyard where Ed's great, great grandparents, I think it's his great, great grandfather are
42 buried.

43
44 So this is just another view of the property with the property here on the left and other properties
45 on the shoreline there. This just shows the parcels in the area and that's the tax map key. So

1 the community plan designation is Public/Quasi-Public. The property is not within a...there's a
2 small tiny sliver hard to see on this map that's covered the tsunami zone but the majority of the
3 property is outside of the tsunami zone. The house elevation pad is about 14 feet above sea
4 level. So here's looking at the property from the road with the main dwelling and the garage and
5 the ohana right to the right. This is looking from up on the hill kinda...you can see over the
6 property. It's just a single story, fairly modest especially in comparison to the surrounding
7 homes in that area. So the front of the house opens up. These sliding doors are actually
8 resource sliders...recess sliders that go into the walls so they open the facility so it's kind of an
9 indoor/outdoor experience and that's looking out towards the ocean from the lanai and it has a
10 real nice lawn in the front of the property where a lot of the events are held. The garage has
11 separate entrances, outside exterior entrances for the bathrooms and that's a picture of the
12 ohana dwelling. I don't know why that photo's blank on that side, but this is what a typical lawn
13 ceremony would look like and that's another...some photos of what the typical lawn ceremonies
14 are. So I'm gonna ask Ed Chang to come up now and give a little bit of family history and
15 history on the property and then we'll be available for any questions.

16
17 Mr. Robinson: While Mr. Chang is walking up, I didn't see a NOV notice within this packet and
18 it's requested for all permits and homes. Are you able to get that for us Candace?

19
20 Ms. Thackerson: There's...at the time I wrote my application I had filed an RFS on the property
21 knowing that it was operating at the time, but there was no NOV at that time. It was just an RFS
22 which I turned in and made a note of in there.

23
24 Mr. Robinson: There's an RFS in this package.

25
26 Ms. Thackerson: I don't print out the screen. I don't do B&Bs and short-term rental permits so
27 usually we don't...I don't handle RFSs but I did make a note that I had...on Page...I think I put it
28 under procedural matters.

29
30 Mr. Robinson: Procedural matters. Thank you Candace.

31
32 Ms. Thackerson: Yes, No. 3 on Page 6. On April 5, 2018 the Department of Planning filed a
33 Request for Service in reference to operating without a permit.

34
35 Mr. Robinson: Thank you Candace.

36
37 Ms. Thackerson: Yeah, you're welcome. And now here's Ed Chang.

38
39 Mr. Ed Chang: Good morning Commissioners. Thank you for allowing me to speak.

40
41 Mr. Robinson: Good morning.

42
43 Mr. Chang: My name is Edward Chang. I'm one of the Director, Kukahiko Corporation. We
44 have seven directors. My goal is to explain how we got here and I want to give you the history
45 of the Kukahiko Family. I'm one...again, I'm one of the directors. My great great grandfather,

1 John and Kamaka Kukahiko, his wife, built, bought the property from Ulupalakua Ranch in 1883.
2 In 1902, he deeded the property to 10 of his children and one grandson. In 1969, 79 percent of
3 the property was sold to non-family members. One of the buyers filed a suit to partition his
4 share from the other undivided interest owners which basically were family. In 1973, 59 family
5 members, the remaining people that did not sell any of their shares of the property. There were
6 59 of them formed a corporation and called it the John and Kamaka Kukahiko of Makena
7 Corporation. In 1974, the property was partitioned to four owners. One of them was the
8 Kukahiko Family and we got two parcels at that point in time. These parcels were
9 approximately 15,000 square feet each. By 1997, the Kukahiko Corporation has three parcels.
10 We've been in business, we've been in existence for 23 years, made no income on the property,
11 and taxes had become a real burden. Everything in Makena is upgraded since the addition of
12 Prince Hotel and the golf courses. The corporation by a majority of shareholders decided to sell
13 the two parcels past Makena Landing and build for family use on the parcel that has the family
14 graveyard, the pictures that Rory showed you. The house was completed in 2004 and property
15 taxes continue to escalate. I'll just give you some rough numbers, 2001 - \$10,000, 2005 -
16 \$33,000, 2010 - \$56,000, 2017 - \$52,000. The family has had property in Makena for a 135
17 years, since the purchase in 1883. The family Corp, Kukahiko Corporation has been in
18 existence for 45 years. I might make some remark that not all the Kukahiko Family belongs to
19 this corporation, only those that did not sell the property. We're the ones that's still existing. We
20 still have one family that owns the parcel at Makena Landing and the parcel extended all the
21 way to where the family graveyard is, where we eventually built like Rory had explained to you.
22 Our goal is to maintain family property for family use and we do need some help. Thank you
23 very much for your patience to listen.

24
25 Ms. Thackerson: Okay, we can either...the Chair can either...we can open the discussion or I
26 can go over the proposed conditions that might help.

27
28 Mr. Robinson: If you're through with your presentation then I was going to do public testimony.

29
30 Ms. Thackerson: Okay.

31
32 Mr. Robinson: And then we can...when we asked for recommendation you can go over the
33 conditions then or you can go over it now it's up to you.

34
35 Ms. Thackerson: No, no, I would rather just do them before maybe the discussion because it
36 might answer some of the discussion questions, so...okay, but we can do public. Thank you.

37
38 **a) Public Hearing**

39
40 Mr. Robinson: At this time, I'd like to open up for public testimony. You'll have three minutes.
41 Please state your name. Mr. Flannery, if you would like to speak sir.

42
43 Mr. Michael Flannery: My name is Michael Flannery and I own the property adjacent to—

44
45 Mr. Robinson: Mr. Flannery could you please speak into the mic sir. Thank you.

1
2 Mr. Flannery: My name is Michael Flannery and I own the property next door to the Eddie
3 Chang property just to the south, up the hill which is about 60 feet above the Chang residence
4 and we've had many problems over a long period of time. I had prepared a written statement
5 and a verbal statement that for my notes to go over and I've made 10 copies of each and I want
6 to pass them out to the board if that's okay. There also is one copy of an agreement that the
7 Chang Family and I reached on some points of renting the property out over the last 10 years
8 and I have a copy of that also. So I think there's 10 copies of each one of those there. I'm not a
9 professional speaker and I get a little nervous when I do this...(inaudible)...me.

10
11 Mr. Robinson: You're doing great.

12
13 Mr. Flannery: You want to wait for that or you want—

14
15 Mr. Robinson: No, why don't you go ahead sir, your time.

16
17 Mr. Flannery: Well, on the verbal statement I started that I've been coming to Maui for
18 approximately 40 years with my parents and vacationing here and we usually stayed in Wailea
19 over that period of time and rented and fell in love with the community. Through those years I
20 dreamed of building a home here when I retired some day and as that time went by 40 years
21 later and I retired. I had some cancer issues and stopped working in 2000. The Wailea area
22 had developed a lot over that period of time. When I first came here there was no Four
23 Seasons or Grand Wailea and it was a rural area with a little shopping center that we enjoyed, a
24 little market I guess mostly. And so when we decided to buy property we bought in a more
25 remote area and we moved our search down to the Makena area. We found a beautiful piece of
26 property there in a residential area I thought overlooking the ocean and we purchased the
27 property, designed a beautiful home and built the home and which I thought was in a residential
28 area. But when we got the home done and we started living there the Chang Family was
29 putting on parties and birthday parties and things and when we talked to them they said it was
30 for family birthdays and events and that went okay for quite a period of time. And then a few
31 years later it was apparent that they started renting the property out to different people for
32 different events and music started getting louder and the participation started more often. A few
33 years later the Chang Family hired a commercial planning company and put their ads on the
34 internet to attract people from all over the world and the parties starting happening four to six
35 times a week.

36
37 Ms. Takayama-Corden: Three minutes.

38
39 Mr. Flannery: With loud amplified music and DJs directing the dancing and the parties.
40 Through that period of time, at least twice the parties got so loud and went till maybe midnight
41 that my wife and I couldn't sleep. And we like to sleep with the doors open, no air conditioning.

42
43 Mr. Robinson: Mr. Flannery, I apology could you please wrap up your testimony.

44
45 Mr. Flannery: Wrap up?

1
2 Mr. Robinson: Will please wrap in a few seconds. I know, I'm sorry it's only three minutes for
3 testimony. I apologize.

4
5 Mr. Flannery: Okay, I'll wrap up. So we called...at 10:30 at night we called the Chang Family
6 which live about a quarter mile away and Eddie Chang was in bed, his wife woke him up and he
7 appeared within five minutes to the event and shut off the music and he's worked with us over a
8 period of time to try to control these events and control noise. As they continued to be fairly
9 loud and we were having trouble sleeping I called for a meeting with the Chang Family and we
10 went to their house and met with members of the Chang Family and laid out points that might
11 work for both of us to be able to enjoy the properties.

12
13 Mr. Robinson: And is this what you have in front of us?

14
15 Mr. Flannery: The verbal statement and then there was a response to the Planning
16 Commission report also. That I won't address since I don't have time.

17
18 Mr. Robinson: Okay, sir actually you don't have time. I appreciate it. It's in the future it's best
19 to hand in your testimony ahead of time so we can read it and then we can ask you questions. I
20 apologize it's –

21
22 Mr. Flannery: They didn't...they didn't give me that in the information that I was supposed to put
23 in ahead of time.

24
25 Mr. Robinson: I apologize. But thank you. Commissioners is there any questions for our
26 testifier? Yes, Commissioner Gomes.

27
28 Ms. Gomes: I do. Thank you for being here and providing testimony. I just want to know are
29 you in opposition of this or I'm getting the impression you are.

30
31 Mr. Flannery: I'm in opposition of it from the standpoint of that it has to have regulations that
32 make it suitable to be in a residential area and have a commercial business running. When I
33 bought the property I had no idea there was going to be a commercial business running next
34 door to me on a regular basis and it was loud and Eddie over the period of time as I say, Eddie
35 has worked with me on this and I hope he continues to in the future. Still has a big impact on
36 the residential area and the values of the property next door.

37
38 Ms. Gomes: And...sorry Chair, I have...you also, there's someone, there's another letter that
39 was provided by you, Daren Darson is, is that you?

40
41 Mr. Flannery: No. No, that was after the meeting I had with the Chang Family. Daren was the
42 person that was coordinating the events for Eddie and he responded to my request to help deal
43 with the noise levels.

44
45 Ms. Gomes: I see. Okay, so he...you both are kind of on the same.

1
2 Mr. Flannery: We've been operating on this for the last five years and Eddie has honored most
3 of this. However recently the amplified music has started a bit on some of the events.

4
5 Ms. Gomes: Okay, thank you.

6
7 Mr. Robinson: Commissioner Kahu Hill.

8
9 Kahu Hill: Mahalo Chair. E kala mai ia`u. I'm just trying to visualize your house. Are you
10 titanium house next door?

11
12 Mr. Flannery: Yes.

13
14 Kahu Hill: Okay. Am I understanding that you are okay with weddings or vow renewals or
15 things on the property it's really about the noise, about the noise level or late at night the
16 amount of people or the volume of the noise?

17
18 Mr. Flannery: Mostly the volume of the noise. We can't sit on our patio and have a barbeque
19 dinner with guests and hear each other talk in the past. As I say in the last few years since we
20 reached this agreement it has been better but it started to have amplified music again some of
21 the time.

22
23 Kahu Hill: That's my main question. Mahalo.

24
25 Mr. Robinson: Yes, thank you. Any other Commissioners? Thank you for your testimony.

26
27 Mr. Flannery: There was one thing I wanted to mentioned about the planning report it will take
28 me one minute can I do that or not?

29
30 Mr. Robinson: Sir, I'm sorry. You can hand it in though.

31
32 Mr. Flannery: It's handed—

33
34 Mr. Robinson: I apologize, I've given you more than double what I normally allow. Thank you.
35 Is there anybody else that would like to testify at this time? Hi, please state your name and you
36 have three minutes.

37
38 Ms. Zandra Amaral Crouse: Aloha, aloha kakahiaka, ...(inaudible)...good morning my friends.

39
40 Mr. Robinson: Aloha.

41
42 Ms. Amaral Crouse: Zandra Amaral Crouse and I'm testifying...I'm Principal Broker and Owner
43 of Aina Hawaii ZEE Properties. However, I'm testifying as a private citizen. First of all, I know
44 that many of you sitting on the Commission know the Chang Family and the Luuwais. I recall as
45 a little girl we'd go in there and I'd stay at my girlfriend's grandfather's house, the Luuwai Family

1 on the beach. And I also recall going to see the Changs and camping out at their place and
2 them opening it up to every scout there was be it girls or boys. And I say this because I lived
3 through a time as did most of you who were born and raised here, lived through a time when the
4 Luuwais, the Medeiros, and the Ching Family was faced with the loss of their properties
5 because the hotels went in and that escalated the property taxes beyond their ...(inaudible)...

6
7 These were simple people who worked really hard to maintain the ahupua'as and the land that
8 was entrusted to them by their ancestors. And today, it gives me nothing but pride to see that
9 the generations now through the Luuwais, the Chang Family and all the old families Upcountry
10 and who are faced with losing their properties because of the increase in property taxes taking
11 this different avenues of building revenue so that they can maintain because we know that land
12 is so sparse. These families are large. They need the land for their children and their great
13 grandchildren. I humbly ask you to help them in any way that you can, and I know that you will.

14
15 And also Mike I understand your problem in that noise can be a problem because I live abutting
16 Haleakala Ranch on the Kihei side and when there's noise upside it comes down and what I
17 hear Mike saying is that Ed Chang and his family as I've always known them too, as the
18 Luuwais in Makena to be able to sit and as we say, olelo Hawaii, kukakuka, talk story. So I
19 humbly ask support this family because I testify to you humbly. If you do not, an investor will
20 find their lot, will have the money to hire attorneys and turn this into an investment property and
21 we don't want that to happen. We want a family to maintain the history. These families are our
22 history. I humbly ask you. Thank you so much Commissioners for your kokua. Mahalo.

23
24 Mr. Robinson: Commissioners any questions? Commissioner Tackett.

25
26 Mr. Tackett: You were saying that you used that property or they allowed families to use that
27 property to access the beach and to enjoy the ocean?

28
29 Ms. Amaral Crouse: Oh yeah. Not only did they ask him, I mean if you ask Commissioner right
30 now how many people in this room enjoy camping you would see her hand go up, her hand go
31 up and many of us go up, yes, yes. They provided the grounds for the scouts to scout on or
32 even the Amaral Family when we wanted to have a little small reunion, yes.

33
34 Mr. Tackett: So this continues to happen and the second part of that question is, do you know
35 of any other properties nearby that allow any sort of beach access or any side of any kinds of
36 public access to the ocean?

37
38 Ms. Amaral Crouse: I cannot speak to the access to the ocean outside of the Chang Family and
39 I testified that because almost everywhere we go in Makena the people along the beach, the
40 local people, the Luuwais you don't see big boulders in front of their path. The Chang Family
41 you do not see big boulders in front of their denying access, but you do see those big boulders
42 in front of access for those who have moved here and are investors. I am sorry, and I've got
43 nothing wrong, you know I'm really grateful for them because without their taxes and their
44 money we cannot have affordable housing for our children but yes, I do hope that answered our
45 question Commissioner.

1
2 Mr. Tackett: So people do still use that as an access to snorkel and...
3
4 Ms. Amaral Crouse: Sure.
5
6 Mr. Tackett: That was my question. Thank you.
7
8 Ms. Amaral Crouse: You're welcome.
9
10 Mr. Robinson: Commissioners? Thank you so much.
11
12 Ms. Amaral Crouse: You're welcome.
13
14 Mr. Robinson: If somebody else would like to...please come to the mic. Please state your
15 name you have three minutes.
16
17 Mr. Thomas Cook: Aloha Commissioners my name I Thomas Cook. I'm here as basically a
18 friend of the family. I've known Ed and Lori for over 20 years. I think the Changs are a blessing
19 to our community. Historic...I mean, born and raised in Makena and as far as if you want to
20 know something about the area he's full of wonderful stories, a heart of gold, really honest.
21 Because of Ed's experience he enable to basically do this. You don't get a pressure...the tax
22 relief for a hui like a homeowner can get a tax relief. But when it's a hui family and a lot of
23 members you don't get the tax relief. So they'd be taxed off the property. They're very
24 hardworking and industrious to create this product that they have that their family uses, that the
25 community uses and everybody gets to use.
26
27 As far as the noise goes, it sounds like they're working on it and it's...and as far as it like being
28 commercial in a residential area I get choked up. I mean it's like the things that the Changs
29 have seen happen in their neighborhood and the transitions and then somebody to go like oh I
30 bought residential and I thought it was going to stay like that. How about them who were like
31 born and raised and used to be able to catch fish and do everything and now it's just like what it
32 is. So I would humbly ask you to approve this. I think that this is a vote for local culture and just
33 all across the board a good thing. I know them personally. I'm familiar with the property. I
34 actually did the retaining walls and the site work like over 25 years ago or something. And this I
35 a good family. Please, please, please support this. Thank you.
36
37 Mr. Robinson: Thank you. Commissioners any questions? Thank you. Aloha, please state
38 your name you have three minutes.
39
40 Mr. Randy Piltz: Thank you, my name is Randy Piltz. And I'm a past president of the John
41 Kamaka Kukahiko Corporation. I am also a former member of the planning commission and all
42 State Land Use Commission. Also, I have taken vacation time to be here.
43
44 Mr. Robinson: You're a busy man Randy.
45

1 Mr. Piltz: You know there's something that I'd like to say to the Commissioners and I know you
2 can't do that, but we wouldn't be asking to have this brought into the family because if we didn't
3 have to pay the \$56 that was \$63,000 taxes every year we wouldn't be running this business.
4 Right now we have to do this in order to keep the property. It was originally built so that the
5 family could have out of each family members, they could have one week to spend at a beach
6 house. One of the few places Hawaiians have, still own on the ocean and that's what we
7 wanted to do. We wanted a place for the family to use once a year come down and use the
8 facility. But we can't do that because we gotta pay the taxes. And you know the noise situation,
9 we had a former family member that was a wedding operator and it got out of hand to the point
10 where we couldn't tell him what to do and he continued to do things that which wasn't in
11 accordance with what we wanted and he also didn't help pay the situation. He had all these
12 weddings and we were supposed to get a percentage of that, but he didn't bother giving it to us.
13 He continued to make noise and eventually we had to evict him from the property. So I ask
14 each of you that to keep this in the family and we have the zoning that we're requesting, but
15 keep in mind we really don't want to have weddings there. We wanted to keep it as a family
16 residence. Thank you very much for your attention.

17
18 Mr. Robinson: Randy I got a question for you, actually I got two. First of all, Randy why didn't
19 you guys apply for a permit sooner?
20

21 Mr. Piltz: Well you know we started off in saying just do it for a little bit, a short time. But then
22 as we continued on I ...(inaudible)... I'm in the County and I should have known better and I'm
23 sorry, but we didn't.
24

25 Ms. Takayama-Corden: Three minutes.
26

27 Mr. Piltz: And I don't have any other reasons for not doing it.
28

29 Mr. Robinson: And I'm going to have a question but I want to ask you if you think or maybe
30 Mr. Chang, someone has the answer 'cause of what your position was but my question is going
31 to be regarding the taxes and the exemptions and the ability of different things that you guys
32 had. So I don't want to say that you would have to answer it because it's not your application,
33 but if somebody thinks that somebody's better to answer then maybe you it's going to be asked
34 with one of these people.
35

36 Mr. Piltz: Well, you know we could have filed for an exemption on the taxes but you have to
37 understand Hawaiians, right, oh I want to stay there. I want to take care the property. Well
38 when you have 200 members and everybody wants to stay at the beach that's not gonna work
39 and so because we had formed the corporation we said, this isn't gonna work. We have to do
40 something to retain the property and to gain money access to pay the taxes.
41

42 Mr. Robinson: Thank you. Commissioner La Costa.
43

44 Ms. La Costa: Mahalo Randy for being here and answering our questions. Is the property used
45 in a short-term rental situation or is it only weddings and receptions?

1 Mr. Piltz: It's only weddings. No, we didn't go for rental of the property because then we
2 wouldn't be able to use it and as it is right now we're not able to use it because we have the
3 wedding business going on. And you know it's too bad that we have this situation. We can't
4 use it when we really want to use it for family use only.
5

6 Mr. Robinson: Commissioner Kahu Hill.
7

8 Kahu Hill: Mahalo Chair. Aloha Randy. Mahalo for your service. I've done many weddings
9 there and I know the property well and Makena, living in that area, my mom. I wanted to
10 understand, I've never been there when there's been a reception. It's always been acoustic
11 guitar or easy weddings in the daytime and people are there for just hours. How many
12 receptions are we looking at as far as 'cause sometimes they just look to get married and they
13 may go to lunch or dinner or somewhere else and not have receptions on the property and
14 amplified sound.
15

16 Mr. Piltz: You know we don't allow amplified sound. And the number of weddings I'm not sure
17 but I have a cousin who has been operating the wedding business for us. Now that we have
18 evicted one of the other cousins that wasn't paying his share, so I think Chris will be able to help
19 you with that.
20

21 Kahu Hill: Okay, and I want to make sure I understood you correctly. You said you don't allow
22 amplified sound?
23

24 Mr. Piltz: No we don't.
25

26 Kahu Hill: Okay.
27

28 Mr. Robinson: Any other questions? Thank you Randy. Is there anyone else who would like to
29 testify on this item? Please state your name, you have three minutes.
30

31 Mr. Tom Croly: Aloha Commission my name is Tom Croly. I'm a resident of Kihei and also
32 someone who has used the access to the ocean near this property. I watched this property get
33 built. I am in full support of the application to use this as a event venue. I have been to events
34 at this location and found that they operated them very professionally and with good control. In
35 fact in preparation for this meeting I looked up some of the reviews and the reviews are
36 wonderful but some of things that the people say is, boy they really are strict. No fire. We
37 wanted to have fire dancers at our thing but they wouldn't allow it. They kicked us out right at
38 9:30. They wouldn't even let us stay for another half hour. I think those are important things
39 and I think that as a conditional permit those are things that we want to put in the conditions of
40 the permit to make sure that everyone understands what the rules are. I also reviewed the
41 report and the report said that this use would be similar to a short-term rental or a bed and
42 breakfast and I want say definitively it's not. It's not in any way, shape or form in related to bed
43 and breakfast or short-term rental that specifically have rules that would forbid this type of use.
44 When this Commission grants someone a short-term rental permit specifically built into that
45 short-term rental permit you may not have anyone, anyone on the property who is not a

1 registered guest. And the registered guests are limited to two per bedroom. So this is a
2 completely different use than a short-term rental, but I think it's an appropriate use of this land
3 based on you know, the history and what's been taking place. But this is the public testimony or
4 this is the public hearing for this and you want to listen to the public and say, let's address the
5 public's concerns. Some concerns were raised about noise. Maybe there's concerns about
6 parking. Maybe there's concerns about hours. Those are the things that a conditional permit is
7 for. It's for conditioning those types of things. So I entrust the Commission to do exactly that
8 and when this thing makes its way up to County Council well, they'll have the opportunity to add
9 more conditions if they choose. But this should be approved. It shouldn't just be approved
10 because of who these folks are. I know we want it. We all want to do this, but it should be
11 approved, approved because it's the right thing for this property and as long as we condition it
12 it's not gonna be a problem for the neighbors or the community. One more thing. I looked at
13 the people within 500 feet and I just want to comment on where they own their properties.
14 These people are from Alpharetta Georgia, Menlo Park, California, Medina Washington, Park
15 City Utah, West Chicago Illinois, Encinitas California, Edmonton Alberta, Calgary Alberta,
16 Boulder Colorado, Truckee California, Jackson Wyoming. I think you can see around them are
17 properties that are owned by anyone but Kamaaina like these folks—

18
19 Ms. Takayama-Corden: Three minutes.

20
21 Mr. Croly: -- and we want to give these folks the ability to continue to own this property. Thank
22 you.

23
24 Mr. Robinson: Thank you. Do we have anyone else that would like to testify?

25
26 Mr. Chang: (Speaking from the audience) I'd just like to make one correctional comment.

27
28 Mr. Robinson: This is public testimony. We'll let you do that as an applicant.

29
30 Mr. Flannery: (Speaking from the audience).. I want to take two seconds to say—

31
32 Mr. Robinson: I'm sorry, I'm sorry, order please, order please, order please. When the
33 Commission has time for questions, the Commissioner can go ahead and ask the applicant for
34 questions and at that time you guys can go ahead and share anything that you guys might want
35 to do. Is there somebody would like to have testimony? Please state your name you have
36 three minutes.

37
38 Mr. Brad White: It's Brad and Marlene White. We are at

39
40 Mr. Robinson: I apologize can you please state your name.

41
42 Mr. White: Sure, Brad White, W-H-I-T-E. We live in Hale O Makena across the road. We do
43 not know the Changs other than we met them this morning. I would just like to say that we've
44 actually been part of the ceremonies that have been there despite going out on the lava flow
45 and looking back and I must say if that's...if there's any...excuse me I got a bit of a cold, but I

1 will add that it's a spice of life. That is what we call community. We're from Canada so we're
2 one of the mentioned Calgary names but it is very much a spice of life there and part of the
3 community I think it's very important that we retain that community. I don't know if anybody here
4 is a wine drinker but it's a Bordeaux blend. It takes more than one variety to make it all work.
5 So thank you and I hope that you support it.

6
7 Mr. Robinson: Thank you. Would anybody else like to testify?

8
9 Ms. Thackerson: Aunty, you want to sit and speak into the mic?

10
11 Ms. Lori Chang: No, I'm getting to that age where people get concerned about me, but I'm
12 okay. I'm Lori Chang from Makena. I'm the wife, my husband was Ed Chang. I'd like you to
13 know I married into the family and I've been through this with them. It's very important to the
14 family that they can come back to Makena and touch base again because a lot of them have
15 stories that their parents are telling them of what it was like when they were children and they'd
16 go to Makena and hukilaus and you know, those kinds of things, fishing was...fish was plentiful
17 those days. So this Corporation decided that we need to maintain this place and we had no
18 other choice but to do something like what we did. All we wanted to do was to be able to get the
19 money to maintain the place and for a place the family can come home to. If we did short-term
20 rentals the families couldn't come home at all. But this way, in between they can come home
21 and they do. We do have a family that come home all the way from Utah to spend every
22 summer. They try to make, you know a vacation at the Kukahiko house and I think that's great.
23 Now...(inaudible)...my husband, we live right down the street from the hale so he has to take
24 care of the hale. He goes there, cleans the yard, maintains the house, something gets broken,
25 he's there to fix it. So you know, the place gets looked after. But we need to be able to stay
26 there. We've had trouble with the taxes. Okay, now we found a solution and I'm asking you
27 please give them give the Hawaiians a chance to come home because it's a good thing.

28
29 Mr. Robinson: Question please. Kahu Hill.

30
31 Kahu Hill: Mahalo Chair. Mahalo Kupuna Chang. I wanted to understand and mahalo for your
32 patience in this 'cause Na Hale O Makena was mentioned and that was vague when I came to
33 bless that and had to separate your family land on the heiau to be able to keep some of the
34 family land and being able to have that a Poolenalena for you and your husband. This is also
35 an extension like that to be able bring some of the money in for the taxes to be able to preserve
36 it and to preserve family land. Is this on the same kind of understanding in the Makena area?

37
38 Ms. Chang: I think so. I think so. You know there aren't too many Hawaiians left in Makena.
39 Maybe there's, maybe 10 families and we're one of them. Makena has changed, it's become a
40 place for an international place and so you know, the families that have had to leave for
41 economic reasons they left, they like to come home. They like to touch base. They want their
42 children. I hear it so often when families do come, they say oh what a nice place it be for the
43 children to come to swim, to come and touch base to hear what the tutus have said. And that's
44 all we're trying to do. You know it's a lot of work for my husband and I, but you know what we're
45 doing it because the families want it and we still have the aloha between the families. You know

1 I hope all the Hawaiian families can do that. And it's doing what we're doing that...you know,
2 they'll be able to do and we hope that you folks understand this and give us a consideration too.

3
4 Kahu Hill: One more Chair.

5
6 Mr. Robinson: Yes, Kahu Hill.

7
8 Kahu Hill: Mahalo. I just wanted to ask a question and maybe your husband might be able to
9 answer it better or someone. I wanted to understand who's maintaining and cleaning the
10 gravesite and making sure that that is also gonna stay protected in this?

11
12 Ms. Chang: My husband does a lot of it. When Uncle Duck lived, David Chang, he did it but
13 he's gone. So now my husband does it. And you know, I've been surprised a couple of times
14 we've had people that we don't know come in and clean the grave and put flowers. I mean,
15 they're from the mainland and they come and they touch base with the grave I don't know why,
16 but they do and they feel really good when they leave. So I think that's a nice thing too. You
17 know something that we so often we hear of, we gotta preserve this, we gotta preserve this site,
18 but do we really go back to see and touch base with those things? I don't think so, but then we
19 have these tourists that come and you know it's amazing to me. I just sometimes, I looked at
20 that and I just marvel that here is this little graveyard and people come to it, it means something
21 to them.

22
23 Kahu Hill: Mahalo Aunty.

24
25 Mr. Robinson: Thank you for your testimony. Is there anyone else that would like to testify?
26 Seeing none, I'd like to close public testimony. Thank you all for your deep thought testimony.
27 At this time we're gonna take a quick five-minute recess. Thank you.

28
29 A recess was called at 10:40 a.m., and the meeting was reconvened at 10:50 a.m.

30
31 Mr. Robinson: Commission is now back in session. Candace please.

32
33 **b) Action**

34
35 Ms. Thackerson: Okay, so it's still morning. So good morning Commission. I just wanted to
36 note before I get into the recommendation that you might see that's none regarding the SMA
37 and that's just because that we're not gonna place those on the Conditional Permit. It will be
38 addressed at the time that the Department issues the SMA Permit and it will be a Minor most
39 likely and it will be a blanket one for all the events on the property. And in that I will address the
40 shoreline access being left open as personally from my experience that they have always been
41 great about leaving the access open. I have snorkeled that spot. While there's been weddings
42 going on, I've been able to find parking. I wave at them and my snorkeling gear. It doesn't
43 seem to be a huge issue. So that will be addressed at the time of the SMA including the dark
44 sky ordinance and things like that.

1 So as far as what's in front of you right now for the Conditional Permit I just wanted to add into
2 the record so we have here the six conditions, but then in front of you I had five additional ones.
3 As I stated earlier, they're already included in your staff report. The Department just thought for
4 ease for people in the future looking at the permit and the approval letter they could be listed
5 out. And I think this will also address some of the concerns that we've heard today from the
6 testifiers.

7
8 Number one, that the applicant may host a maximum of 110 events on site per calendar year.
9 When you do the math that's about two a week. So that's really, you know, it's not gonna be
10 this ongoing thing.

11
12 Number two, that the number of guests per event shall not exceed 49 persons. Again, you
13 know we have a lot of event venues here on Maui. Haiku Mill, Dragon Fruit Farm, Olowalu,
14 they're closer to 100, you know 150 some odd people. This is what we consider small scale,
15 small scale events.

16
17 Number three, that events may take place any time between 8:00 a.m. and 10:00 p.m. with all
18 music ending at 9:30 a.m. Vendors and staff may remain quietly to clean up and breakdown the
19 event. Limited amplification during the event is allowed with prior approval by the owner.
20 However, no bands or DJs are allowed. Earlier we heard Randy Piltz say that there was no
21 amplification, but I believe that's what Ed Chang was raising his hand about in the audience was
22 that they do allow limited and that could be, you know, when they have one ukulele player and
23 he has to kinda plug into his amp to get some music or things like that going. Regardless, it's
24 off at 9:30 p.m.

25
26 Number four, there shall be no offsite parking and this includes parking along Makena Road or
27 any of the public parking areas along Makena Road. For the special events all parking for
28 guests and vendors must be maintained onsite. And as you saw on the site plan they do have
29 space for that on their site. For special events of 21 guests and over, a shuttle is required in
30 addition to the onsite parking. So for ones that are over 20 then they can have a shuttle but we
31 still want to allow them to have some parking onsite so, you know, the bride doesn't have to
32 arrive in a shuttle.

33
34 And Number five that structures utilized for the event will not be left up for longer than 24 hours
35 and that will also be placed on the SMA with Shoreline Setback Rules because they're only
36 allowed to have temporary minor structures allowed in the shoreline back regardless.

37
38 So with the addition of those five, the Planning Department would like to recommend that the
39 Maui Planning Commission recommend approval of the Conditional Permit to the Maui County
40 Council.

41
42 Mr. Robinson: Commissioners, we could adapt these proposals, we can eliminate these
43 proposals, we can make less conditions, you know we can do a lot of things. So I just want you
44 to understand that usually what we have in the green packet is you know is what the Planning
45 Department does, and of course, Candace went ahead and added five more. We can take it

1 and we can make it less. You know they're adding more. So if you feel one way or the other, I
2 just want to let you know that it's we don't have to make a motion to follow it all, we can chop it
3 apart or we can add on. Just wanted to clarify that. Having said that, does any of the
4 Commissioners have any questions for our applicant? I'm sorry? Oh, I'm sorry, Kahu Hill would
5 you like to say something at this moment. Sorry.

6
7 Kahu Hill: Mahalo Chair. I wanted to clarify because I know this property and I stood there with
8 ohana, Kimo before it was ever fully complete looking at it and they were dreaming out of
9 maintaining this land for their ohana years ago. I have done weddings on the property. Most of
10 them are in Japanese and Olelo Hawaii so I really have to study my Japanese. So they don't
11 have too many guests 'cause they're coming from Japan. But I have done vow renewals, I have
12 done blessings there. I have not made much money from there 'cause I don't go there much.
13 But I have gone there in the last few years. I have never been under contract. It's not
14 something that I'm connected to for financial reasons. I'm simply serving Akua and serving the
15 community and doing the work it is at location. So I wanted you to understand that I have no...I
16 don't even know if I'm going to work there ever in the future 'cause I have no contracts or
17 bookings to be there. I do want you to know that I feel that I can vote impartially and be able to
18 support this on the agenda and I wanted to share that all with you, but I wanted to divulge that I
19 have done work as Kahu and ceremonies at this location. Mahalo.

20
21 Mr. Robinson: Thank you. Commission, does anybody have any objections to Kahu being
22 involved in the voting of this?

23
24 Mr. Tackett: I have no objection.

25
26 Mr. Castro: None.

27
28 Commission Members: No.

29
30 Mr. Robinson: Seeing no objections Kahu, thank you. At this time, Commissioner La Costa.

31
32 Ms. La Costa: Thank you, Chair. The revenue that is derived from the ceremonies and the
33 receptions there is that enough to cover the taxes? Are there any kind of shortfalls and how's
34 that gonna be handled and if there's excess income then you know obviously they pay GET on
35 it so that was my question.

36
37 Ms. Thackerson: That would be something better directed at the applicant so I can have them
38 come up and answer that question for you. Who do they think would be best to answer that?

39
40 Mr. Frampton: You know it goes to the corporation and they pay their taxes, they pay their
41 whatever's required and I'm not sure what happens with the excess. But they've been able to
42 with the level activity that they've had they've been able to make the payments on the property
43 taxes. All their taxes are paid up I looked the other day.

44
45 Mr. Robinson: Commissioner Kahu Hill.

1
2 Kahu Hill: Mahalo. This is for Randy.

3
4 Mr. Frampton: Rory.

5
6 Kahu Hill: E kala mai ia`u. I wanted to know if you could pull up that one image. It seems like it
7 might have changed from what I've seen about the eight parking stalls that are there on the
8 property that without blocking the beach access. And if it's changed recently if you guys have
9 expanded or where on the parking?

10
11 Mr. Frampton: Sorry, Rory Frampton again. So the...if you've been out there recently there's
12 been construction occurring on the neighboring property and they built a long retaining wall, but
13 it runs alongside of the public access. So the public access is there. You can kinda see it. It
14 looks like a road right here that goes by the graves and then down to the coastline like that. So
15 that's all there, that's in place. Recently I noticed with the construction of what was going on
16 they have actually cleaned up this portion of their property a little bit more, the Changs have or
17 the Kukahikos have and so that's the area where the stalls you can comfortably get...I mean
18 they can get a lot more than eight stalls on the property if they want to, but that's the primary
19 area for the guest parking. There's also parking by the house and there's a potential for grass
20 parking as well.

21
22 Kahu Hill: So when you come in in the driveway to the right usually they would park inside on
23 the pavement so you can just go off the pavement or from the road and be able to park in the
24 dirt area?

25
26 Mr. Frampton: Correct.

27
28 Kahu Hill: Okay, mahalo.

29
30 Mr. Frampton: Thank you.

31
32 Mr. Robinson: Any other Commissioners? I have a question and it's for the applicant please.
33 Mr. Chang. Aloha Mr. Chang.

34
35 Mr. Chang: Hello.

36
37 Mr. Robinson: And Candace I forgot to ask you is the Luuwais do they have a short-term rental
38 or do they have a activities permit? The Luuwais, I know we did that last year I believe. I'm
39 sorry, Rory you know that?

40
41 Mr. Chang: He can answer that too.

42
43 Mr. Robinson: Yeah, but I have another question for you, but I wanted to make sure.

44

1 Mr. Frampton: So for the Luuwais it's for transient vacation rentals and special events, but they
2 don't handle a lot of special events but the permit allows for it.

3
4 Mr. Robinson: Okay, thank you. So Mr. Chang I remember you...(sound system
5 interference)...

6
7 Mr. Spence: It's in the upcoming budget.

8
9 Mr. Robinson: Mr. Chang I remember you from the Discovery and my recollection is that you're
10 pro Discovery and you encouraged the development of that is that...is that right recollection?

11
12 Mr. Chang: I'm pro but I wouldn't say I encourage.

13
14 Mr. Robinson: Okay, well you're part of the...and I mean that was my question on your
15 testimony.

16
17 Mr. Chang: I believe that the development that I'm being presented with is a good one.

18
19 Mr. Robinson: Okay. Did you understand that it was personally gonna affect your property and
20 the property taxes going forward?

21
22 Mr. Chang: Yes.

23
24 Mr. Robinson: And so—

25
26 Mr. Chang: I think it might add some stabilization because it hasn't been stable. At first it was
27 really jumping all over the place and it seemed to be getting stable. But the number's there
28 already.

29
30 Mr. Robinson: The numbers?

31
32 Mr. Chang: The number like 50,000 a year taxes is there already.

33
34 Mr. Robinson: So when Discovery sells the property for \$5 million to \$10 million you don't think
35 your property taxes are gonna change in that ...(inaudible)...

36
37 Mr. Chang: There's one up for sale right next to me for 29.5 today.

38
39 Mr. Robinson: Yeah, and so when those are sold you don't think the property values are gonna
40 change per square foot?

41
42 Mr. Chang: I'm not sure. In 2002 the property next to me that they're currently building on sold
43 for 13 million. So what I'm saying is right where our hale needs to be and Makena itself what
44 we call the piko of Makena is going to be expensive. Even the houses that sold for 4 million is
45 now selling for I believe 18 million at Makena Place. Yes, I agree.

1
2 Mr. Robinson: And Mr. Chang did you not or your family not know that a permit is required to
3 have special events on your property?

4
5 Mr. Chang: Yes we did.

6
7 Mr. Robinson: And is there something, a part of the County planning process that discouraged
8 you guys from applying earlier?

9
10 Mr. Chang: No. We were kinda advised do it a little while. When you find what you can do
11 then go and get a permit. We actually hired a guy that said he was going to help us do the
12 permit. He didn't. We ended up firing him and then I decided to convince the directors that I
13 would ...(inaudible)... this process through and that's where we are now. And I am sorry but we
14 are a little late.

15
16 Mr. Robinson: Thank you. Candace you want to add something? That's all from me
17 Mr. Chang. Thank you so much.

18
19 Ms. Thackerson: Candace Thackerson, Staff Planner. I would like to say that the applicants
20 came in of their accord. I filed the RFS on the project after because when I opened up the
21 application I saw pictures of the wedding occurring so then I knew it was an after-the-fact. So
22 the applicants came in of their own accord.

23
24 Mr. Robinson: Okay. Seeing no other questions do we have a motion?
25 Commissioner Hudson.

26
27 Mr. Hudson: I move to recommend to the County Council approval for this.

28
29 Mr. Robinson: Okay.

30
31 Kahu Hill: I second.

32
33 Mr. Robinson: Kahu Hill seconds. Discussion on the recommendation. Commissioner Tackett.

34
35 Mr. Tackett: So although I might not appear that way, I've been here kind of a long time, long
36 time for me, not a long time for the owners of this particular property, but it's really interesting
37 that when they came up and they showed the map I remember camping there when I was like
38 fourth grade, you know in the back of a truck on the side of that mountain like, like with the rocks
39 going into the ocean. And it's just amazing that that still exists this day because all the places
40 that I want to go that I went to when I was a kid none of them are as close to being the same as
41 that place is. So I just want to say that I'm gonna be in favor of it. I admire the fact that they still
42 hold onto that property and I admire the fact that they still hold onto those old family values. So
43 that's kinda what I took from what went down today and I will be in favor of it.

44
45 Mr. Robinson: Commissioner La Costa.

1
2 Ms. La Costa: Thank you Chair. This is really difficult for me because I have read letters
3 opposing the noise and the traffic and everything that is disrupting homeowners because we all
4 have private property rights. On the other hand, the old Hawaiian homesteads, Aunty Medeiros
5 was a very dear friend of mine and I know they no longer have that property because they were
6 forced to sell it because of the taxes. I just want to be very clear that the noise mitigation has
7 got to be addressed whether it is strictly weddings and no receptions or whatever because we
8 have to be cognizant and appreciative of everyone's property rights and their quiet enjoyment to
9 their properties so that's my biggest concern is that there aren't any more letters of complaint for
10 this that everyone gets along and it's all about aloha and...so that's gonna be incumbent upon
11 the folks who own it and run it.

12
13 Mr. Robinson: Anybody else? Commissioner Kahu Hill.

14
15 Kahu Hill: Mahalo Chair. I did want to say that it's very heartwarming to see Hawaiians comes
16 and be able to have their land and be able to have this connection since the 1800's. It's what
17 my kupuna Papa David Kaalakea shared for that area and his connection to Makena and this
18 area and coastal areas. I would like to hope that you do look at the sound and the level of
19 sound, be able to talk about that and that it is working for the neighborhood and the community
20 and also to encourage when you can to be able to shuttle the people in there so there's a least
21 amount of impact for the parking and for people who want to access and go down to the beach
22 that may be four-year-old or fourth grade or kupuna be able just to smell the ocean or walk
23 down that area 'cause it's everybody's, it's part of all of us. So I just want to say mahalo and
24 encourage those two things.

25
26 Mr. Robinson: Thank you. We're gonna get some clarification on your motion before we vote
27 just to let you know that there's additional conditions that was put forward and I'll have the
28 Director speak on that before we do that. But before that, seeing that the Commissioners are
29 done it's...it's...this troubles me. This troubles me because of how we set up rules and how
30 it...it doesn't do what we want for locals. And I don't know how we, how we as a planning
31 commission or as the Council fix this. We have a family who has to rent out their property to
32 keep their property even though the property has been in their hands for decades. I mean there
33 has to be something legislative or a moratorium where you've owned your property for over 10
34 years or 20 years, I mean more or less 50, you know to where you don't have to go ahead and
35 prostitute it out to keep it. I mean that's exactly what...how I feel and I hate to use that word but
36 it's...a circuit breaker law was made so that people could stay in their residence. We would
37 hope that a Hawaiian family could come together and work it out between your differences so
38 that you can use that circuit breaker law. But when that breaks down like any other family at
39 least they have the agreement to keep in their hands and I think that's something that I think we
40 should try to look for is legislatively because this is what's going to happen to the rest of Hawaii.
41 What happened in Makena is what's gonna happen next in Paia and the local people are gonna
42 get priced out tax wise and you know and again guys this is not something new, we all know this
43 since the day of Hawaii people lose their property 'cause they don't pay their taxes. And people
44 wait to jump on the taxes and take it from them because, you know, the culture of Hawaiians are

1 different. You know, it's not a capitalistic culture it's a sharing culture and this where we fall into
2 this.

3
4 But it's hard for me to reward when we don't follow rules. It's hard for me to, you know, reward
5 because now we wanna do something what we know better. It's hard for me to reward where
6 we're agreeing to developments that directly affect your ability to keep you land and then you're
7 gonna come to the planning commission and to the Council and say, okay now I want to throw
8 events because you know all these lands are mine. You know, Hawaiians sold lands, they're
9 not stolen, but when this is taxes they're taken and that's the difference. And so you know,
10 guys...these guys have been running you know little Makena community down here. The
11 neighbors that complained they were legislating their own conditions with the landowner, right?
12 They were saying well, if you do this or you do that. So everybody kind of was complacent in
13 my eyes you know. I mean we have people performing at the property complacent. We have
14 people, you know, doing services at the property complacent. Everybody is good people.
15 Everybody wants to do the right thing and we keep on turning our blind eye. But if we keep on
16 turning our blind eye what happens to the places that we don't want to have it done? Can we
17 then just switch over and say okay, now guys or since you know, since you're not Hawaiian then
18 you know the rules are gonna be different for you and that's where, that's where we're not able
19 to do that so we have to look for something in a legislative process to help keep these lands and
20 these taxes in a certain way so the families don't have to go this. Sorry for all that, but this is
21 what's happening and you know and it's sad. There's nothing wrong with, nothing wrong with
22 people coming and buying land in Hawaii. They worked hard, they're buying oceanfront
23 property which we all want a part. That's nothing against people investing in Hawaii, good for
24 them. But for people who want to protect it you have to look at it a different way. The people
25 with the money aren't the problem, it's the people selling the property and people not keeping it
26 is. Director, you like to go over the conditions for the recommendation?

27
28 Mr. Spence: So Commissioners what the Department does is make a recommendation to you.
29 You can adopt as recommended by Staff and myself. That's always my signature on the report.
30 Normally we have your standard conditions and some special conditions in order to mitigate
31 possible impacts. So what you...you've read the recommendation that we've handed out, but
32 then there's also these other conditions, proposed conditions as to numbers of events and
33 number of people, et cetera. So it's up to the Commission. Maybe I should just ask would the
34 maker of the motion clarify his motion. Is it just what was presented earlier or does it include
35 these other five conditions?

36
37 Mr. Robinson: Thank you Director. And also we don't have to put any conditions 'cause it's a
38 recommendation and the Council as we've known really kinda does what their own thing is. So
39 I think, I think it's this Commission is do you want to try put as many conditions down and follow
40 Candace's or do you want to leave it as what the original recommendation was?

41
42 Mr. Hudson: Thank you, Chair. I will modify my motion and to adopt as recommended by the
43 Planning Commission including the additional five conditions that Candace recommended.

44
45 Mr. Robinson: Kahu Hill?

1
2 Kahu Hill: And I would like to modify as well to accept these additional conditions proposed.

3
4 Mr. Robinson: Thank you so much.

5
6 Kahu Hill: Mahalo.

7
8 Mr. Robinson: Any further discussion on the clarification on the motion? Corporation Counsel.

9
10 Mr. Galazin: Thank you Chair. And think just for the Commissioners it's important to make sure
11 that when you're reviewing these things what we're talking about is uses being proposed in a
12 area where it's not permitted but is somehow going to be compatible in some way and that's
13 what the analysis and the staff report is about. Knowing the history or the back story of why
14 somebody is coming forth with an application is always helpful and important to consider but
15 ultimately in making you decision you want to make sure that you're basing it and that it's clear
16 on the record that you're looking at the land use impacts, you're looking at the proposed
17 conditions that would mitigate it and that's where your final decision comes from. That it's not a
18 desire to see one person maintain a property versus another. It's that these impacts, you know,
19 aren't going to be so significant that it will be way out of character of the neighborhood. And
20 that if it's done with the conditions as proposed it will be in compliance with the County Code
21 and that's your recommendation made to the County Council. So if anybody feels otherwise,
22 you know, please make sure you try and articulate that for the record. But if you are voting just
23 strictly on the land uses themselves and how they apply then I think we're fine. Thank you
24 Chair.

25
26 Mr. Robinson: That's all? Okay, Director.

27
28 Mr. Spence: Okay, Commissioners the motion is to recommend to the County Council approval
29 of the Conditional Permit with the regular conditions as well as the additional five.

30
31 Mr. Robinson: All those in favor of the motion?

32
33 Mr. Spence: That's five ayes. Motion carried.

34
35 **It was moved by Mr. Hudson, seconded by Kahu Hill, then**

36
37 **VOTED: To Recommend Approval of the Conditional Permit to the County**
38 **Council as Recommended by the Department with Additional**
39 **Conditions as Proposed.**
40 **(Assenting – L. Hudson, A. Hill, C. Tackett, S. Castro, P.D. La Costa)**
41 **(Excused – L. Carnicelli, T. Gomes)**

42
43 Mr. Robinson: Thank you. At this time, we'll take a five-minute recess before we hear the next
44 item.

45

1 A recess was called at 11:15 a.m., and the meeting was reconvened at 11:22 a.m.

2
3 Mr. Robinson: Planning Commission is back in session. Going to the next item, Director.

4
5 Mr. Spence: Thank you Commissioners, just for everybody's information, that Item D-1 under
6 Communications for Honuaula is not going to be heard today.

7
8 **D. COMMUNICATIONS**

- 9
10 **1. MR. CHARLES JENCKS, on behalf of HONU'A'ULA PARTNERS, LLC**
11 **requesting adoption of the Draft Preservation/Mitigation Plan and Habitat**
12 **Conservation Plan for the proposed Honua'ula Project (formerly Wailea**
13 **670), Paeahu, Palauea, and Keauhou Ahupuaa, TMK: (2) 2-1-008: por 056**
14 **and 071, in accordance with Condition No. 27 of Ordinance No. 3554,**
15 **establishing Kihei-Makena Project District 9 (Wailea 670). (A. Cua)**

16
17 **The Commission may take action on this request.**

18
19 Mr. Spence: It will be rescheduled. So if anybody is hanging out to testify on that, we will not
20 hear that today.

21
22 So Commissioners your third public hearing for this morning is Mr. Byron Knight requesting a
23 Short-Term Rental Home Permit in order to operate Kubu Santi, one-bedroom short-term rental
24 home permit and our Staff Planner this morning is Mr. Jared Burkett.

- 25
26 **3. MR. BYRON KNIGHT requesting a Short-Term-Rental-Home Permit in order**
27 **to operate Kubu Santi, a one (1) bedroom short-term rental home located in**
28 **the R-3 Residential District at 24 Emi Place, (2)2-6-004: 020, Paia, Island of**
29 **Maui. (STPH T2017/0006) (J. Burkett)**

30
31 **This application is being reviewed by the Commission because there are at**
32 **least two (2) permitted short-term rental operations located within 500 ft. of**
33 **the subject property.**

34
35 Mr. Jared Burkett: Good morning Chair, Commissioners. My name is Jared Burkett and the
36 Department has provided you with four letters of support for the permit. One more was received
37 this morning and I have provided to the Commission during the first break so it would look like
38 this because I didn't know where to sit it on some of your spaces.

39
40 Okay, the owner-applicant Byron Knight is seeking approval for a Short-Term Rental Home
41 Permit which is STPH T2017/0006 for the rental named Kubu Santi. The address is 24 Emi
42 Place in the town of Paia. The County zoning is R-3. There's one home located on the property
43 and that one-bedroom, one-bathroom studio home will be used for the short-term rental when
44 the applicant is not occupying the unit himself. There are six other short-term rental homes
45 within 500 feet of the property which is what triggered this permit to be heard by the

1 Commission. Just to note half of those STRH permit are permitted for off-island owners and
2 half for on-island owners. There are no reports filed with the Police Department for this
3 property. There are no open Requests for Service on the property. All of the closed Requests
4 for Service were regarding previous owners or items that aren't relevant such as requesting
5 documents. Mr. Jim Huntington is the temporary property manager for 45 days after the
6 approval and I have just received notice this morning that Mr. Knight has appointed a property
7 manager or will be appointing a property manager and it seems that her name will be Ruby
8 Wong. No—
9
10 Mr. Robinson: Excuse me Mr. Burkett_
11
12 Mr. Burkett: Yes.
13
14 Mr. Robinson: I have a question for you before you go on.
15
16 Mr. Burkett: Sure.
17
18 Mr. Robinson: Who said that the RFS is not important because it's from a different owner?
19 Was that...who said that criteria where you weren't gonna give us that RFS reports for the
20 property.
21
22 Mr. Burkett: Well, they're closed RFSs and they—
23
24 Mr. Robinson: Notice of RFSs regardless of open or closed is what this Commission has asked
25 for. So I don't know, I don't know why we don't have it, but when we get a short-term rental or
26 we get a B&B we want for the property as far back as it is.
27
28 Mr. Burkett: Okay. I can—
29
30 Mr. Robinson: So it's hard for us to make a decision and to even hear something if we don't
31 have it. Is that something you can get right away while we're doing this? Is that something you
32 can take a quick...if I give you a 10-minute break can you get that for us? Because otherwise
33 this packet is incomplete. Can do it in 10 minutes?
34
35 Mr. Spence: He'd have to go back to office and(inaudible)..computer.
36
37 Mr. Burkett: I can explain to you what they were if that would help.
38
39 Mr. Robinson: One second, Commissioners would you guys would like that information or we'd
40 like to waive it? What it is, is a few years back or a couple years back is the Commission we
41 asked that we have Requests for Services on properties that come up for permits that we have
42 a history of it. It gives us violations, it gives us taxes, it gives us the ownerships, it gives us all
43 those things so that we know what the property we're looking at, we're looking at the file, the
44 same file that the County would look at instead of just a snapshot of what we might see like
45 we're only seeing one applicant, but that property could have changed hands. It could have

1 been bought, sold, and bought. It could have different part owners. You know we still want to
2 kinda see the history of the neighborhood and to see if there was problem with that house and it
3 just keeps on flipping. Now that's not saying that this is the case here, but it's that's what we
4 kind of use an RFS for and if there is open RFSs it tells us what the problems were before they
5 applied. We felt that that was part of the criteria that we always wanted to look at every time so
6 we know everything. But this is a new commission with new people and it can be open for you
7 folks if you want to wait. We can ask for this and hear this at a different time or we can waive
8 this and hear this now and that's totally up to this commission. Commissioner Hudson.

9
10 Mr. Hudson: Quick question for the Director. How long would it take? I mean, because here's
11 another option, we could take most of the rest of the agenda out of order since this is the last
12 public testimony thing and give you guys a chance to go get it?

13
14 Mr. Spence: Okay, if...and my understanding is the Commissioners wanted that in print, Jared
15 can look it up on his iPad right now and let you know if that's sufficient, but if you want it in print
16 he'd have to go back to the office, open it up, print them out, he could be back in probably I'd
17 say 20 minutes.

18
19 Mr. Hudson: Chair, maybe we should take things out of order and give them the 20 minutes.

20
21 Mr. Robinson: Commission, is—

22
23 Mr. Spence: It be close to lunch then so we could—

24
25 Mr. Robinson: Yeah, Commission we'll go ahead and take this out of order, go through other
26 stuff and hopefully give them enough time to do that. Would you be okay with that? Okay, at
27 this time we're gonna, we gonna table that agenda item and give you some time to get the
28 RFSs, hope they be real quick and then we'll just back on as soon as you come back in the
29 room.

30
31 Mr. Burkett: Okay.

32
33 Mr. Robinson: Okay, thank you Jared. Director.

34
35 Mr. Spence: Okay, Commissioners the next item on your agenda is Item E, Adoption of Written
36 Decision and Order that's been circulated to you and—

37
38 **E. ADOPTION OF WRITTEN DECISION AND ORDER**

- 39
40 **1. Having voted at its January 9, 2018 meeting to deny the request by MR.**
41 **CHRIS BOLTE and MR. GARY BOLTE for a Short-Term Rental Home Permit**
42 **in order to operate the Huaka Mahina STRH, a four (4)-bedroom short-term**
43 **rental home located in the Urban District at 2773 Kolepa Place, TMK: 4-4-**
44 **006:039, Lahaina, Island of Maui, Hawaii (STWM T2017/0010) (L. Callentine)**
45

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

1
2
3
4
5 Mr. Spence: So Commissioners as a part of your packet you received a written decision and
6 order that could be adopted today you know upon your review. I know that there was a couple
7 of exhibits missing from that packet and Corporation Counsels has obtained copies and will be
8 distributing it for your review.
9

10 Mr. Robinson: Corp. Counsel.
11

12 Mr. David Galazin: Thank you, Chair. So Members you know when you received your packet
13 you received the Draft D&O which had exhibits and as you probably recognized when you were
14 looking though them that Exhibits E and F were not included. So I do have copies of those. I
15 provided those to the applicant's representative as well. I'm going to distribute those and then
16 we'll call a recess to allow the Members enough time to go through those to make sure that
17 you've gone through all the documentation and gone through the entire record in order to vote
18 on the D&O. So Chair if you would...don't mind calling a recess however long you think it would
19 take I'll distribute out the two exhibits.
20

21 Mr. Robinson: Can I see the exhibits?
22

23 Mr. Galazin: It's this one and then the other one.
24

25 Mr. Robinson: Commissioners, I'm gonna take a quick five-minute recess to read the two
26 exhibits so that we can jump back on. Please, please don't leave. Thank you.
27

28 A recess was called at 11:30 a.m., and the meeting was reconvened at 11:41 a.m.
29

30 Mr. Robinson: Commissioners have you had a chance to read the printouts that we handed
31 you? Having that, what we'd like to do now is Livit we'd like to see if you could come up and
32 say something on this behalf, and then ...(inaudible)...then we'll give you chance after.
33

34 Ms. Livit Callentine: So Commissioners, your review...I'm not sure exactly what you would like
35 me to say. My name is Livit Callentine, I'm a Staff Planner with the County of Maui. I'm not
36 sure what you would like me to say. I will say you are reviewing the Decision and Order for
37 the...the written Decision and Order. Today is the day you can adopt the Decision and Order.
38 This is a denial of a request from Mr. Chris Bolte and Mr. Gary Bolte for a Short-Term Rental
39 Home Permit which would have operated as the Huaka Mahina STRH, a four-bedroom short-
40 term rental home. The applicant...the application denied on January 9, 2018. And I'd be happy
41 to answer any questions.
42

43 Mr. Robinson: Commissioners at this time we're gonna have the parties representation go
44 ahead and speak to the adoption. Thank you.
45

1 Mr. Mike Carroll: Thank you Chairman Robinson and Members of Commission. My name is
2 Mike Carroll, I represent the applicant in this proceeding. Initially I do want to bring to the
3 Commission's attention there is an Administrative Appeal currently pending in the Circuit Court
4 and one of the issues that's been raised in the Administrative Appeal is the application of
5 HRS 91-13.5 which is the statute that sets forth the deadline for the Commission to render a
6 final decision in the case. The County in that case did file a Motion to Dismiss arguing that the
7 County didn't have to comply with the requirements of the deadline. The court just recently
8 denied the County's motion and pretty emphatically held that the Commission is in fact required
9 to comply with the 120-day deadline set forth in the statute. And just for the Commission's
10 reference the statute says that the Commission is required to adopt deadlines for
11 adopting...excuse me, set deadlines for rendering a final decision on applications and if the
12 Commission doesn't meet that deadline the Commission is required to approve applications and
13 that's what's in the statute. Here there is a 120-day deadline. There's actually two deadlines,
14 one that the court cited and also one in the administrative rules that says it's a 120-days from
15 when the application is deemed admitted or the close of public hearing. There's no question
16 that that period is beyond the time period in which the Commission can take action and as the
17 Commission has said earlier today it's very important for the Commission and the parties to
18 follow the rules. We would respectfully ask that the court follow the decision of the judge and
19 the court and not enter a order denying the application but instead enter an order adopting or
20 approving the application.

21
22 In addition to that, our primary objection we do also have some substantive objections to the
23 proposed Findings of Facts, Conclusions of Law. First we don't believe that the proposed
24 findings of fact are sufficiently set forth in detail to disclose what factual basis the Commission is
25 rendering its decision. In particular, I believe that there's only in the Findings of Fact, the
26 majority of the finding of facts are procedural backgrounds related to what transpired in this
27 proceeding and nothing related to the factors that the Commission is required to consider in
28 adopting this petition. The only findings of fact that I'm aware of in this...in the...my review of
29 the proposed one is findings of facts, number 3, 4, and 8 and I don't believe these go to address
30 the factors that the Commission required to consider.

31
32 The Findings of Facts, and Conclusions of Law are also deficient in that it includes statements
33 of findings by the Commission that I don't believe from my review of the transcript that the
34 Commission actually did make these findings of fact. In particular, Paragraphs 6 and 7 of the
35 Conclusions of Law make reference to findings that the Commission made. It does not include
36 citations to the transcripts and I don't...in my review of the transcripts I did not see that.

37
38 And lastly and most importantly, the Findings of Facts also do not include any references to the
39 120-day deadline that I believe the Commission is bound to comply with.

40
41 Lastly, I would like to make an oral motion that the Commission approve the application for a
42 Short-Term Rental Permit. I do understand that there are some concerns that the Commission
43 has and I have authority to include as additional conditions if the Commission would be willing to
44 accept, make a motion to approve the application, a limitation on the use of the property to no
45 less than five-day short-term rentals and also a limitation that the owner will not allow offsite

1 parking, in other words, all the parking will be onsite. And I believe that with those additional
2 conditions that would address any prior concerns that the Commission may have had in the
3 prior hearings and I would respectfully request that the Commission not approve the proposed
4 Findings of Fact and Conclusions of Law and instead move to approve, move to approve the
5 application subject to those two additional conditions and the reasonable conditions set forth in
6 the staff's prior recommendations. Thank you very much.

7
8 Mr. Robinson: Thank you. Corporation Counsel.

9
10 Mr. Galazin: Yes, thank you Chair. So Members as the applicant's representative has stated
11 there is currently active litigation about this. What you have before you today is simply the
12 ratification of a decision that was made by this body on January 9th within the timeframe
13 required under law. And I just want to make sure that everybody can confirm that they've had a
14 chance to go through everything provided in the record and that they are comfortable voting on
15 it. When you're voting on a Decision an Order it's not the fact of whether you were a member of
16 the board at the time that the Commission took its action so long as you have fully reviewed the
17 record and you can vote on it and it will be signed and the Director attests to the people who
18 were members and how they voted at that time. So if the Commissioners have questions about
19 any of the Findings of Facts themselves or Conclusions of Law I can certainly help you out with
20 that. I would note there is one typo that I believe is on, in the Findings of Fact, Number 4, it
21 says that the dwelling consists of three bedrooms, five bathrooms, a kitchen, a dining room, the
22 dwelling...it actually should have read four bedrooms. So that's the only modification is the
23 administrative modification, the wrong number, three instead of four.

24
25 You are not able as a body at this time to entertain any, any motion to take any further action
26 regarding the underlying application. The only thing available for you today is to, you know,
27 move to approve and adopt the proposed Findings of Fact, Conclusion of Law, Decision and
28 Order. In which case, once it is adopted and approved and signed that gives the applicant an
29 opportunity to a, possibly seek administrative remedies. Could come back, suggest to this body
30 a Motion to Reconsider which would allow reconsideration of the underlying application, and
31 then it would also allow the applicant once there's a final Findings of Fact, Conclusion of Law,
32 Decision and Order that allows an applicant to actually complete their ability to file an appeal in
33 Circuit Court. Right, they're technically the County position ...(Inaudible)...the court doesn't
34 have jurisdiction to hear this because the judge cited to the wrong portion of the County Code,
35 but that's again, a litigation matter. If you want to get into the minutia of it, we can go to
36 executive session and I can bore you to death with the details. Otherwise, I would say just if
37 you have questions about the Findings of Fact, Conclusions of Law, Decision and Order, I'm
38 available to answer any questions. And we do have Tom Colby, Deputy Corporation Counsel.
39 Tom Colby also is the litigator handling this who is available as well.

40
41 Mr. Robinson: Commissioners, I guess if it's all a little complicated. Basically we had a
42 decision, we can ratify the decision. They can appeal the decision and possibly come back to
43 us if the Department thinks that we made a mistake. If not, then it's just gonna go to court. And
44 that's really, you know, that's the breakdown of it. Any questions? No. Director.

45

1 Mr. Spence: Okay, Commissioners you have before you all the information. Is there a motion
2 to adopt this Decision and Order?

3
4 Mr. Hudson: So moved.

5
6 Mr. Robinson: Motion by Commissioner Hudson, second by Commissioner La Costa.

7
8 Ms. La Costa: I second the motion.

9
10 Mr. Robinson: Corp. Counsel. Would the maker of the motion be amenable to a friendly
11 amendment to incorporate that nonsubstantive change in Paragraph 4?

12
13 Mr. Hudson: Yes, the motion maker is amenable to that.

14
15 Ms. La Costa: The second is amenable also.

16
17 Mr. Robinson: Thank you. All those in favor?

18
19 Mr. Spence: That's five ayes. The motion carries.

20
21 Mr. Robinson: Thank you. We'll pass this around for signatures.

22
23 **It was moved by Mr. Hudson, seconded by Ms. La Costa, then**

24
25 **VOTED: To Adopt the Findings of Fact, Conclusions of Law and Decision and**
26 **Order with the Incorporation of the Non-Substantive Change in**
27 **Paragraph 4.**
28 **(Assenting – L. Hudson, P.D. La Costa, A. Hill, C. Tackett, S. Castro)**
29 **(Excused – L. Carnicelli, T. Gomes)**

30
31 Mr. Robinson: Seeing that we don't see Jared, why don't we go ahead and do an early lunch
32 and we'll meet back here at 1:00 p.m. Thank you.

33
34 A recess was called at 11:52 a.m., and the meeting was reconvened at 1:04 p.m.

35
36 Mr. Robinson: Aloha, Planning Commission will be back in session. Planning Department, are
37 you ready? Director you want to...we're gonna go back to the...to Item C-3.

38
39 Mr. Spence: So Commissioners we're back on your earlier public hearing item C-3, Mr. Byron
40 Knight requesting a Short-Term Rental Home Permit and we took a break so Staff could get
41 copies of all the RFSSs.

42
43 **3. MR. BYRON KNIGHT requesting a Short-Term-Rental-Home Permit in order**
44 **to operate Kubu Santi, a one (1) bedroom short-term rental home located in**
45 **the R-3 Residential District at 24 Emi Place, (2)2-6-004: 020, Paia, Island of**
46 **Maui. (STPH T2017/0006) (J. Burkett)**

1
2 **This application is being reviewed by the Commission because there are at**
3 **least two (2) permitted short-term rental operations located within 500 ft. of**
4 **the subject property.**
5

6 Mr. Burkett: Okay, Staff Planner Jared Burkett. Before each of you is a packet of the RFSs that
7 are...currently they're all closed. There are five. The first two pages are the summary and then
8 each one is listed. Four of them are for getting copies documents. And one is for accessory
9 dwelling it exceeds the maximum allowed square feet which there's no longer an accessory
10 dwelling on the property. There's only one dwelling.
11

12 Okay, so after discussing the Request for Service and I'll leave it up to you to look at the details
13 for those. And Mr. Jim Huntington is the temporary property manager for 45 days and then as
14 we mentioned before there is now a appointed manager after that period if the permit is
15 approved.
16

17 There were no protest letters received by the Department and there are four letters of support
18 that were submitted to you by email and another was provided to you today during one of the
19 breaks that I showed you an example of what that looked like.
20

21 Now Mr. Byron Knight has a presentation that he would like to give then he'll be available for
22 answering any questions that you have. After the applicant's presentation and public testimony
23 then I'll provide the Department's analysis and recommendation. If there are no objections I'll
24 invite Mr. Knight to come up to the podium.
25

26 Mr. Byron Knight: Good afternoon, Byron Knight, property owner and applicant for the STRH.
27 I'd like to introduce myself and tell you a little bit about my property. So I'm—
28

29 Mr. Robinson: Mr. Knight I apologize, everything's recorded for the minutes if you could speak
30 into the mic clearly it would help us.
31

32 Mr. Knight: Okay, sorry.
33

34 Mr. Robinson: No, thank you.
35

36 Mr. Knight: I'm 49 years old, mechanical engineer. Spent most of my career in San Diego,
37 California. I've been traveling to Maui for more than the past 20 years or so vacationing, visiting
38 family friends, making new friends along the way and some point decided I wanted to make it a
39 little bit more permanent so I purchased my property with the intent of hopefully moving here to
40 retire at some point in the future. In the meantime, I'm hoping to try to offset some of the costs
41 of ownership for when I'm not here.
42

43 So a little bit about my property. It's 24 Emi and it's basically 500 square foot studio of imported
44 Balinese construction. It's all wood. It's a post and beam type structure. It has the tile roof and
45 cupola. It's essentially a little Balinese temple. It sits on a 6,900 square foot lot at the end of a

1 private road. It's surrounded by the Fire Station in the Paia, business property, cemetery,
2 there's a vacant lot that sits on a private road and I have one adjacent residential neighbor. I'll
3 be going through on the map and highlighting all those. I did want to point out that one of the
4 adjacent lots on 22 Loio which is the next street over, it's a three-bedroom house and this is
5 actually a property that I own as well. So these are two separate lots that have always been
6 bought and sold together. It was kind of a package deal. But they are two separate lots.
7 They've always been used by the same owner and never previously rented. So right now I am
8 currently renting to long-term tenants in the three-bedroom house on 22 Loio and keeping
9 24 Emi for my own use. It's also important to point out that 24 Emi is on Emi which is a street
10 that's only used to access this property.

11
12 There were some markers on this that didn't show up for some reason. But just walking around
13 the highlighted property which is 24 Emi you see it lies directly behind the fire station in Paia to
14 the southeast. And then going counterclockwise where the Number 3 is that's the property at
15 22 Loio that I had mentioned is a three-bedroom long-term rental property. ...(inaudible)...with
16 the area Loio is the street that runs adjacent to the Chinese cemetery which is just on the other
17 side. Property identified as Number 4 there is my one residential neighbor. I should also point
18 out that in the packets of the letters of support I do have one from my long-term tenant
19 Number 3, and also one from my neighbor at Number 4 that was the one that just came in just
20 this morning. Continuing around counterclockwise to Number 24 that's presently a vacant lot
21 behind me that's accessed off of Homelani the other street further to the south. And then down
22 at the bottom of the screen at Number 8, that's the commercial property. So presently there's a
23 jewelry store in the front. In the past there have been some juice bars and things like that back
24 there. And one of the letters of support is also from the business tenant in that property.

25
26 This is an aerial view so you can see the fire station there off of Hana Highway and 24 Emi with
27 the orange roof there kind of in the middle and then again, the property at 22 Loio, off to the side
28 my residential neighbor off to the east. And just wanted to point out all the other properties that
29 I mentioned that border this both Loio and the business property and the vacant lot those are
30 accessed from either Loio Place or Homelani. No one else used Emi Place to access any of
31 those properties.

32
33 This is a view of Emi Place. So the upper photo is looking from my property down Emi Place
34 towards Hana Highway. You can see the fire station on the left-hand side that pretty much runs
35 the entire length of Emi Place on that side. And then the lower view is looking back from Hana
36 Highway towards my property and you can see the yellow structure off to the left there, that's
37 the jewelry store in front. And then this last one is a view from across that vacant lot that I
38 mentioned back towards the orange of my property off of Homelani Place.

39
40 So no way does this property meet all the requirements that are required for the ordinance to
41 qualify for a STRH but I think it's ideally suited for several reasons. As I mentioned it's
42 surrounding by the fire station, vacant lots and other rentals and adjacent to business
43 properties. And likewise it has Emi Place which is exclusively used to access this property. As
44 Jared mentioned there were no objections from neighbors during the application process. I'm
45 sure you know we have to go through mailing notifications of all neighbors within 500 feet and

1 received no complaints or objections or questions. I personally talked to all of my immediate
2 adjacent neighbors and as you can see I've gotten support from them. Actually feel very happy
3 that they felt enough about me as a responsible, you know, property owner and landlord to offer
4 those. I do appreciate that.

5
6 Nearby STRHs, I wanted to touch on that because I know that's an issue and that's one of the
7 reasons why we're here. So there are a few STRHs on the adjacent street Loio. I don't know if
8 anyone's familiar with them but there are a cluster of I think very responsibility run rentals. It's a
9 very clean quiet street and they are what make up the character of that neighborhood and that
10 character lends itself to this type of use. Regarding those STRHs looking into it I found that
11 there were no complaints filed on those and there were no objections during their permitting so
12 it kind of says something to the neighborhood that, you know, there's not a lot of objection to
13 that type of use there.

14
15 With regard to parking. You know, it's a small studio so you would expect one or two guests
16 most and thereby one or two cars at the most. There's plenty of onsite parking so street parking
17 is never going to be an issue there. And likewise, it's just right there on the edge of town so you
18 pretty much just walk into town. You don't...there's no need to drive so there's no really impact
19 on any of the limited parking in Paia.

20
21 I do understand that short-term rentals are taking away from long-term housing so I want to
22 touch on that a little bit too. As I mentioned I am providing long-term housing in the three-
23 bedroom rental on Loio. That makes itself much more practical for a long-term rental and for a
24 family to use. Whereas my personal use of this property 24 Emi kind of precludes me from
25 making that into a long-term rental. This property is not a large family home and it's on, you
26 know, separated neighborhood. It's a studio, it's bordering on the business district. I had
27 mentioned the fire station so you can imagine there's some noise issues associated with that
28 that make it somewhat undesirable. There's the gates that go up and down and the trucks
29 coming in and out. Sometimes what sounds like them testing their jaws of life in the driveway
30 every so often. So you know, it's not maybe to some the most desirable neighborhood. And
31 then likewise this property it's never been a rental so it's not really taking away from any
32 available long-term rental properties.

33
34 He mentioned the letters of support. I won't go into any detail on these, but this first one was
35 from a neighbor on Loio and then this was my long-term renter, another neighbor friend within
36 500-foot in Paia, and then the business owner and then the last one that you have in your
37 packet would be from my...the one residential neighbor to the northeast of me wrote a very nice
38 letter.

39
40 So in conclusion I just want to, you know, point out that you see why this property uniquely
41 qualified to be a short-term rental. There's so many factors that I think it has going for it and I
42 hope that you can see that. I humbly ask that you grant me a permit so make it one. Thank
43 you.

44
45 Mr. Robinson: Planner, you have anything to add? No?

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a) Public Hearing

Mr. Robinson: At this time we're gonna open it up for public testimony, thank you. Is anybody like to testify on this item? Hi, please speak clearly to the mic, state your name and you have three minutes sir.

Mr. James Huntington: My name is James Huntington. I wrote one of the letters and I'm also listed as the temporary property manager just because I'm a good friend and a local neighbor and Byron's a very good neighbor. So I certainly walk by the property regularly and keep an eye on it for him when he's not around. I live at 15 Luna Place which is within 500 feet of the property. I'm...(inaudible)...in full support of it. I think it's a unique property for this purpose and I certainly am sensitive to the people that are opposed to STRH permits and there's no question we have a housing crisis on the island. But I just think this is a situation and a property that really merits your support and your consideration for that because it is so unique. So I would ask that you give it some serious consideration. Thank you for listening.

Mr. Robinson: Thank you. Any questions Commission? I have a question. You said you're a property manager. Do you carry a real estate license at all?

Mr. Huntington: Oh no. And that's why I was listed as a temporary property manager and then he's since found a local realtor to do that.

Mr. Robinson: Thank you so much. Anybody else who would like to testify? We've got to get you a punch card and you can get like a sandwich.

Mr. Tom Croly: Yeah, do I get a free one.

Mr. Robinson: Yeah, you get a extra minute after every five.

Mr. Croly: I'm Tom Croly and I just think that it wouldn't be a short-term rental permit hearing if I didn't testify. So I just want to say I'm not here on behalf of the applicant. The applicant did consult with me though prior to making application and he asked me, you know what do you think, how could I get this permit and so forth? And I said, go talk to your neighbors, go make sure it's okay with your neighbors before you come forward. I said if your neighbors come to this planning commission and say they don't want it, you're not gonna get your permit. So he did exactly that. He talked to his neighbors. He made sure that his neighbors were okay with what he wanted to do. I saw the letter that was presented today from the closest neighbor and I thought it was one of the best letters that I've ever seen someone write in support of a vacation rental 'cause you guys see these letters. Sometimes it's I have no problem with my neighbor doing this. But this neighbor showed that Byron has been a good neighbor and that Byron has listened to him and that Byron has made changes in his own ownership of the property that has benefited his neighbor. So I think that he's earned the right to come forward and ask for this use from you guys. And I don't wanna understate the significance of the other property that he owns, he is making a long-term rental out of it and that's something that I always stress to

1 someone who wants to make this use, I said there's a quid pro quo here, what are you doing to
2 help the housing situation on Maui. And you know some of the applicants have come forward
3 with their cottages for a long-term rental and they want to use the other. So while that's another
4 property and really doesn't have anything to do with this application, I think that it's quite
5 significant that he's providing that long-term rental. He's got this studio, he's using it himself.
6 When he's not using it, he'd like to be able to make this use. And the even the neighbor next
7 door said, boy before you owned it there were a lot of druggies coming here and there was a lot
8 of vagrancy taking place on this lot and now you've taken care of that. The long-term rental will
9 help ensure or the short-term rental will help ensure that that doesn't continue as far as the lot
10 falling into this disrepair, that kind of thing. So thank you for the time, Chair.

11

12 Mr. Robinson: Thank you. Commissioners any questions? Commissioner La Costa.

13

14 Ms. La Costa: Mr. Knight if I might please/

15

16 Mr. Robinson: Oh, I'm sorry, if you want we can go back to him later. Is there anything for the
17 testifier?

18

19 Ms. La Costa: No, I beg your pardon. Sorry Chair.

20

21 Mr. Robinson: Would anybody else like to testify at this time? Seeing none, public testimony is
22 closed. Commissioner La Costa.

23

24 Ms. La Costa: Sorry, I'm new at this. It appeared that the picture had a ramp to your cottage.
25 Is it ADA compliant?

26

27 Mr. Knight: It wasn't ...(inaudible)... meant to be, one of the previous owners or previous,
28 previous owners was in a wheelchair and that's why it was put in. It does meet all the safety
29 code, I had to go through that inspection, but it's not necessarily ADA compliant.

30

31 Ms. La Costa: Okay, thank you.

32

33 Mr. Robinson: Commissioner Kahu Hill.

34

35 Kahu Hill: Mahalo Chair. Mr. Knight, I noticed in here that you're...it says you're a part-time
36 resident. I just wanted to know your plans as far as being able to do this and your stay, your
37 connection to the land and the property and staying there.

38

39 Mr. Knight: It's like I said, my intent is hopefully to move over here full-time at some point when
40 I can retire. I'm not sure exactly when that is yet. I come over presently at least probably on the
41 average like two times, once every two months or so for a period. I have the ability to work
42 somewhat remotely sometimes so...I've known people here, I've known Jim here for a very long
43 time. Just feel like it's...yeah, what I said, I felt comfortable enough, you know purchasing a
44 property for something long-term to...(inaudible)...

45

1 Kahu Hill: One more question Chair.

2

3 Mr. Robinson: Sure.

4

5 Kahu Hill: I wanted to know if you reached out to the fire department if they gave their
6 feedback.

7

8 Mr. Knight: I did not personally talk to them, no. No. I guess I didn't...you know usually the
9 concerns around there is involved, you know, the traffic, the noise, the parking stuff, so I didn't
10 see how that would really affect them or have any concerns.

11

12 Kahu Hill: Mahalo. Thank you.

13

14 Mr. Robinson: Commissioners is...what we have here in Paia and we haven't seen Paia in a
15 while because we had that issue last year regarding the community plan. And let me, I want to
16 go back and read it for your guys. The community plan...according to the Paia-Haiku
17 Community Plan the property is identified as a single-family residential and is consistent with
18 land use map and community plan. The following are relevant community plan policies. Okay,
19 so this is where...where was I going to go...the objectives and policies, limit visitor
20 accommodations to owner-occupied bed and breakfast establishments that are residential in
21 both scale and character. Any proposed bed and breakfasts should not be situated near the
22 shoreline so as to avoid proliferation of this use and subsequent changes in the character and
23 its region's coast.

24

25 But there's also another one that I want you to understand where it is not prohibited, a short-
26 term rental home is not prohibited in this area. The community plan discourages against it but
27 prohibited is a different word. So that's where, you know it's...well people say, how come, how
28 come we have short-term rentals in this area. Well, it's not a prohibited use, you know, that's
29 why they're here at planning commission. But as far as community plan goes, it's not part of the
30 community plan. It goes with bed and breakfast. And if you pull up Exhibit, Exhibit 5 in your
31 booklet, I think that will help you guys before we do deliberation.

32

33 Ms. Gomes: Okay.

34

35 Mr. Robinson: So we can see where we have approved bed and breakfast permits and I don't
36 know if this is a color thing Director or if we're looking at this correctly where we don't see any
37 on this map?

38

39 Mr. Spence: I'm not sure what you're saying, you don't—

40

41 Mr. Robinson: Well, it's on the legend. We have approved bed and breakfasts there's a blue
42 box and then we have approved short-term rental permits as, as a—

43

44 Ms. Gomes: Purple box.

45

1 Mr. Robinson: Purple. Is, is my eyes correct? Exhibit 5.

2

3 Mr. Burkett: Well, I have one on a slide show if you'd like to look at it.

4

5 Mr. Robinson: Yeah, that be great and if you could just clarify the colors 'cause sometimes the
6 print doesn't pull up. We want to make sure we're getting things correctly.

7

8 Mr. Burkett: So the darker colored squares are the STRH permits. The green square down in
9 the bottom corner is the bed and breakfast permit.

10

11 Mr. Robinson: Okay.

12

13 Mr. Burkett: And the triangle is the property in question.

14

15 Ms. Gomes: What green square?

16

17 Mr. Robinson: Thank you. Commissioners do you have any questions for the applicant? For
18 the Planning Commission, for the Planning Department? Commissioner Castro.

19

20 Mr. Castro: I have a question on the RFS information sheet. My understanding is none of the
21 permits got final approval, electrical, plumbing?

22

23 Mr. Burkett: Everything is current right now, yes.

24

25 Mr. Castro: Final inspections?

26

27 Mr. Burkett: Yes. It was taken care of before this...before the applicant purchased the property.

28

29 Mr. Robinson: Director you want to comment on that question.

30

31 Mr. Spence: I just wanted to point out, I mean, on first glance, I mean you requested all the
32 RFSs for this property no matter if they were closed or whatever. It looked on the first two
33 pages of your handout it looks like a lot. There's one from '09, one '12, another one from '12
34 2012, 2014 and '17. So there's you know even those numbers are listed numbers of times,
35 when somebody comes and see that 2002178 that comes in, you see all the different, these are
36 all going to different agencies looking for...this is a request for copies of permits that have been
37 issued on the property. You'll see that listed a number of times because that's how many
38 different offices it went to looking for permits. So that's not—

39

40 Mr. Robinson: Director I think we got it.

41

42 Mr. Spence: Yeah okay, but at first...well, I thought it was important because it's not nine RFSs.
43 There's one RFS, it went to nine different places for to answer what the question was which was
44 to get copies of permits. So...

45

1 Mr. Robinson: Well there is one of them there was also RFS because of the permitting of the
2 square footage inside there.
3
4 Mr. Spence: Yes.
5
6 Mr. Robinson: Which...yeah so you may see 20 but there might be one or two that's gonna
7 stick out...(inaudible)...
8
9 Mr. Spence: Oh absolutely. I'm just saying you have to look at carefully at what's being
10 requested and how come things are listed so many times. That's all.
11
12 Mr. Robinson: Commissioner Gomes.
13
14 Ms. Gomes: I just have clarification. He...for Byron, thank you I'm so sorry. You have two
15 properties, one is long-term, you have long-term tenants.
16
17 Mr. Knight: Correct.
18
19 Ms. Gomes: And then this in particular is a request for short-term--
20
21 Mr. Knight: Correct, so—
22
23 Ms. Gomes: --rental?
24
25 Mr. Knight: --the two properties are adjacent. The one highlighted on the map is the one that
26 I'm here for today and that is the studio that I use for myself and what to do short-term rental in
27 the adjacent property to the north is the three-bedroom house that has long-term renters in it.
28
29 Ms. Gomes: In the future, just Chair if you don't mind, are you intending for that to turn into or
30 request as a short-term rental as well?
31
32 Mr. Knight: No, I can't do that.
33
34 Ms. Gomes: Yeah, I mean—
35
36 Mr. Knight: You're not allowed to have one more. Am I allowed to have more than one short-
37 term rental? That property no...that's a good question because you think it would make sense,
38 but that's property there's so many funny things with it it would never qualify for a short-term
39 rental permit. It just—
40
41 Ms. Gomes: Well, it's he's ready to admit.
42
43 Mr. Knight: It's true so...
44

1 Mr. Robinson: Yeah, well some, some people do have more than one permit they just find ways
2 to get around it.

3
4 Ms. Gomes: Yeah, that's my question. Thank you.

5
6 Mr. Robinson: They're called your neighbors. And Commissioners, also it's, you know it's one
7 of the criteria that we're supposed to look at for short-term rentals is also clusters and that's why
8 he's here. He's not here because something was in a different areas, because of the cluster
9 and then because of the community plan. Anybody has any further questions or anybody have
10 a motion? I'm sorry, I apologize. Planning Department like to say the recommendation please.

11
12 **b) Action**

13
14 Mr. Burkett: Okay, Staff Planner Jared Burkett. The recommendation as you mentioned the
15 ordinance about the Paia-Haiku Community Plan and those limitations I'm sure you're aware
16 there was some discordance with the community regarding the allowance of STRHs and the
17 community plan. However, in Chapter 19.65 of the Maui County which was enacted by
18 Ordinance 3941 in 2012 that ordinance provides for up to 88 short-term rental homes in the
19 Paia-Haiku Community Plan area. And so I just wanted to mention this that because of that, the
20 Planning Department is regarding that later ordinance as reflecting the current County policy
21 that short-term rental homes should be allowed within the community plan area. So the
22 Department had proposed that this be cleared up with Maui County Council and to confirm this
23 policy choice by amending the community plan and to change that limitation on short-term
24 rentals. But at its regularly scheduled meeting which was held on March 15, 2018, the County
25 Council Land Use Committee reviewed the matter and voted to defer the action to a later date.
26 So that date has not been set yet. So until the policy is changed the Department continues to
27 process short-term rental home permits as the applicants must be given due process under the
28 current laws.

29
30 So the Department has determined that the short-term rental home permit conforms to the
31 character of the existing neighborhood in the following ways that there haven't been any
32 complaints within...filed within the 500-foot buffer zone and that there are letters of support.
33 And though the number of vacation rentals in the area is dense, sometimes it's preferable to
34 cluster the rental homes in one location and the isolation from other long-term tenants will help
35 ensure that there are no adverse impacts such as noise complaints to the public.

36
37 So I also want to mention I conducted a site visit personally and confirmed that the property is
38 as it is represented on the application and that all conditions for approval have been met include
39 the house rules have been posted, there is an approved fire extinguisher that's easily
40 accessible, the smoke detectors are installed and working property, there's approved
41 designated parking that's already in place. There's plenty space for more if needed. And there
42 is the fire escape plans were in place.

43
44 So the application complies with the applicable standards for short-term rental home permit and
45 therefore the Department is recommending approval of the STRH subject to the 12 standard

1 conditions. And in consideration of the foregoing, the Planning Department recommends that
2 the Maui Planning Commission adopt the Planning Department's report and recommendation as
3 its findings of fact, conclusion of law and decision and order to authorize the Planning
4 Department to transmit said written decision and order on behalf of the Planning Commission.
5

6 Mr. Robinson: Can you clarify one thing for me.
7

8 Mr. Burkett: Sure.
9

10 Mr. Robinson: Is the Planning Department saying that they recommend that the clustering is a
11 good thing in Paia? I want you to...you hinted around it, but if you're gonna say a
12 recommendation where it could be, it could be a positive thing. Do you think it's a positive thing
13 in this circumstance with this application?
14

15 Mr. Burkett: I'm just mentioning that it could be depending on you feel.
16

17 Mr. Robinson: Well, we're talking about this application today.
18

19 Mr. Burkett: Right.
20

21 Mr. Robinson: So this application, we don't want to talk about the three hundred and
22 something, so today if the Planning Department is gonna say that it could be what is its feeling
23 on this application for clustering?
24

25 Mr. Spence: Mr. Chairman.
26

27 Mr. Burkett: We don't have an opinion on that.
28

29 Mr. Robinson: You don't have an opinion.
30

31 Mr. Burkett: That is for your decision.
32

33 Mr. Robinson: Okay.
34

35 Mr. Burkett: But I'm just mentioning, you know, if you decide it's a good thing, it could be a good
36 thing. It might not be a good thing for this area, so it depends on you.
37

38 Mr. Robinson: Could be good and maybe not good so either way.
39

40 Mr. Burkett: Right.
41

42 Mr. Robinson: Okay, 'cause I only heard it could be a good thing. Okay, thank you. I'm sorry.
43 We're good. Commissioner Gomes.
44

1 Ms. Gomes: If this is approved, if I'm not mistaken a sign does need to be put up if I'm not
2 mistaken.

3
4 Mr. Burkett: Correct.

5
6 Ms. Gomes: So a sign will be put up on the fence line in regards to identifying that this property
7 is a STR. Am I correct?

8
9 Mr. Burkett: Yes, there will be a sign posted that will have the manager's phone number that
10 they can contact and the permit number.

11
12 Mr. Robinson: Commission anything else? A motion? Commissioner La Costa.

13
14 Ms. La Costa: I move that the recommendations of staff be adhered to and approve this permit.

15
16 Ms. Gomes: Second.

17
18 Mr. Robinson: Second by Commissioner Gomes. Any discussion? Commissioner Hudson.

19
20 Mr. Hudson: Thank you Chair. I'm concerned that this matter regarding is it okay or is it not
21 okay has not been cleared up. Just for the record.

22
23 Mr. Robinson: Commissioner Kahu Hill.

24
25 Kahu Hill: I as well would like to have deeper clarification on this.

26
27 Mr. Robinson: Commissioners I think what they're alluding to is we sent it off to the Council to
28 get clarification on the amendment because of the proliferation of, of rentals in Paia even though
29 it was against the community plan and even though we kept on doing it and they came back and
30 they sort of deferred it. You know, we have the option to approve, deny as well as defer, hoping
31 that the Council can do that too. So that's still in front of us, but right now we're discussing a
32 motion for approval. Does anybody have anything else to discuss? Would you like to speak on
33 the motion Commissioner La Costa?

34
35 Ms. La Costa: The reason that I wanted to bring the motion to approve is because of the
36 responsibility that I see with Mr. Knight. He is...he appears to be a good neighbor. He has a
37 long-term tenant so that there is housing provided for local folks and he is concerned about his
38 neighbors as well as, you know, making sure that he is a neighbor with aloha. So where it's
39 located it's not as though it's going to impede anybody of anything. The people who are there
40 probably won't appreciate the fire trucks and the noise but I don't see that it will create a huge
41 issue even though there are several in the neighborhood.

42
43 Mr. Robinson: Thank you. Commissioner Gomes.

44

1 Ms. Gomes: I think for me with seconding the motion is the fact that yes he does have long-
2 term tenants that he's not I would say it's, you know, it's like an equal balance of what is
3 happening on his property. I think it be for me it would be a different story if he didn't have long-
4 term, if he just kicked out his tenants, the long-term tenants and he tried to do something else.
5 Also again, we are as stated County has deferred or you know, deferred their decision on the
6 Paia issue if I'm not mistaken that was, you know, brought to them in March. So we have to
7 adhere to what is you know current still, you know, despite the issues. So that would be the
8 reason for me, you know.

9
10 Mr. Robinson: Any other comments? If the vote comes to me I would not support this just for
11 the simple fact that we had a...like we talked about earlier with Makena and things turning to
12 rentals and properties and taxes and taxes go up for property values which includes income.
13 The clustering is a concern in Paia. This is the first time I haven't seen a whole bunch of Paia
14 Inn...the applicant seems like a great guy. It's the kind of people we welcome in Hawaii and we
15 love that you're here, but then when...but then to turn a residential neighborhood into a
16 commercial property, I mean, I got a neighbor that rents all the time and I have no problems with
17 them, you know, and people keep on saying that well a long-term rental property is more trouble
18 than a short-term rental. I just...I don't believe that. I believe people are people and if you vet
19 the people properly you'll get good tenants and there's a lot of people looking for tenants. I
20 think the community plan amendment...the community plan is years, years in the making of
21 people from the community coming out and speaking and the County listening to what the
22 people said. And the people said is they don't want short-term rentals in this area and yet we
23 have a dozen of them in here. So at some point hopefully the people will...the County and the
24 commissions will start listening to the people in the neighborhoods to say we don't want it in our
25 neighborhood. And it's not that they don't have any, they have a dozen. They have a dozen in
26 a thousand square foot radius. That's proliferation, that's clustering and that is also a concern
27 that the Council ...(inaudible)... up when they even did these short-term rental homes. And this
28 is nothing against applicants or people, this is just...it's what...what are we gonna have a Paia
29 in the future? Paia is growing. Anybody can drive down tomorrow or any other day and realize
30 that three months ago it's different already and it keep on changing. Not that it's better or
31 worse, it's just different and so we have to decide if we're gonna vote to have Paia change or
32 are we gonna have to vote to keep Paia a residential area. Thank you.

33
34 At this time, call for a vote.

35
36 Mr. Spence: Okay, Commissioners the motion is to approve as recommended by Staff.

37
38 Mr. Robinson: All those in favor?

39
40 Mr. Spence: That's two ayes.

41
42 Mr. Robinson: All those opposed?

43
44 Mr. Spence: That's three opposed.

45

1 Mr. Robinson: And one abstention. The motion fails.

2

3 **It was moved by Ms. La Costa, seconded by Ms. Gomes, and**

4

5 **The Motion to Approve the Short-Term Rental Home Permit, FAILED.**

6 **(Assenting – P.D. La Costa, T. Gomes, C. Tackett - abstained)**

7 **(Dissenting – A. Hill, L. Hudson, S. Castro)**

8 **(Excused – L. Carnicelli)**

9

10 Mr. Robinson: Would there like to be another motion? We can have a motion to deny, have a
11 motion to defer and you know, there's two other options in front of us. Commissioner Hudson.

12

13 Mr. Hudson: Move to deny based upon clustering.

14

15 Mr. Robinson: Do we have a second?

16

17 Mr. Castro: Second.

18

19 Mr. Robinson: Second by Commissioner Castro. Like to speak to your motion?

20

21 Mr. Hudson: This is in no way slight on the applicant. I think he's a man of good moral
22 character. I think unfortunately Paia is becoming a resort community and this is not a good
23 idea. There are too many short-term rentals in that location. Thank you.

24

25 Mr. Robinson: Commissioners, anybody else like to discuss the motion on the floor?
26 Commissioner Kahu Hill.

27

28 Kahu Hill: I just want to say as well it seems like Mr. Knight is filled with aloha and a good
29 place. Just in reading the STRs Paia Bay Suites, Paia Bay, Makani Akau, Moku Hale, Paia
30 House, Nellie's Oceanfront House, there's so many rooms, so much...there's so much and it
31 just seems like there's so much in the area for this clustering and density.

32

33 Mr. Robinson: Thank you. Commissioners anything else?

34

35 Mr. Galazin: Chair?

36

37 Mr. Robinson: Sure, Corp. Counsel. Thank you for indulging me here Chair. So just to make
38 sure, I've heard from a couple people right now pointing to the specific criteria and I believe
39 what you're referring to is letter, subsection n.6 which is considering the number of permitted
40 short-term rental homes surrounding the proposed short-term rental home property and their
41 distance to the property. And when you're looking at the map that the Chair pointed out earlier
42 as Exhibit 5, you know there's the 500-foot radius, but you can extrapolate that with a 1,000 foot
43 radius would be and I think that that's a couple of you have alluded to that already and if you are
44 in favor of voting for denial and you believe that's a basis for you vote, I would just ask that you
45 also state that for the record so we can make this as painless for me as possible. Thank you.

1
2 Mr. Robinson: Was I mistaken or did we also mention that it wasn't part of the community plan.
3 Not that it was prohibited but it wasn't included. Yeah...so yeah so it's not just for that sole
4 reason and of course, I don't want to...some commissioners have feelings of both instead of just
5 being on one. So there's two different things. I want to make sure you guys are comfortable
6 with that. Director.
7
8 Mr. Spence: Commissioners if there are no other comment, okay the motion is to deny the
9 permit.
10
11 Mr. Robinson: All those in favor of denial please raise your hand?
12
13 Mr. Spence: That's three ayes.
14
15 Mr. Robinson: All those opposed?
16
17 Mr. Tackett: And I'm abstaining, but I can speak to it if you guys wish.
18
19 Mr. Robinson: Okay, all those opposed?
20
21 Mr. Spence: Okay, I don't see any hands.
22
23 Mr. Robinson: So we have—
24
25 Mr. Spence: That's four with an abstention that counts as an aye.
26
27 Mr. Robinson: We have—
28
29 Mr. Spence: So that's four ayes.
30
31 Mr. Robinson: We have three abstentions.
32
33 Mr. Spence: I saw—
34
35 Mr. Robinson: ...(inaudible)...abstention, and Tina did you vote or did you abstain as well?
36
37 Ms. Gomes: I'm confused. I thought we voted.
38
39 Mr. Robinson: Did you vote?
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41 Mr. Tackett: No, it's another motion.
42
43 Mr. Robinson: Is, is the—
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45 Ms. Gomes: I apologize.

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Mr. Robinson: The motion on the floor is to deny.

Ms. Gomes: I abstain.

Mr. Robinson: And so it's abstention. So we have three abstentions and three ayes. We're gonna do this one more time please Commissioners.

Ms. Gomes: I'm sorry, I apologize, I'm confused.

Mr. Robinson: All those, all those in favor of denial please raise your raise your right hand.

Mr. Spence: Okay, that's three ayes.

Mr. Robinson: All those opposed to denial please raise your right hand. A non-vote is considered an abstention—

Mr. Spence: Yeah.

Mr. Robinson: --and the motion, the motion has been denied. Thank you.

Mr. Spence: The motion has been passed.

Mr. Robinson: The motion has been passed to deny. Thank you.

Mr. Spence: Okay.

Mr. Robinson: Okay.

It was moved by Mr. Hudson, seconded by Mr. Castro, then

**VOTED: To Deny the Short-Term Rental Permit.
(Assenting – L. Hudson, S. Castro, A. Hill, T. Gomes-abstained,
C. Tackett-abstained, P.D. La Costa-abstained)
(Excused – L. Carnicelli)**

Mr. Robinson: Next on the agenda Director.

Mr. Spence: Okay. So Commissioners we are on Item F, Director's Report. First is a request, Keith isn't here, request to designate the Hana Advisory Committee to conduct a hearing, provide its recommendation on for an application from the Department of Public Works to do some road safety improvements out in Keanae. And what we would want from the Commission is an affirmative vote saying yes, the Hana Advisory Committee can conduct that public hearing.

F. DIRECTOR'S REPORT

- 1
2 **1. Designation of the Hana Advisory Committee to the Maui Planning**
3 **Commission to conduct the public hearing and provide its**
4 **recommendation on the following application:**

5
6 **MR. DAVID GOODE, Director, DEPARTMENT OF PUBLIC WORKS**
7 **requesting a Special Management Area Use Permit for the Keanae Road**
8 **Safety Improvements Project and related improvements at TMK: (2) 1-1-**
9 **002: 005 and 009 and 1-1-003: 041 and 055, Keanae, Island of Maui.. (SM1**
10 **2018/0004) (K. Scott)**

11
12 **The Commission may take action on the request to designate the Hana**
13 **Advisory Committee to the Maui Planning Commission to conduct the**
14 **public hearing and provide its recommendation on the application.**

15
16 Mr. Robinson: Commission do we have any discussion, any questions regarding this? All those
17 in favor of passing it over to the Hana Commission please raise your right hand?

18
19 Mr. Spence: Okay, Commission that's—

20
21 Mr. Robinson: Six.

22
23 Mr. Spence: That's six ayes thank you.

24
25 Mr. Robinson: Thank you.

26
27 **The Commission Unanimously Designated the Hana Advisory Committee to Conduct the**
28 **Public Hearing and Provide Its Recommendation.**

29 **(Assenting – A. Hill, L. Hudson, T. Gomes, C. Tackett, S. Castro, P.D. La Costa)**
30 **(Excused – L. Carnicelli)**

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

35
36 **MR. JOSEPH HIGGINS of ALLANA BUICK & BERS, INC. on behalf of the**
37 **PAPAKEA AOAO receiving a Special Management Area Emergency Permit**
38 **dated April 26, 2018 for the repair of two (2) sinkholes at the Papakea**
39 **Resort located at 3543 Lower Honoapiilani Road, TMK: (2) 4-4-001: 055,**
40 **Honokowai, Island of Maui. (SM3 2018/0008) (SSA 2018/0014) (K. Scott)**

41
42 Mr. Spence: The second one under Director's Report is notifying you of issuance of an SMA
43 Management Emergency Permit for Mr. Joseph Higgins of Allan Buick & Bers, Inc., on behalf of
44 Papakea AOAO. They have a couple sinkholes out in the Papakea Resort. So that's just for
45 your information.

1
2 **3. SMA Minor Permit Report**

3
4 **4. SMA Exemptions Report**

5
6 Mr. Spence: We also have an SMA Minor and an SMA Exemptions Report. If there's any
7 questions on that, otherwise the Commission would just acknowledge receipt of that.

8
9 Mr. Robinson: Commission acknowledge?

10
11 Commission Members: Acknowledge. Thank you Director.

12
13 **Commission acknowledged receipt of the SMA Minor and SMA Exemption Reports.**

14
15 Mr. Spence: Then Future Commission Agenda Items.

16
17 **5. Discussion of Future Maui Planning Commission Agendas**

18
19 Mr. Robinson: Director before we get to that future agenda, I'd like to give you a chance to
20 speak for the last agenda item regarding Planning policy and who writes it and who doesn't.
21 ...(inaudible)...

22
23 Mr. Spence: Thank you. Commissioners I know there were some questions of Staff on policy
24 regarding this last application and you know, I have a great appreciation for Staff and their
25 expertise and their professionalism. When it comes to policy questions however, you'll see my
26 name at the bottom of all of the staff reports and my name at the bottom of all the
27 recommendations. I 99.9 percent of the time agree with Staff on things. But if you have policy
28 questions, you can...I mean, about applications and stuff feel free to ask Staff. If there's
29 specific Department policy questions, please feel free to ask me. Okay, how we stand on you
30 know, certain B&Bs or what's happening at Council with regard to changing the community plan
31 and those kinds of things and our positions on them. I appreciate that and I thank you
32 Mr. Chairman.

33
34 Mr. Robinson: Commissioners, does anybody want to comment on that? And what they're
35 commenting on is me, you know, sort of asking which is the policy and I want to make sure that
36 because applicants have the Planning Department speaking for them. The words that we hear
37 during their testimony and there is no rebuttal after we close public testimony is that we get a
38 clear understanding of where they're coming from so that way maybe in the future they'll be
39 even more careful of the words they're saying because I don't want it to ever think that the
40 Planning Department like today is saying that this is what we should do. As it's, it's even though
41 they might believe it internally, once it becomes on record that's what we have to vote on and
42 we have to make decisions based on and part of the testimony is what, what I always weigh.
43 So that was a part of that and I didn't want to sort of, you know, do it that way to railroad you but
44 I knew it was going to affect Will and so I knew Will was going to speak to that because going
45 to...(inaudible)... Ms. Cua, would you like to chime in?
46

1 Ms. Cua: I'm sorry. Thank you for acknowledging me. I'm just speaking I think on behalf of all
2 the planners that come before you. I've been with the Department for 35 years and just
3 something I witnessed today I would just ask and I'm sorry, Director if...I didn't get to ask the
4 Director if I could speak but I just feel compelled to. You know the Staff works really hard to
5 serve you and we do the best we can with the resources that we have. And I think we would
6 just ask that you be respectful when you address them because they work really, really hard
7 and they're on your side. I mean, they're trying to do the best they can to give you the best
8 information and so you know, question all you want please, you know, we'll do the best we can,
9 but you know, we just ask that, you know, just be as respectful as you can with your questions.

10
11 This is Jared's first time here, you know, and just like anybody that comes to testify at a meeting
12 you know, we just...you know, we would hope they gonna want to come and speak again, you
13 know. And Jared has to get up and speak again in front of you and you know, any help that you
14 could give to be respectful with your questions I think I speak from all the planners, we would
15 really, really appreciate. Thank you.

16
17 Mr. Robinson: Thank you, Ann. I'd like to comment with that too. I apologize. We asked a
18 bunch of times for RFSs and we don't get them and sometimes we feel the respect doesn't
19 come towards the commission. We feel sometimes that there's a bias when it comes to certain
20 things that the Planning Department wants to come through and respect is a two-way street. So
21 when we don't get full information, when we get slanted information, and there's an agenda,
22 that's a lack of respect as well. So if me not being happy that there wasn't a RFS then that's,
23 that's because we've asked for it many a times and we shouldn't have to keep on asking for it.
24 And Jared I'm sorry that you were there, but you are speaking for the applicant you're not
25 speaking...well, I mean, I mean, and I apologize, you know, it's you have the applicant with your
26 and doing...and you're doing your job and I apologize but you know I just wanted to make sure
27 some clarification. I'm sorry that you're stuck in the middle of this. You know, this is, this is
28 something that we'll hopefully work out and it will never happen again and I think hopefully what
29 the Planning Department says is gonna be more towards law than opinion and I think that will
30 help the Commission out because that's what we need. We need just facts. We don't need
31 opinions. We don't need what we think should happen. I think we're all on a commission and
32 we're here for a reason because we all have different strengths and we don't need, we don't
33 need to be babied into to help us think of how we, how we have our positions and I do respect
34 the Planning Department. I respect all they do. But we still need our information to make our
35 decisions and I apologize. Director.

36
37 Mr. Spence: Mr. Chairman if I could so this doesn't happen again, the way that Staff presented
38 these RFSs do you want...is this the format that you want all of the RFSs listed?

39
40 Mr. Robinson: Is...I would actually...or actually gonna...I'd like to on the agenda for the next
41 meeting I'd like to have the Commission be able to go over the...all the rules of the Planning
42 Commission which we kind of mention on top of that, the powers of the Planning Commission
43 as well as discuss with the whole commission of what they'd like to see. What I would like to
44 see and what someone else would like to see might be something different and I think, I think
45 the whole packet might be something that we're able to look at. This RFS is something that
46 we're supposed to already have. So for me to have to ask for it again is kind of redundant—

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Mr. Spence: Well—

Mr. Robinson: --because, no because, because Planning Commissions have said that there's always an RFS and listing on every one and so we shouldn't have to request it. So, but you can decipher how you'd like with it, but on our next agenda where I say that we're gonna talk about certain things which has to do with your powers and what we're gonna go over, I'd like to also do that as well as the Planning Commission Rules. If there's any objections to that from the Commission?

Mr. Spence: Okay—

Mr. Robinson: Thank you.

Mr. Spence: Question Mr. Chairman, I did ask in the future is this the format that you would like all the RFSs listed in?

Mr. Robinson: Is Director seeing that there isn't an STRH on our next meeting as of yet, I'd like to have it open for the Commission and we decide it as a body so that way it doesn't keep on changing towards chairperson, it comes as a collective and my Vice-Chair and the other ones that succeed me they'll of all had a input in agreeing on what we'd like to look at.

Mr. Spence: Okay. I'm still not clear, I'm sorry.

Mr. Robinson: Well, that format...so what is that format mean?

Mr. Spence: I mean—

Mr. Robinson: We'd like to see RFSs. If there's different formats then please at our next meeting show us the different formats or maybe the ones that you propose that we do that's less encumbersome to the Planning Department. You know we're very open to that, but I'm gonna open it up as a discussion point for the Commission as a whole.

Mr. Spence: Okay. And then let me clarify what you want to see with your rules. You want a workshop on your rules. You have your SMA Rules, you have your Rules of Practice and Procedure. We have touched on that before.

Mr. Robinson: We've worked on the SMA Rules. I think Practice Procedures as far as the meetings go. I think our powers of voting. And I also would like all the Commissioners to get another copy of The Charter.

Ms. Gomes: Administrative Rules.

Mr. Robinson: And you know, the Administrative Rules. And what it is, is I never really got into this last three years and I think this Commission, like I say we have all this ambiguity, I think we just gotta...we want to really know what our powers are, where we're gonna be and let's...let's

1 get it now so we can move past it and I've seen that since our agenda is light, you know, I think
2 that that's what I'd like to tackle.

3
4 Ms. Cua: Can I ask a question or just clarification? So did Corp. Counsel do their training
5 already as part of the first? 'Cause Corp. Counsel usually goes over...that's what usually Corp.
6 Counsel goes over. So I just want to make sure we understand what, what we would need to,
7 what you're actually asking for?

8
9 Mr. Robinson: I'm sorry, am my mic not on? I don't...I keep on answering the same questions
10 to you and to Will. If I'm asking for something, I want to put it on the agenda for the next
11 meeting—

12
13 Ms. Cua: Right and we wanna make sure we—

14
15 Mr. Robinson: Can I please talk, can I please talk Ann? Okay, it's I'd like the Rules of the
16 Planning Commission. Okay. Is we went over the SMA, we went over the flood, but I'd like to
17 go over the procedures, I'd like to go over the powers—

18
19 Ms. Cua: That's what...that's why I asking about Corp. Counsel because that's what Corp.
20 Counsel does and that's why I asking if they did that already because then I don't know what
21 else...I'm just trying to understand what we need to give you and that's when you...I know what
22 you're asking for, Chair, I do. And I'm...that's why I asked Corp. Counsel because I believe
23 your powers and duties were covered and maybe Corp. ...maybe I'm wrong, maybe Corp.
24 Counsel can respond? I...we could do it again, but...

25
26 Mr. Robinson: Anything else Ann? You have anything to add?

27
28 Ms. Cua: I do not at this time, Chair.

29
30 Mr. Robinson: Thank you. And that's what I would like on the agenda please.

31
32 Mr. Spence: Okay.

33
34 Mr. Robinson: Yes, please Director.

35
36 **a. June 12, 2018 agenda items**

37
38 Mr. Spence: Okay, for your June 12th agenda in addition to going over your rules and your
39 powers there are there public hearing items and possibly a forth one, the first one is how
40 we...how the Department can handle time extensions for Special Use Permits, Conditional, Bed
41 and Breakfast Permits, et cetera. The second one, is in regard to suspending processing of
42 different applications pending enforcement actions. The third one has to do with defining how
43 we measure the lot width, and a possible forth one is in regards to accessory structures within
44 the Agricultural District that are not related to the farm.

45
46 Mr. Robinson: Commissioner Hudson?

1
2 Mr. Hudson: On a completely unrelated note, we talked earlier about getting tablets which
3 would be much easier than lugging around all of this. I know that the budgetary items are in
4 process right now. A tablet cost 200 bucks and we'd save that in the first year just in postage
5 and it's much easier than carrying around all of this stuff.

6
7 Mr. Spence: Okay, can we put that on the agenda Mr. Chairman for a discussion?
8

9 Mr. Robinson: Yes, and Commissioners I think what it is is there's a lot of things that we want to
10 talk about, discuss, review even though we've had seminars, you know, with people telling us
11 what this is and going off and they have five people in a row for six hours as we sit here in the
12 dark. I think having a chance to discuss and maybe asking the questions that we didn't ask in
13 the time for you know, during that we might have thought about later. I think that would be good
14 and I think the sooner we get at it, I think the better as a commission we'll run. So, anything
15 further? We're good? You happy?

16
17 Unidentified Speaker: Yeah, yeah.
18

19 Mr. Robinson: Corp. Counsel?
20

21 Mr. Galazin: Thank you Chair. I just wanted to mention that I am not going to be here on June
22 12th. I'm actually going to visit my mother in Iowa so I will ask my replacement if she feels
23 comfortable going over the rules with you or if you would prefer to defer that portion of it until the
24 meeting subsequent to the June 12th where I can do it or if doesn't matter to you either way
25 then...just wanted to let you know.
26

27 Mr. Robinson: I would appreciate it if we got it the rules mailed out to us and at that time we'll
28 decide if we want to wait for you or not. It might be just simple questions that we want
29 clarification on. It's not necessarily a tutorial, but you know, just again going on the
30 website...the website didn't work for me, but it worked for you so I just, I just want everybody to
31 have a chance in this forum to ask questions about the rules.
32

33 Mr. Galazin: Okay.
34

35 Mr. Robinson: Thank you. Anything else? Planning Commission's adjourned.
36

37 **G. NEXT REGULAR MEETING DATE: JUNE 12, 2018**
38

39 **H. ADJOURNMENT**
40

41 The meeting was adjourned at approximately 2:02 p.m.
42
43
44

Submitted by,

Carolyn Takayama-Corden
Secretary to Boards & Commissions II

RECORD OF ATTENDANCE

Present

Steven Castro
Tina Gomes (Excused at 10:40-1:04 p.m.)
Kahu Alalani Hill
Larry Hudson, Vice-Chairperson
P. Denise La Costa
Keaka Robinson, Chairperson
Christian Tackett

Excused

Lawrence Carnicelli

Others

William Spence, Director, Planning Department
David Galazin, Deputy Corporation Counsel, Department of the Corporation Counsel
Rowena Dagdag-Andaya, Deputy Director, Department of Public Works (on-call)