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**MAUI PLANNING COMMISSION
REGULAR MINUTES
JUNE 12, 2018**

A. CALL TO ORDER

The regular meeting of the Maui Planning Commission was called to order by Chairperson Keaka Robinson at approximately 9:09 a.m., Tuesday, June 12, 2018, Planning Conference Room, First Floor, Kalana Pakui Building, 250 South High Street, Wailuku, Maui.

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

Mr. Robinson: Good morning. Today is June 12th. Maui Planning Commission. With us today we have my fellow commissioners, Commissioner Castro.

Mr. Castro: Good morning Chair.

Mr. Robinson: Commissioner La Costa.

Ms. La Costa: Good morning Chair.

Mr. Robinson: Commissioner Carnicelli.

Mr. Carnicelli: Good morning Chair.

Mr. Robinson: Commissioner Kahu Hill.

Kahu Hill: Kahu Alanani. Mahalo. Good morning.

Mr. Robinson: Aloha. And Vice-Chair Hudson.

Mr. Hudson: Good morning Chair.

Mr. Robinson: As well with Corp. Council and Director.

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.**

C. Discussion on the Powers and Duties of the Maui Planning Commission

Mr. Robinson: Starting off today guys our last meeting we requested some education as far as rules and procedures and regulations and I got a great packet from Corp. Counsel, but because our, our residing Corp. Counsel isn't here I'm asking that you know for continuity that we go ahead and defer, we defer the education of that. We do it at our next meeting and then part of that too it's part of these...first of all do we have any discussion about the deferral of Item C? Commissioner Carnicelli?

Mr. Carnicelli: Chair, yeah I obviously was not here last commission so I don't know exactly what happened or didn't happen in order to have this be put on the agenda. But if we're gonna discuss the powers and duties of the Planning Commission that doesn't change based on who's here and who's not. I mean, it's like it's still going to be same. So if we need education the

1 education's not going to change with what Corp. Counsel is here or not. So it's like it's
2 agendized, it's been publicly noticed. We gotta take testimony on it whether we defer it or not.
3 And so to me it's just like, you know, we talk all the time about how our time is precious and we
4 want to make judicious use of the commission's time here. Let's just do it. Why defer it? I
5 mean I don't, I don't understand what's deferring's going to do and make...the presentation is
6 not going to be any different two weeks from now than it is today.

7
8 Mr. Robinson: Okay, anybody else have a comment? Commissioner Hudson.

9
10 Mr. Hudson: For myself, David is our current Corp. Counsel. He's the one that provided us the
11 training. He's the one that has a history of this Commission for quite some time. I think it would
12 be fair and to main continuity that he should be here. I don't think it's entirely fair that we put
13 somebody who is totally capable of answering the questions that Lawrence mentioned,
14 somebody in the situation where she's not...she doesn't have all the history, especially the
15 history of the last week or so. I would, I would actually be in favor of deferring this. Thank you.

16
17 Mr. Robinson: Any other comments? Is I'll speak to my deferment. Part of the reason was I
18 was supposed to meet with Corp. Counsel in the past couple weeks and I haven't had the ability
19 to do that. I was wanting to meet with him to make sure that what we saw is kind of what I
20 wanted to see and being here and I didn't have that ability. And not having that ability when I
21 did see the presentation there was a couple things that were discrepancies from what David and
22 I talked about recently in the past month. And instead of trying to have somebody answer for
23 somebody else's thoughts I do plan on having a meeting with Corp. Counsel before our next
24 meeting to make sure that the agenda coincides with kind of what I think that we need to be
25 done here. I apologize that you know it was on the agenda and that you know, we did have
26 time today, but I think it's, I think it's better that in the long run that we go ahead and do it that
27 way. Like I said, I want to be...I want it...I'm trying to fix saving time and not having two
28 different thoughts about ambiguity in certain things. And when I saw the ambiguity I thought it
29 might just be better that we wait for David and do it. And we might go back to, to the, to the
30 presentation that she's willing to do but I wanted to make sure and I think that's all it is.
31 Commissioner Carnicelli.

32
33 Mr. Carnicelli: So okay, my question then is how is this going to be any different than the
34 presentation that we were given a month and a half ago?

35
36 Mr. Robinson: It's gonna be a lot more entailed. It's gonna, it's gonna be prioritized instead of
37 one of five presentations. There was no questions asked to our Corporation Counsel. We have
38 questions every day that we ask our Corporation Counsel in clarification. And I think it's gonna,
39 it's gonna benefit other people. And so I want to defer this action. If you have an objection I
40 guess we can take a vote on it.

41
42 Mr. Carnicelli: I would like a vote.

43
44 Mr. Robinson: Okay. Do we have a second?

45
46 Mr. Carnicelli: Excuse me, point of order Chair. We need a motion to defer before we can do
47 that. We don't actually have a motion on the floor.

48

1 Mr. Robinson: No, I just thought you wanted a vote was sort of including a motion.

2

3 Mr. Hudson: Chair I'll make the motion.

4

5 Mr. Robinson: Okay.

6

7 Mr. Hudson: I make a motion that we defer until the next meeting.

8

9 Mr. Castro: Second.

10

11 Mr. Robinson: Okay, motion to defer, second with Commissioner Castro. Discussion on the
12 motion? Okay, motion to defer Item C to the next meeting. All those in favor please raise your
13 right hand?

14

15 Mr. Spence: Four ayes.

16

17 Mr. Robinson: All those opposed?

18

19 Mr. Spence: One opposed.

20

21 Mr. Robinson: And I'll jump in for the fifth vote and we'll defer that to the next meeting.

22

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

24

25 **VOTED: To Defer the Discussion on the Powers and Duties of the Maui**
26 **Planning Commission to the next meeting when Deputy Corporation**
27 **Counsel Galazin is Present.**

28 **(Assenting – L. Hudson, S. Castro, A. Hill, P. D. La Costa,**
29 **K. Robinson)**

30 **(Dissenting – L. Carnicelli)**

31 **(Excused – C. Tackett, T. Gomes)**

32

33 Mr. Robinson: On the next agenda we're gonna have discussion regarding the Request for
34 Service and Information. Director.

35

36 **D. Discussion on the Form of Presentation of Request for Service (RFS) Information**
37 **presented in the Departmental Reports to the Maui Planning Commission for**
38 **Short-Term Rental Home (STRH) and Bed and Breakfast Home (B&B) Permit**
39 **Applications.**

40

41 Mr. Spence: Thank you Mr. Chairman. Commissioners I handed out a little one page item on
42 Request for Service and this comes as a result of last meeting there was some discussion of
43 you know, how come their RFSs are not included in this particular staff report and so we wanted
44 to put this on the agenda just so the Commission...so Staff is clear on what the Commission
45 expects us to report. I put this one sheet into two different sections. One is just a background
46 just to give you a reference point of the what the Request for Service System is and what it
47 entails and then also Planning Commission...the second part is for the Planning Commission
48 and we're asking some questions that we would really like some guidance on.

1
2 So first off, the Request for Service System started in the year 2000 and since then we've had a
3 184,225 Requests for Service. And those things can cover the gamut. They're not just
4 complaints. What this Commission normally sees are just complaints and possibly requests for
5 information, but it can be brush, encroachment, chickens. We get a surprising number of
6 complaints about chickens which does not come from our Department by the way, it's not a
7 zoning issue. Potholes, repairs to traffic signs, et cetera. We most definitely get complaints
8 about possible illegal construction, people building without permits or SMA violations without
9 permits or possible illegal land uses like somebody has divided their house into multiple units or
10 short-term rental homes or you know things like that, auto body repair shops in a residential
11 area 'cause you can imagine that be kind of obnoxious. So far in 2018, the Countywide has
12 received 920 RFSs and then just because of...this is fairly constant topic, 136 of those have
13 been about short-term rental homes or B&Bs, and then but also a huge part of the request for
14 service are just requests for public information. What's the building permits on my house?
15 What's the building permits on the house that I'm trying to sell? So for the realtors in the group
16 here. Or buyers they want to know what things are legal, what things are not and so they would
17 requests for service. And so these are things we commonly deal with. You know, it's been
18 quite a task for all the County departments to keep up with the requests that come in from the
19 public.

20
21 Mr. Carnicelli: ...(inaudible)...

22
23 Mr. Spence: Yeah, please.

24
25 Mr. Robinson: Request for Service started a couple of years from the Planning Commission
26 actually Commissioner Carnicelli was one of the ones that asked to have that every meeting.
27 Would you like to speak on that Lawrence and how you felt about it and how it helped you with
28 your decision making?

29
30 Mr. Carnicelli: Thank you Chair. Yeah, the thought was well you know is there violations are
31 there not violations, what's going on with the property? And as the Director said, there's all
32 kinds of RFSs. And by the way they're not anonymous. If you're going to do an RFS you have
33 to come forward and you have to say your name. You can't just say, oh I think there's an illegal
34 vacation rental and just do that anonymously. You have to step forward and say, no Lawrence
35 Carnicelli is doing this request for service. But with that it was mainly around the, you know, the
36 original intent and my original thought was around the bed and breakfast and vacation rentals is
37 to know okay, have they been operating illegally previous or not, are they in compliance or not,
38 were there complaints or not? Like that was my original intent with that.

39
40 You know we have kind of gotten to this point where I'm appreciating the questions that the
41 Director's asking is what's relevant, what's not? You know where do we filter, where do we not?
42 Does the Commission filter it, do we get everything and say, hey listen we say whether
43 something's relevant or not or does the Department say okay, we think this is relevant or not.
44 So that I think is what I'm sure Chair you kind of intended by putting this here is let us flesh that
45 out today. You know, what is it that we actually do want and what will we find relevant or not.
46 So I think that that's sort of the nexus of how things started was, okay let's get a history of it.
47 Just to note that since I got the floor is I don't think it's as relevant for...to get RFSs on previous
48 owners especially when we start talking about STRHs, you now have a five-year window before

1 you can actually become, you know, you can actually get one and apply for one. So what
2 happens with the previous owners may not necessarily be relevant, but that was sort of the
3 nexus of it. So thank you Chair.

4
5 Mr. Robinson: So the RFSs when we requested it, is your request was it for every single STRH
6 and every B&B?

7
8 Mr. Carnicelli: Yes.

9
10 Mr. Robinson: That was the...and I believe that was the request. And also, you know, on the
11 last one that we came up and like, and why, you know, why today we want to try to decide what
12 type of RFSs we want, you know, and lucky we have two realtors that you guys look at this a lot
13 with your transactions. Is the prior owner relevant, is it not relevant? You know, I have my
14 opinions on that. I can, you know, we look for names and ...(inaudible)...long if it's sold to in the
15 same family name, is it a relative to try and clear up a certain thing. You know, if you get a
16 permit, you're not going to get a permit with these 12 RFSs, but if we transfer the ownership
17 then if we decide has become zero on top, in front of us then we'll no RFSs. You know those
18 are the type of things that I think we want to look at and decide what we want to do. And
19 hopefully today we can kind of you know, we want to, we want to listen to the Director and see
20 what he thinks is you know possible and you know, not too cumbersome for your department
21 Yes, Commissioner La Costa.

22
23 Ms. La Costa: Chair, thank you. May I direct a question to Mr. Spence please?

24
25 Mr. Robinson: Please.

26
27 Ms. La Costa: Mr. Spence, can you please tell me is KIVA Net up to date as far as all of the
28 RFS or all the permit information on it?

29
30 Mr. Spence: Within a couple of days, yes KIVA Net is up to date. There's information that is not
31 available to the general public that Staff has privy to, that...but this is also subject to UIPA
32 requests. Sometimes we're...you know, you'll see that something is open when maybe it has
33 been taken care, those kinds of things, but for the most part it's up to date.

34
35 Ms. La Costa: Is that system going to be replaced? I've heard rumblings about that.

36
37 Mr. Spence: I believe it's going to be replaced by MAPS.

38
39 Ms. La Costa: The reason I'm asking is because as a realtor I go in and check KIVA Net all the
40 time for properties that I list and sell so I just wanted to know what kind of information was there.
41 Thank you.

42
43 Mr. Robinson: Corp. Counsel?

44
45 Ms. Thomson: Thank you Chair. So I just wanted to kind of couch this item in amongst your
46 rules. So the rule you're talking about and if you want to refer to it is your Maui Planning
47 Commission Rules it's 12.201.69 it's evidence. So what you're talking about with RFSs—

48

1 Mr. Carnicelli: 12.201?

2

3 Ms. Thomson: 69.

4

5 Mr. Carnicelli: 69, thank you.

6

7 Ms. Thomson: What you're really talking about with receipt of RFSs, any information in those
8 RFSs is receipt of evidence and when you're conducting a contested case which that's what
9 we're really talking about here is RFSs in the context of issuing or denying a permit. So we
10 want to take in evidence that's relevant to the applications in before and exclude evidence that's
11 irrelevant. So if you know, if you receive the entire body of RFSs relevant to a property they
12 may or may not be at all relevant to the permit so you'd also want the applicant to have the
13 opportunity rebut any evidence that may be negative or irrelevant to them. So they also have to
14 have the opportunity to look over all of those RFSs and provide their input to you saying don't
15 consider this because of X, Y and Z, it's you know, prior owner, outside the time frame, has
16 nothing to do with the application or it has nothing to do with the law. So if an RFS doesn't
17 relate to a Special Management Area Law or permitting you'd want to exclude that. You know,
18 so that's kind of the context of the discussion. I'm not making an opinion or offering an opinion
19 on whether you should have the entire body of them or just the ones that relate to a permit. But
20 you're gonna need to walk through that analysis if you do get all of that information in.

21

22 Mr. Robinson: Commissioner Carnicelli.

23

24 Mr. Carnicelli: Just a quick question. Yeah, I don't know if that's for the Director or Corp.
25 Counsel is how many different types of RFSs are there? I mean roughly? Or is it just sort of
26 like I can write in whatever I want, I mean it's not a menu. It's I can do whatever I want.

27

28 Mr. Spence: There's not a menu, and it is whatever somebody wants to inquire about or
29 complain about that's...

30

31 Mr. Carnicelli: Got it. So it's not like we could pre-classify them and say okay, for SMAs we're
32 gonna take this kind and for STRHs we're gonna take this kind, it's, it's—

33

34 Mr. Spence: And that's why I asked these specific questions on the bottom half of the page is it
35 would be helpful for us if we ask these things and then just get the clarity for each one.

36

37 Mr. Carnicelli: Right.

38

39 Mr. Spence: And Mr. Chairman?

40

41 Mr. Robinson: Director.

42

43 Mr. Spence: Keep in mind too, complaints are just that, until such time when somebody files a
44 complaint with the Planning Department or if it gets assigned to the Planning Department it's an
45 allegation until such time as we go out and do the investigation and come up with evidence that
46 there is something going on. One of the reasons that except...one of the reasons that
47 complaints are no longer anonymous except for Short-Term Rental Homes and B&Bs. Yeah,
48 they are. We have a long list of complaints for short-term rentals from Mr. Anonymous and

1 Ms. Anonymous. I kid you not. But one of the reasons why this Administration made it a policy
2 that they're no longer anonymous is because the RFSs are used as a weapon by either rightly
3 or wrongly people can go in and just file a complaint about a former landlord, about their next
4 door neighbor just because they don't like them not because there's necessarily anything
5 wrong, but just filed a complaint and get government involved. So you have to weigh that when
6 you see all the RFSs whether there was any action, whether something was corrected or
7 whether there was any evidence gathered that there was a problem or not.

8
9 Mr. Robinson: So RFSs and police being dispatched to properties is that a different category
10 Commissioner Hudson?

11
12 Mr. Hudson: ...completely different. If somebody is being dispatched it goes through the CAD
13 and RMS system in the Police Department. If they're complaining about a criminal conduct I
14 think that it would be our Police Department, but they might ask for an RFS for a criminal
15 conduct. I'm not sure Director.

16
17 Mr. Spence: I'm not familiar with that. If there's some kind of...I don't know, I honestly can't
18 answer.

19
20 Mr. Robinson: Yeah, 'cause I remember one or two properties we saw police dispatched but
21 you know, and 'cause usually with a noise complaint or something like that it was a combination,
22 but I don't think it was a RFS. I think it was the Planning Department discovered it through
23 research. But I think if that's something that we could, we could get clarified you know if a
24 police is dispatched on there, if it's on a RFS or if it's not on a RFS. And like you said, you
25 know, you have people that are just calling anonymously and they want the police to do a
26 complaint or stuff like that, if that's not on a RFS right? Is the only way the RFS is if the County
27 goes and inspects the complaints and finds out if it's true or no?

28
29 Mr. Spence: RFSs are just...you go to KIVA Net online, you type in your name, you type in the
30 problem and that you think is going on and hit send and it goes to one administrator and that
31 administrator assigns it to different departments. Things could be overlapping like illegal...if
32 somebody converted a house to multiple units that might go both to Planning and Public Works
33 and possibly to other places, but...

34
35 Mr. Robinson: Is Director do you have anybody from the Department that has any slides at all
36 on different types of RFSs or we're just discussion?

37
38 Mr. Spence: No. This is I'm telling you they cover the gamut.

39
40 Mr. Robinson: Okay.

41
42 Mr. Spence: There's no types in per se I think I've seen one RFS on a meth house in the last
43 seven and a half years. Whether the Police Department...I can just check with the Police
44 Department and see if they get RFSs or if people call in.

45
46 Mr. Robinson: Commissioner Hudson.

47
48 Mr. Hudson: I'm pretty certain they don't. Unless they specifically request for it they're not

1 gonna get that. Their system of reporting is different and there's a way that you could actually
2 look it up online but my memory isn't what it used to be. But you know, if I may talk to this—

3
4 Mr. Robinson: Yes Commissioner.

5
6 Mr. Hudson: --just a few seconds. First off, I think it's...it wouldn't serve anybody's purposes a
7 lot of irrelevant information about overgrown brush, chickens, potholes and all the rest of that we
8 don't need that information to make a decision. So there's a lot of this stuff that we really don't
9 need. There's a couple of things that we do need and it's unfortunate that we can't just make a
10 short list because the list would be illegal construction, illegal land uses.

11
12 Now I want to talk just a wee bit about prior owners and I understand that that might be a hot
13 button topic but in the past some properties have a tendency to remain problematic. If they go
14 from one drug dealer to another drug dealer to another drug dealer and this sets a history for
15 the property. So sometimes prior owners are important if we're gonna take action as a
16 commission this is information that we would need to know. Criminal conduct we would have to
17 work it out but I think there's other avenues besides an RFS to work it out. So I wouldn't even
18 consider that.

19
20 The last thing I would consider is we have a whole bunch of things that we don't need to
21 consider, but a whole bunch of things that we don't need to consider over a long period of time
22 has become something that we should consider and so I don't know how we would articulate
23 that in a write up. Just my comments since it's a discussion.

24
25 Mr. Robinson: Yeah, Commissioner Carnicelli.

26
27 Mr. Carnicelli: Yeah the previous owner thing I'm not married to it or not. I just you know,
28 is...within the context specifically of STRHs we now have a five-year ownership requirement so
29 like anytime as of September 27th any application that we see that owner is going to have had
30 owned that thing for five years. So just on the STRH thing I mean, and again I'm not married to
31 it, it's fine if the Commission wants to have previous owner information.

32
33 Mr. Robinson: What about B&B is that the same?

34
35 Mr. Carnicelli: B&B is not the same.

36
37 Mr. Robinson: Okay.

38
39 Mr. Carnicelli: But it does have to be your primary residence and there's new requirements for
40 primary residence as well as far as you know, just filing of in-state Hawaii taxes to have
41 something as your primary residence. So if you were to buy something tomorrow and you had
42 filed Idaho tax returns you can't have this as your primary residence. So anyway so it's a little
43 bit different for B&Bs so...but the question that I have that with the police being dispatched I
44 think that that's a great line of questioning and I guess my is one of the reasons why
45 something's not an automatic renewal is if there are complaints. So how do we...if the next
46 door neighbor calls the police and the police show up how does that end up with the Planning
47 Department to then say okay now this is not an automatic renewal. So like there's...is it...how
48 does that ball bounce is relevant I think to the information that we're gonna want and request.

1
2 Mr. Spence: And just, you know, as far as do police complaint get to RFSs or not, we send...I
3 don't think those things get into the RFS system. What happens is complaints for noise and
4 those kinds of things they do go to the Police Department and when we send applications like
5 almost all applications to the Police Department and they comment on those whether it could be
6 traffic conditions, whether it could be driveways, sight distances, whether there have been noise
7 complaints, whether there's been other kinds of complaints, the Planning Department shares
8 that information with us. As for renewals we mostly look in the RFS system. I don't, I don't
9 believe we send renewals to the Police Department. On occasion we do if there have been
10 issues, but not always. So...

11
12 Mr. Robinson: So you know guys let's try to narrow it down and I'm going to go around and try
13 to ask each of one of you how you sort of feel about it to get going, but right now when we,
14 when we receive an application for an STRH or a B&B are we, we're included RFSs correct?

15
16 Mr. Spence: We would...well the—

17
18 Mr. Robinson: No, I mean it's ranged now but we can narrow it after today, but we're saying as
19 of right now how is it?

20
21 Mr. Spence: We have been including the RFSs that we believe are relevant.

22
23 Mr. Robinson: And, and that, and we're including it because that was, that was asked for by the
24 Commission. It wasn't because it's a, it's must.

25
26 Mr. Spence: That's correct.

27
28 Mr. Robinson: Okay, so second thing. So NOVs, is NOV a ask or is that a requirement that it's
29 in the packet?

30
31 Mr. Spence: If there have been violations we note that in the packet.

32
33 Mr. Robinson: But is that a ask from the Commission or do you guys will always do that
34 regardless.

35
36 Mr. Spence: I think that's, that's part of the information that this Commission should know.

37
38 Mr. Robinson: Okay, good. Okay, so—

39
40 Mr. Spence: It's not, I'm not picking and choosing here. I think it's relative to the information
41 that the Commission would want to know about a certain application.

42
43 Mr. Robinson: Right.

44
45 Mr. Carnicelli: ...(inaudible-not speaking into the mic)...

46
47 Mr. Robinson: Yeah, and you know, and I've...I think now, I think the police dispatch I think it
48 did come with the comments, you know, but when we start...you know, I remember there was

1 one that we did a few months ago and it was regarding barking dogs, you know, crowing
2 chickens, barking dogs, you know, domestic disturbances constantly next door, you know those
3 type of things are kind of a...well, where do we draw the line RFSs? You know, and which also
4 brings us into what we're going to discuss later about our, our technology and iPads. How
5 cumbersome is it going to be to have the RFS on a tab that we hit and see the hopefully five or
6 the fifty that we can just look at instead of having to, the Department come and grab for us and
7 do it that way. I assume RFSs for every applicant is this going to be a tab and we hit it, we read
8 it or we don't. You know, as part...as we're going forward you know trying to do this. I think
9 that September thing made a great thing about previous owners. You know, about you having
10 to own it for five years because until then I was always well, they could switch names and do it
11 RFS if they knew that that was the caveat to clear out the RFSs 'cause they knew that's one of
12 the things that we look at you know so I think that was a good thing for the Council to take care
13 of that. B&B because of the ownership, but then again it still could switch over. You know, was
14 the property a illegal rental before and then they switched the ownership name and now they're
15 trying to go for legal. So the one person got shut down because of it. So that's gonna...so like I
16 said the September thing is going to take care of a good thing. So I think what we want to try to
17 do is maybe what's important to us individually you know, and I think whatever is one it could be
18 as a whole. Commissioner Castro you have any...on these RFSs you have any input?

19

20 Mr. Castro: Not at this time.

21

22 Mr. Robinson: Less, more or the way it is is fine?

23

24 Mr. Castro: I think it's fine the way it is.

25

26 Mr. Robinson: Okay. Commissioner La Costa.

27

28 Ms. La Costa: Not having any experience as far as the packets that have RFSs but having a
29 background in real estate I think it's important that we see the entire picture irrespective of
30 ownership from inception to when the permit is filed because you can quit claim, you can have a
31 series of issues and then with new ownership it will go away, it may not and that could be a
32 condition on the STR to be sure that those things are mitigated and not happen again. So
33 reviewing what Mr. Spence gave us, I concur with all of Number 2, and C under Number 3.

34

35 Mr. Robinson: Okay. So Director with Commissioner La Costa is that something that your
36 Department will make sure it's clean before it comes to us?

37

38 Mr. Spence: Okay, I'm still not sure on, I mean, Commissioner De Costa, La Costa asked. So
39 she concurs with Number 2. I don't know what you're concurring with because I'm asking a
40 question.

41

42 Ms. La Costa: That all of that should be included. I'm sorry, that everything under Number 2
43 should be included and Number 3C, be sure that all of the RFSs are attached.

44

45 Mr. Spence: Okay. The--

46

47 Mr. Robinson: She just has—

48

1 Mr. Spence: Okay, well what I'm asking under Number 2 is do you want to see all of the
2 document requests?

3
4 Ms. La Costa: Yes.

5
6 Mr. Spence: Okay.

7
8 Mr. Robinson: So, so, Director the question to you is, is when...and she's talking about that are
9 there things in there that you go as, go through as a Planning Department to where you would
10 check if there was quit claim deed or some type of—

11
12 Mr. Spence: No, we do not look at—

13
14 Mr. Robinson: Okay, all right.

15
16 Mr. Spence: --the ownership, we verify ownership when an application is filed with us. If there
17 is...if there's a change in ownership during mid-application we stop all processing and we'll say,
18 hey this isn't valid any more. You need to refile. So...

19
20 Ms. Thomson: Could I add something?

21
22 Mr. Robinson: Wait, one second, one second. Commissioner, you okay, are you good with
23 that? With understanding that?

24
25 Ms. La Costa: I am, thank you.

26
27 Mr. Robinson: Okay, thank you. Corp. Counsel.

28
29 Ms. Thomson: Thank you Chair. Just to the RFSs as far as the scope and breath of these if
30 you're requesting all RFSs for the entire history of the property in the RFS system what you
31 would get is not only just the two-line request but you would get the Department's complete
32 investigation on the RFS if it's an investigatory type. If it's a request for permit so a realtor
33 requests all permits you know related to a property, et cetera, you can request a lot of
34 information through that system. You would not only get the request for that information but you
35 would get all documents related to that. So this is a...it could be an absolute ton of material that
36 may be completely irrelevant to your permit request. Unless there's...if it's substantiated, you
37 know, yes there is an illegal, you know, dwelling that was built, but then the next question was it
38 corrected? Did they get an after-the-fact permit? Was that 15 years ago? Is there any cut off
39 period? So you know, I think this discussion is very important but you may want to look at—

40
41 Mr. Robinson: We're working towards that.

42
43 Ms. Thomson: Yeah, getting a little more narrow.

44
45 Mr. Robinson: We're working, we're working towards that. Is I don't think we're gonna ask for
46 50 years but we want to hear all the commissioners and then we're gonna try to come up with a
47 plan and of course we have our resident Commissioner Carnicelli that will...who I think will try to
48 capitalize what he thinks is relevant.

1
2 Mr. Carnicelli: So you know Chair, the one thing that's kind of popping into my mind right now is
3 I think at some point in time, the Commission does need to rely on the professionals. I think at
4 some point in time it's like we have Corporation Counsel and we have professional planners.
5 So I think that it's...I'm really okay with the Department saying this is what's relevant. Like you
6 know we have professionals that say you know what this RFS from the previous owner is
7 relevant and I do need to give that to the commission. You know what this one's not. This is
8 just a request for information or what have you. So I would actually be okay with the
9 Department having discretion as to, you know, what it is that we get or not. Did it trigger an
10 investigation? Did it trigger a Notice of Warning? Did it trigger a Notice of Violation? Those
11 kinds of things. Now you know, and I'll just say that's for the breath of everything that we talk
12 about not just B&Bs and STRHs, but like you know, if somebody's coming for an SMA and
13 there's an RFS that's relevant I would expect my professional planner to come forward and
14 provide that. You know, I think that that's...if that's relevant I'm expecting, you know, the
15 professionals to do what they do and I believe that they do.

16
17 Mr. Spence: Okay, and that's my first question. Do you want to see just B&Bs and STRHs or
18 do you want to see everything because there's a myriad of different permits that come before
19 this commission so it's important for us to be clear that you want, if this commission wants on all
20 applications or just, you know, really the emphasis of the discussion has been on short-term
21 rental homes and B&Bs.

22
23 Mr. Carnicelli: Right, and see...'cause here's the other part Chair that I'm keeping in the back of
24 mind in this 'cause my knee jerk is I want everything. Give me everything and I'll sort through it
25 and I'll tell you what I think is relevant or not, but Corp. Counsel has brought in earlier and what
26 you know, Mr. Galazin has talked about who is the gentleman who's had to go to court on these
27 things is we are now more and more and more becoming a quasi-judicial entity. And so if I take
28 all of the information and I think something's relevant and I use that in my decision and then an
29 applicant then sues and appeals and our decision gets overturned because Lawrence chose to
30 use a piece of information that he thought was relevant but the courts didn't...I mean there's not
31 a line in the sand and that's why I'm just saying is this line of who's going to decide what's
32 relevant or not and what's important or not and what I cannot use in my decision making or not I
33 think is...that's what we're talking about. You know, so that's the tough balance that we're
34 gonna have to, that we're gonna have to walk.

35
36 Mr. Robinson: So I guess my question to you is you're the one that asked for RFSs every time
37 because you didn't have the confidence of the Planning, the Planners telling us what was
38 relevant.

39
40 Mr. Carnicelli: I wouldn't say that. That's not fair to say I didn't have the confidence. I just, I
41 was a new commissioner and I was like, oh wait a second I know that there's RFSs out there
42 and this could, you know, especially when it comes to B&Bs and STRHs and how do I know if
43 the neighbor complained or not. I didn't know unless there was an RFS, and so I asked it like
44 hey, listen I want to know if the neighbor complained, I want to know if there's a Notice of
45 Warning so then I can use that in my decision making.

46
47 Mr. Robinson: Okay, so I stand corrected you're now comfortable with the Planning Department
48 deciding what is relevant and not --

1
2 Mr. Carnicelli: Well now that it's on the table, right they're on notice of saying this is what's...we
3 want what you think is relevant. Like if they're on notice of that like okay, before we asked for it,
4 it was kind of like maybe one planner did it, maybe one planner didn't, now it's saying hey, listen
5 Planner A, Planner B if it's relevant, if you think it might be relevant give it to us and then we'll
6 decide whether or not we want to use that.

7
8 Mr. Robinson: So each Planner in the Planning Department can decide what they think is
9 relevant and is not, and, and I guess we're gonna come to this is, is and this is a, this is
10 a...(inaudible)...discussion we're gonna move into planners and different things like that and I
11 want to get into it. But it's, we have to, we have to see what every single commissioner wants.
12 We could have—

13
14 Mr. Carnicelli: Right.

15
16 Mr. Robinson: --five commissioners not need it and four commissioners need it and then the
17 vote goes to the five. But if we don't have a consensus of five, I guess we're going to it. And
18 again I'm moving more towards we're going to have the technology soon, right hopefully we're
19 gonna talk about iPads or whatever it is to where it isn't a chore. We don't want a chore for the
20 Planning Department to try and pull RFSs and say we missed one and stuff like that, you know,
21 because hopefully we can go to a account that they have it's already there as it is and not have
22 to print it out. But we have to see what's relevant that we think we'd like to see. And to leave it
23 to their discretion that is a decision that this commission can make or we could narrow our
24 scope of services to the current owner, just one previous owner or only NOV's of the previous
25 owner and the new owner, you know what I mean. And that's why we're here. So we're going to
26 decide and try to narrow it down and I want to make sure that everybody you know feels
27 comfortable.

28
29 Mr. Carnicelli: So one last thing.

30
31 Mr. Robinson: Commissioner Carnicelli.

32
33 Mr. Carnicelli: Just one last thing is to me I think that there's...it's relevant to say what...I don't
34 that it should be a five-four. Like oh I got my way, won so we get what we wanted to see and
35 not. If Commissioner Tackett wants to review something you know what, let's let him review it.
36 So I'm coming from that place. You're asking me for my opinion I always have one.

37
38 Mr. Robinson: No, that's—

39
40 Mr. Carnicelli: You know so it's like I'm giving it. But quite honestly if any one of my fellow
41 commissioners think you know what I want everything then I'm okay with that, then give us
42 everything and I'll cull through it myself. That's fine.

43
44 Mr. Robinson: Okay. Commissioner Kahu Hill.

45
46 Kahu Hill: Mahalo Chair. I think I've felt very confident in what I've received over the months
47 and seeing how this commission works and what's given to us to give us to go through and it
48 seems to be very detailed. I think if we had a lot of more information that may not apply to what

1 we're looking at that that might be too much. To me that's so much on the table here. I think
2 that there's...it would need to be some level of discernment or choice between the planner or
3 what we're gonna be presented if something...if police have been called for an RFS or there's
4 fines, things like that, I think we should be able to have that information. I think someone needs
5 to be able to be in charge of what actually comes here and that we can maybe have links or
6 something...if it's not all given that we have a way to access it possibly there could be more
7 discussion on that.

8
9 Mr. Spence: Just a comment on that Mr. Chairman.

10
11 Mr. Robinson: Director.

12
13 Mr. Spence: Okay a couple of things. I trust the Planning Department Staff. These are
14 professionals. They're highly trained in their profession. They have degrees in exactly what
15 they're doing and they have many, many years of practice. I mean, we have people like
16 Ann Cua who has been with the Department for 35 years. I think about what I was doing
17 35 years ago and she was already providing planning commissions with information. We have
18 a lot of incredibly talented people. So I trust their judgment on what they believe is relevant.
19 Otherwise, I mean, we're just going to go to what Corporation Counsel was saying if we give
20 you everything, you're gonna have more information on some of these applications than you
21 know what is really relevant to the property. Consistent with what Commissioner Hudson saying
22 though, sometimes you do have problems, you do have problem properties and that's why I put
23 on this paper sometimes the history, sometimes the old RFSs from previous owners are
24 relevant to your discussion and so to me the Planners can look at this and say, okay this is
25 important for the commission to know and they're really good about providing you actually more
26 information than less. But sometimes that previous owner has nothing to do with what's going
27 on with you. And so I trust them to make that judgment. Ultimately their reports come to my
28 desk or the Deputy Director's desk for review and say, oh wow there's this history. And you
29 know, I just sent two reports back to Staff saying we need to include this other analysis. So we
30 check those things before they ever get to you.

31
32 Mr. Robinson: Corp. Counsel, I mean, Director if you guys could just let me go through my
33 Commissioners and then I will definitely give you guys time to talk and answer. Thank you.
34 Commissioner Kahu Hill.

35
36 Kahu Hill: Mahalo. And that was also what I was saying about the trust and being able to have
37 that here that we can have what we need but be able to request it. I did have a separate
38 question. I wanted to know let's say there's a hui or a land that's owned by a construction
39 company, owned by somebody and they haven't built there yet and there's people camping out
40 there or burning in the kiawe forest or homeless or a whole camp that comes and things. When
41 there's a request and police are called to come there I know in several places where they're not
42 able to go in because those people are doing whichever, whatever they're doing creating
43 neighbor's complaints because it's a private property. That the police can only go so far and not
44 inside and I wonder how that can connect inside of here. If there's RFSs and...but the police
45 can't go in because it's owned by a construction company or owned by people and you don't
46 even know.

47
48 Mr. Robinson: Well, you know so with a RFS like that and we see it that's where something we

1 say you know what this is actually might be a positive. You know, we have evidence that this is
2 a problem property and with construction or with approval of this we can now take away a
3 nuisance. You know, it might swing us for that property more than against because we say you
4 know what this is a area that's been vagrance and so on and so forth and now this is gonna be
5 a positive you know towards that way. You know and again, it's you know, it's when we have
6 the RFSs you're also able to ask that question when you see it. Now again if we didn't know
7 that there was RFSs there and a guy was coming and we thought it was just a vacant piece of
8 land that was real nice and they're gonna take away the view and we didn't know it was a
9 problem you know that's something that we would have wanted to know because that might
10 have pushed us to that direction. You know, it's you know information is information, right? It
11 shouldn't be for or against, it should be just something to each individual.
12 Commissioner Hudson you have anything to add?

13
14 Mr. Hudson: Thank you Chair. Just a couple of things and you guys know I'm pretty brief when
15 it comes to stuff like this. Let's talk about the criminal conduct that's normally accessed through
16 a...(inaudible)...it finally came back to my memory, but aside from that it's always accessed
17 through inter-department mail. The Planning Department and the Police Department work
18 together to get the criminal history of a particular place. Let's talk about relevance it's easy to
19 be relevant if there's a provided list. Is this relevant, is this not? It's not ambiguous anymore
20 and this nothing of your department. You know how I feel about your department which is
21 outstanding.

22
23 Now I'm gonna address you question specifically right down. Do you want RFS for all
24 application types? For myself, I just want the first three.

25
26 Let's go to Item No. 2, what does the commission consider relevant? For myself, it would B, C,
27 NOVs and a past history of the property until September of this year. That way after September
28 I agree with Commissioner Carnicelli that five years is good.

29
30 Mr. Robinson: But...so that's just STRHs through, that's not B&Bs and SMAs.

31
32 Mr. Hudson: I said the top three, STRHs, B&Bs, SMAs.

33
34 Mr. Spence: Not Special Use Permit?

35
36 Mr. Hudson: Nope.

37
38 Mr. Spence: Okay.

39
40 Mr. Robinson: So for the record, B&Bs, SMA as of September would that, would that going to
41 be the same as of September or just STRHs?

42
43 Mr. Hudson: The B&B I'm actually pretty comfortable with this.

44
45 Mr. Robinson: Okay.

46
47 Mr. Hudson: It becomes a first property. So you're living in the house, you have to show that
48 it's your residence. I'm comfortable with that. I'm not comfortable with the short-term home

1 rentals at least not until September then in September I'll be much more comfortable. Last item
2 of note, I agree with Commissioner...you want to be called Denise, Denise?

3
4 Ms. La Costa: P.D.

5
6 Mr. Hudson: P.D. I agree with her that the copies of the RFSs it should be attached as exhibits.
7 Those are my comments.

8
9 Mr. Spence: Okay, just the actual printout of the KIVA Net printout of the RFS?

10
11 Mr. Hudson: If they meet those criteria. I do not want, I do not want really if we figured it out, I
12 don't want to know about potholes. I have enough stuff to read as it is.

13
14 Mr. Spence: Oh, no, no, no, I understand.

15
16 Mr. Hudson: I just want the bottom ones.

17
18 Mr. Spence: Okay, part of the question I have sometimes, I mean you have Special Use
19 Permits for many different things. I'm not just talking about...there's two different kinds of
20 Special Use Permits. There's County Special Use Permits and there are State Land Use
21 Commission Special Use Permits and say a landfill will get a Special Use Permit for let's say
22 DeCoites, they'll get plenty of RFSs. People complain about odor and dust and all those things.
23 That has nothing to do with vacation rentals of any type. So I just want to be clear, do you think
24 that those things are not gonna be relevant?

25
26 Mr. Robinson: Commissioner Hudson?

27
28 Mr. Hudson: They're absolutely relevant, but the questions that I was answering were based
29 specifically upon my opinion. It's been my opinion and my experience that when projects like that
30 come by there's an awful lot of public testimony to begin with and the professionalism of staff
31 provides that information to begin with. They let us know straight upfront if there's a problem
32 leading toward this. So no, the question that you had was number one, do you want what type?
33 My answer was I want this, that and the other. But that's my opinion, others might want more,
34 they might want less. But my opinion is that we proceed like that. I agree with 2A, 1 and 2. We
35 don't need all of that stuff, we just skip right to B 'cause these are relevant complaints. I know
36 you have a list that determines what is relevant and so it's not ambiguous, it's not open. So
37 that's my opinion.

38
39 Mr. Robinson: Director let me ask you a question. So we get the agenda for our next meeting.
40 We get the agenda, we get the packet if at that time a Commissioner wants to see more
41 entailed RFS is that something that could be allotted to them before the meeting instead of them
42 saying I want more information to them, we don't want to defer a meeting, you know, and so
43 what is the timeline with something with RFS or can they, can they go on KIVA on their own and
44 pull up information that isn't handed to...that we're not sure everybody else has. You know,
45 that's kind of the question that I have.

46
47 Mr. Spence: Thank you Mr. Chairman. I'm going to let Corp. Counsel talk about this a little bit
48 but the Commission is supposed to act on the information they're given. They're not supposed

1 to go do their own investigation and receive information that other Commissioners do not.
2 There's some big problems with that and I'm sure Richelle has defended us before.

3
4 Mr. Robinson: And Corp., with saying that if we're offered a website to look for RFSs where we
5 have our ability to look at it would that be categorized as a one person searching and one not
6 searching. Thank you.

7
8 Ms. Thomson: Thank you Chair. Yes, I would say that that would be going outside of the
9 record doing your own investigations which no commissioner is supposed to do. You're
10 supposed to have the same information to act on as a body. And more importantly the applicant
11 should have the same information that you have so that if there's anything in there, you know
12 like the Planning Director said you can make RFSs for any reason. You may just not like the
13 person. You know, you don't like the car they drive. The applicant should have the due process
14 rights to have that information and to be able to offer rebuttal evidence for you and then you
15 would weigh it. So as the Planning Director also said, RFSs are just complaints. They're not
16 substantiated at the time that they're made. After an investigation it may prove that they are you
17 know substantiated and then a Notice of Warning would be issued or there's a violation. That's
18 all stuff that you would want to know, but for me, you know, if we were analyzing an actual
19 application and you had several RFSs in front of you, what I would caution you is how relevant
20 is it, was it proven, do you have any evidence to the contrary, et cetera.

21
22 Just as an aside, RFSs are only one bit information. What I would actually consider myself
23 more important is whatever public hearing you have to have notice given to all of the neighbors
24 within a certain vicinity usually 500 feet. That should generate if there are real neighborhood
25 concerns with STRHs specifically since that's kinda a hot topic, the neighbors all know about an
26 applicant and an application being filed. There's a sign in the neighborhood, there's published
27 notice, there's publication in the newspaper so that's their opportunity not only to come out and
28 offer testimony but if they feel very strongly about it they have the opportunity to file a petition to
29 intervene and then become a party and it kicks into a very formal contested case proceeding.
30 So on the scale of evidence you know if you're weighing evidence I would say RFSs yes, they're
31 important but need to really take them with a grain of salt and analyze them very carefully and
32 then not make a decision on a complaint being accurate. You want to know how valid is it and
33 then weigh your evidence.

34
35 The other thing I'm sure David says this exhaustively because we almost always do is be sure
36 you're having those discussions in your record, so in your actual discussion of the matter refer
37 to the RFS and say, you know, there was an RFS made you know, back in three years ago. It
38 looks like the Planning Department investigated it and we heard testimony from the same
39 person here alive that to me makes that evidence fairly relevant you know, to the noise or
40 parties or weddings, you know what I mean? So you're gonna need to...all the evidence that
41 you will receive comes with a burden of analyzing it and categorizing it and weighing it. Thank
42 you Chair.

43
44 Mr. Robinson: You're welcome. Commissioners on you know on SUPs and some of these
45 other permits that go on besides STRHs, you know 500 square feet sometimes might be just
46 hotels getting the notice and nobody else hearing about it you know, because hotels are next to
47 each other or different condos. And so there are little, you know, nothing's ever perfect, right?
48 We never have all the information that we want and sometimes we have too much information

1 we want so nothing's ever going to be perfect. I think the, I think we want to grasp is the RFSs,
2 let's first start now that the RFSs that we are currently supposed to be receiving is that adequate
3 for everybody as it is and if it isn't adequate, can somebody say that it's not adequate for them?
4 Okay, well let's start with that.

5
6 So let's go with the next is, and like we've heard from Commissioner Carnicelli do we think that
7 we might be getting a little bit too much and we might want to restrict our RFSs after hearing the
8 testimony today to not have the whole you know 50 years ownership of the property, but you
9 know like Commissioner says for STRHs and the B&Bs you know let's limit to just that owner
10 but maybe open it up more for the SMAs and the SUPs. I think that's the discussion that we're
11 at now. I think, I think, I think we're not asking for more. So I think we now want to see if we
12 can trim it back and if there's anything from experience you think that you don't need it. So
13 La Costa is we heard you saying that you have concerns about certain things, but are those in
14 SMAs, are those in Special Use Permits, are those you know, because like I said the Short-
15 Term Rental we can now, we can pull back that ownership as of September 1st we won't need
16 the whole RFS for that. Are you comfortable with that as well?

17
18 Ms. La Costa: Yeah, I would just like to make sure that the path to the application and the
19 permit hearing that we see what has happened. The prior owner that you mentioned before
20 Chair that makes sense that we go back to the prior owner rather than 50 years and after Corp.
21 Counsel's discussion about what is just a complaint and what actually has had action taken it
22 would make sense I think for the Planning Department and their professionals to ascertain
23 based on those that actually had an investigation rather than just you know,--

24
25 Mr. Robinson: Yeah, so from looking at it...maybe a NOV from a previous owner but not a RFS
26 is that what I'm hearing from you, is that what I'm hearing from you guys. We don't really need
27 the RFSs but if there's an NOV of the prior owner if not we're gonna just deal with the current
28 owner? Is that something that we can agree on?

29
30 Ms. La Costa: That works for me. Thank you.

31
32 Mr. Robinson: Commissioner Castro, sound good?

33
34 Mr. Castro: Sounds good.

35
36 Mr. Robinson: Carnicelli, Hill?

37
38 Kahu Hill: Yes Chair.

39
40 Mr. Robinson: Hudson, that sound good to you.

41
42 Mr. Hudson: I'm very good with that.

43
44 Mr. Robinson: So Director, is we got what I'm hearing from previous owner just NOVs no RFSs.
45 So we moved off of that previous owners and the line of the history.

46
47 Mr. Spence: Okay, NOVs from regarding previous owners.

1 Mr. Robinson: And then on—

2

3 Mr. Carnicelli: Chair is that on just B&Bs and STRHs or is that on everything?

4

5 Mr. Robinson: These are, there are the six that we're talking about.

6

7 Mr. Spence: It's the what?

8

9 Mr. Robinson: The six that we're talking about. Oh, the five, I'm sorry, the five. STRHs, B&B,
10 SMAs, CIZs and SUPs.

11

12 Mr. Spence: Okay, there are other permits, but other things...to me, my opinion is this
13 Commission might find relevant RFSs, particular RFSs related to current applications, might find
14 that relevant on everything that comes before you.

15

16 Mr. Carnicelli: Right.

17

18 Mr. Robinson: Right. Yeah, so is I think what we're saying is previous owners we wanna just
19 see the NOVs not RFSs. Unless you guys think you know this is, you guys saying you know
20 you guys might want. Even if though you don't ask for it, we're gonna give it to you anyway.

21

22 Mr. Spence: Well, those...but those five different kinds of things that come before you that's not
23 a comprehensive list.

24

25 Mr. Robinson: Right.

26

27 Mr. Spence: Wasn't intended to—

28

29 Mr. Robinson: Well, well so the Planning Department at any time or the Planners can give us
30 more information.

31

32 Mr. Spence: Yes.

33

34 Mr. Robinson: But we're requesting this as a minimum. Commissioner Carnicelli.

35

36 Mr. Carnicelli: So, you know, is the light bulb kinda went off when Commissioner Hudson was
37 speaking is I think what we're trying to do here is establish a baseline, right? Okay, this is a
38 minimum. If the Department thinks like okay, this is something, you know, even though it's not
39 oh if it didn't meet the minimum then you're not gonna get that information like what we come up
40 with today. It's like going, okay here's the minimum that we want, but if the Department, if the
41 Planners find something that they think is relevant then yeah, give us that information, but at a
42 minimum give us this. I think that when he spoke to that, that just you know, the light bulb went
43 off. It's like okay that makes sense. So what is this baseline that we're trying to get to and if we
44 want NOVs instead of just these five that are listed because it does say et cetera, et cetera we
45 get a lot more than just that. So we want it on everything.

46

47 Mr. Spence: Yes.

48

1 Mr. Carnicelli: And so as Chair I would say...so Chair is what I would just ask or just put out
2 there for the conversation is instead of saying we would like NOV's on just the five things that
3 are listed here, on all things that come before us—
4

5 Mr. Robinson: Okay.
6

7 Mr. Carnicelli: --I mean, you know, discretionary things like that that we're making decisions on.
8

9 Mr. Spence: And we would report to you if there was an NOV issued we would report that to
10 you anyway but also the status of RFS's I mean, sometimes RFS is filed, we go out and
11 investigate it's closed.
12

13 Mr. Carnicelli: Right.
14

15 Mr. Spence: If there wasn't a violation found or whatever it was we normally give somebody
16 30 days to correct a problem and if it's corrected we don't issue a violation. So we're happy to
17 give you that kind of status on RFS's for construction or uses. That's easy to do.
18

19 Mr. Robinson: We're all good?
20

21 Commission Members: We're good.
22

23 Mr. Robinson: So Director I'll give you the opportunity to in your words hear what we're saying
24 or would you like me to?
25

26 Mr. Spence: Okay, this is what I hear, first off, we want to know all the RFS's for anything that
27 comes before this Commission, the status whether it's open, whether it's closed. It's gonna be
28 rare that we bring something before this Commission that's still open just because sometimes
29 people file complaints the day before a hearing. That's just gonna be the matter of it, but more
30 often than not we like to see these things closed before a report is even submitted to me for my
31 signature. We would report all NOV's pertaining to this particular...okay, from previous owners
32 but also anything pertaining to for the current application that is coming before this Commission.
33

34 Mr. Robinson: And we'd like ...(inaudible)...
35

36 Mr. Spence: Okay, the—
37

38 Mr. Robinson: RFS's.
39

40 Mr. Spence: The RFS's what and...okay, so and this is part of my question is you want copies
41 of all RFS's as exhibits what does that mean? And perhaps I should have brought copies of
42 what those entail. There could be...like I said it sometimes goes to five different agencies and
43 so we could have printouts on all five of those, maybe multiple pages per agency.
44

45 Mr. Robinson: Yeah, and for Commission, I think this is something that we can narrow down. I
46 think we should...for everything closed I think a list should be sufficient and then opens maybe
47 have the open one as the report.
48

1 Mr. Spence: I don't know what you mean.

2

3 Mr. Robinson: So if it's closed, right you know permit pulled, closed, closed, closed, but if
4 there's something that's not closed which is very rare that's open that's a current complaint or
5 something that you know you guys are checking on or NOV's something like that, that show us
6 the, show us that RFS on its own. So we're asking for the list, and you know, and then it also
7 gives us the opportunity when we see the list if something that catches our eye where we can
8 ask the planner or the applicant at that time, you know, if they could...if they'd like to explain
9 that or go more into that with the—

10

11 Unidentified Speaker: ...the applicant can also...

12

13 Mr. Robinson: Right, and we want the exhibits, the applicant can like I said with due process for
14 them saying this is BS, this I fixed, this I fixed, this I fixed, this was this, this was the neighbor
15 that I got into a disagreement with about parking, you know. So we want at least get that list,
16 but I think for the full RFS I think just the open ones which would hardly be any. Commissioner
17 Kahu Hill.

18

19 Kahu Hill: Mahalo Chair. I just wanted to make one question, under the background about
20 possible illegal land uses and things like that. If there is property or land where there's historical
21 landmark or iwi kupuna or burial grounds or this kind of thing where people could be misusing
22 the areas or it's culturally sensitive I would like to be able us to have that information if there's a
23 request for service at those areas that we're always mindful of that and its culture.

24

25 Mr. Spence: Absolutely. Those are things that definitely come in and we would report those,
26 you know, if it's a project that is involving any kind of construction and those could be special
27 uses those don't necessarily have to be SMA or those kinds of thing, any kind of thing that
28 involves some kind of construction normally they do an archaeological inventory survey and we
29 get comments from SHPD, et cetera. Those are included as a part of your packet. If we get
30 complaints about iwi kupuna and disturbing the burials or possibly disturbing the burials we
31 would include that as a part.

32

33 Kahu Hill: Maika`i, mahalo.

34

35 Mr. Robinson: All right, Director, you got it? Think you got it?

36

37 Mr. Spence: I think so. Okay, all applications, NOV's from previous owners. You want, I think
38 when you say you want a list of all RFS's, you want—

39

40 Mr. Robinson: B, 3B.

41

42 Mr. Spence: I'm sorry?

43

44 Mr. Robinson: 3B on top of your.

45

46 Mr. Spence: Okay, but that's a list...Okay, you want a list in the report, this is RFS 1, 2, 3, 4
47 and plus a copy, a one-page copy as an exhibit.

48

1 Mr. Robinson: Open, of open, of open, just the open.

2

3 Mr. Spence: Just open. So closed you want?

4

5 Mr. Robinson: Just closed, you know. You have the list closed.

6

7 Mr. Spence: Okay, a list that's closed.

8

9 Mr. Robinson: Yeah.

10

11 Mr. Spence: Okay.

12

13 Mr. Robinson: Is that helpful to the Department?

14

15 Mr. Spence: It helps us a lot.

16

17 Mr. Robinson: Okay.

18

19 Mr. Spence: Thank you.

20

21 Mr. Robinson: Thank you. At this time, I'd like to take any public testimony on this discussion.
22 Would anybody like to speak on the discussion? Seeing none, like to go onto, what are we are,
23 like to go onto E, Discussion of Equipment Needed by the Maui Planning Commission such as
24 Electronic Tablets. Director.

25

26 **E. Discussion on Equipment Needed by the Maui Planning Commission such as**
27 **Electronic Tablets**

28

29 Mr. Spence: So Commissioners we've discussed this internally. We've had...we get requests
30 time to time from Commissioners and we also get particularly Commissioner Hudson has asked
31 can we get tablets to put this material on instead of all these you know, sometimes you get, you
32 get documents that are huge. I think Kurt Wollenhaupt was gonna be here to discuss this a little
33 bit. Part of the...so we've done a little bit of research internally. We discussed everything from
34 laptops to tablets to iPads and I'm not all sure what Kurt has to say, but part of the issue that
35 come up are how do you get the relevant information...I'm not sure if everybody has you know,
36 internet access when you're downloading you know, 500 MB files and if that's something that's
37 easier for you to go through electronically of if you want paper. We discussed laptops that might
38 be a little bit easier than tablets, but at the same time it's a higher cost for the Department. And
39 in either case whether we go tablets, iPads or laptops...I'm just gonna tell you we're not gonna
40 go laptops. There's too much maintenance, there's too much cost involved with that. But we
41 also have to address, well what do we do in case of breakage or loss or theft or those kinds of
42 issues comes up. And it's been...I know the State Land Use Commission goes off of iPads.
43 They have a system that's all worked out. They have a private like a Dropbox where
44 commission staff drops all the relevant documents and the commissioners download all the
45 information onto their iPads.

46

47 Mr. Robinson: So Commissioners let me ask a quick question. Do all of us have internet
48 capabilities? If we have internet capabilities and if these files were always emailed to us and

1 downloaded instead of us taking a stack that Kurt has presently in front of him if we could you
2 know use our own home computers at home to do that but when we come here we don't have
3 to bring our home computers but we have a tablet that won't even leave this area, you know, the
4 Planning Department would control it, will upload it with all the pertinent things and we can be
5 here going through the stuff and is that something that we need or do we like to, like I do I
6 highlight, I take notes on different things or it's something that we want to go for that way? Yes,
7 Kahu Hill.

8
9 Kahu Hill: Mahalo Chair. I think it's really good to have technology as we move forward and I
10 also like to have paper. I've had a technology incident with...so I can't look at screens for long
11 periods of time. So I think a balance of that and a thought if it's possible to have the relevant
12 information or what's coming on the agenda to be instead of needing a Wifi in case there's
13 something to make sure it's on the iPad so that when we come in to have a meeting that's
14 there. Whatever's on the agenda is there and that you guys can keep those iPads and bring
15 them in each time for the commission instead of us taking them home.

16
17 Mr. Robinson: So are you saying you'd like an iPad that you can take with you?

18
19 Kahu Hill: No, I think they should be here and when we come in whatever's on the agenda be
20 on the pad, but for me I would also like some paperwork as well to be able to see.

21
22 Mr. Robinson: So, so we have introductions like we do, you know normally with our things and
23 the recommendation that we do on paperwork but then we also have exhibits which is what Kurt
24 has in front of him which you will see more often. And so, you know, is we want to reduce paper
25 for the Department, we want to reduce you know for ourselves, right? And so it's to my hearing
26 where we could get the recommendation packet or the normal 8 to 10 page packet you know
27 paperwise and then the exhibits where we can then look online or something like that?
28 Commissioner Carnicelli you want to jump in? I think you know what we're trying to do here,
29 so...

30
31 Mr. Carnicelli: Yeah, and Chair, first off I just want to say on each one of these items that we've
32 talked about so far, I appreciate your leadership on this and doing that. So I'm gonna ask a
33 question. It's just like we're kinda like saying, oh should we, and we're trying to pick and choose
34 at whatever it is. We're not the first commission to do this. What do other jurisdictions do and I
35 don't even mean Hawaii. Like you know, I'm sure if you go to Silicon Valley they're not printing
36 out anything. You know, that they're doing this on an iPad or whatever it is. So my question is
37 what are other jurisdictions doing that we can just go okay, let's not reinvent the wheel let's do
38 that. So that's my question to the Department.

39
40 Mr. Spence: Yeah. Okay, honestly I can't say that I have researched other jurisdictions except
41 my experience with the Land Use Commission that they put all their documents like I said in
42 a...something like a drop box and all the commissioners download it. The Commission might
43 want to be aware that we post agendas with hotlinks directly to the documents. So if there is
44 a...if you have a 500-page EIS that's...we provide a link to that, a hyperlink that you can click on
45 and you can download that document or your staff report or agendas. Anything that you are
46 going to consider up until the day that we post it that's available to you. And you have your very
47 own portion of the County website that all those things are posted.

48

1 Mr. Robinson: So Commissioners here's what I'm thinking about. It's I'm thinking about partial
2 we have the quick description of what our item is. We have the hard copy of the
3 recommendation of the item is, but that we get...we have an iPad here when we come but we
4 also walkaway with a jumpdrive or something that we don't have to go download 500 pages and
5 take up our space in our computers and next thing you know my computer's full and my disk is
6 full because I got these enormous things, but I can have these jumpdrives and when we're done
7 with jumpdrives it's like we can recycle it back like we do with our paperwork. But I don't want to
8 bring a stack that big. I don't...look at my backseat, I got commission papers all over the place.
9 You know, I think jump drives given to us not download, I think iPads over here, and our jump
10 drive we can jump on any computer we're at wherever we're at, you know, even get adapted on
11 our phones and you know put it in. And that's what, that's what I'm thinking we should start
12 moving towards quickly. Commissioner La Costa.

13
14 Ms. La Costa: The downloading of the information in a Dropbox saves computer space if you
15 have a professional account and it holds 5, 6, 7 gigs like I have. But more importantly it is the
16 software so that we can highlight and make notes, annotate what we get. Otherwise we'll end
17 up printing everything and then saying oh yeah, I want to talk about this and talk about that
18 because you can't do it if you're just looking on a screen. You do have to go through the
19 printing of the paperwork and I believe in recycling and using as little paper as possible. So
20 having the iPads or whatever tablet available at the meeting and then only having it here
21 because I don't want the responsibility of someone breaking into my car and stealing it,
22 et cetera. But again, it's the software that drives it that is gonna be important for me so that I
23 can make annotations so that when I flip it up I can see, oh yes this was important to me and
24 here are my notes.

25
26 Mr. Robinson: Commissioner Carnicelli.

27
28 Mr. Carnicelli: Yeah, I'm just gonna concur with that is right now technology is that jump drive is
29 almost last, you know, yesterday's technology. You know it's like it all exists in the Cloud now.

30
31 Mr. Robinson: Okay.

32
33 Mr. Carnicelli: But the part that you brought up with you take notes and highlight and everything
34 like that, and like Commissioner La Costa said as well, is that would be the biggest thing if we
35 could take that with us. Like you know, if I'm highlighting something, if I'm writing on something
36 in my computer you know in the Cloud is my personal notes what I'm gonna see when I get here
37 and there's a laptop or a notebook or whatever it is in front me. So that would be my
38 preference. I get that you know it's gonna be you know whatever there's a cost to everything.
39 So you know that would be my perfect world.

40
41 Mr. Robinson: Is I don't hear anybody needing to take the iPads home is that true?
42 ...(inaudible)...

43
44 Mr. Spence: That was gonna be my question.

45
46 Mr. Robinson: Yeah, which is good. So that you know for liability I think that's important.
47 Commissioner Hudson.

48

1 Mr. Hudson: For myself I absolutely hate carrying those things around especially when we have
2 to park down the street. I would definitely like to be able to access through the iCloud which is
3 what the modern age is like. That's a little bit archaic. As far as taking the laptops or iPads
4 because we're not getting laptops home we don't need to do that. We just need to be able to
5 access our stuff when we come here. And she's right, because when I go on the Cloud I
6 highlight a lot of stuff. The difference is I'll print out only those pages that I want. It would be
7 better to be able to have it actually here. You have a resource in Jacob Verkerke who I've
8 worked with in the past. He's actually quite capable, him and his staff of setting something like
9 this up. I have no doubt of that. Thank you

10
11 Mr. Robinson: And I want to comment is when we do that I want to see if we're able to, you
12 know the Cloud if we're able to keep our notes to ourselves, if the Cloud isn't a...become a
13 public, you know, type of product. Thank you.

14
15 Mr. Spence: No,...(inaudible)...

16
17 Ms. Thomson: Chair, thank you. That was a terrific delivery. That's exactly what was going
18 through my mind is that those are gonna be public documents are gonna be part of this
19 commission's record and if challenged, yeah, they become part of the court record as well. So it
20 would...it's really the same as your paper notes too. Those are additionally are part of the
21 record, however, you know, like we all stress again, you know, bring those, bring your thoughts
22 with you, put them on the record so that the transcript of the hearing is where everything is
23 consolidated. But yeah, you're a nine-member commission, if nine members are making notes
24 on the Cloud that creates nine, it creates ten, the original plus nine versions of the documents if
25 they've been altered at all. It is part of your public record.

26
27 Mr. Carnicelli: Wow.

28
29 Mr. Spence: And Mr. Chairman, if when she says altered, I mean, I love Acrobat 'cause when I,
30 when I do work in Acrobat, I'll type my own notes and stuff like that. So what she's referring to
31 is all of those notes are all discoverable. You would get, we would get subpoenas for all nine
32 commissioners iPads and whatever notes that you have typed in on that staff report or that EIS
33 or whatever the case may be. Those subpoenas as you know come both from applicants who
34 disagree with a decision that this Commission's made or people who are intervenors or you
35 know members of the environmental community that also disagree with whatever. It could
36 come from any direction. So that's why I carry two phones. This is my work phone that I do
37 work on. This is my home phone that I do no work on. This one's not discoverable or they
38 could probably try. This one is most definitely discoverable.

39
40 Mr. Robinson: Okay, Hillary.

41
42 Mr. Spence: ...(inaudible)...

43
44 Mr. Robinson: Commissioner La Costa you have a question?

45
46 Ms. La Costa: Yes, so in Acrobat, I also use Acrobat, but I only have one phone 'cause I don't
47 do anything I shouldn't. Anyway, if you use Acrobat you can dissect pages so if I have
48 50 pages and I want to print two then I take those out I copy them and then I make notes on

1 those. If that information included discoverable so that we should not even be doing that?

2

3 Ms. Thomson: Thank you Chair. I think that printing out, taking notes, all of that, there's no
4 prohibition in doing that. I do it regularly as well either electronically or a hard copy. Yes,
5 they're a part of the Commission's records. If there are things that you are considering in your
6 evaluation of an application.

7

8 Mr. Robinson: Commissioner Kahu Hill.

9

10 Kahu Hill: It's really good that you shared about the Cloud and that any notes that we would
11 make would become public record and I feel that we should be able to make notes and we all
12 bring something. Everyone brings their own and to be able to be as fair as we can and we are
13 to make decisions so I'm not real comfortable with just personal notes and thoughts and looking
14 through things that that would become record even before it was brought to the moment in time
15 we're in.

16

17 Mr. Robinson: You know, it's our notes, if once we're leave here if it's not subpoenaed, you
18 know if we shred it or we recycle it, it's not something that you know, we're supposed to hold or
19 keep you know, and notes are usually vague and unless it directly affected something, you
20 know...I recycle all my paperwork. Almost every meeting I send it over and get it recycled and
21 we all take a little notes right? We remind ourselves to ask a certain question, right? You know,
22 zoning, what is the zoning of that? And so, you know, as you know when you go to court, you
23 have when you go to testimony, you take a piece of paper and you're giving testimony well then
24 that piece of paper, you know, the other side can then take and say, because you took that up
25 to stage with you. But when you're on the desk here, I don't know, it would be kind of difficult
26 you know for them to ask for every single thing we scribble on and it hasn't happened yet since
27 I've been here.

28

29 Mr. Spence: Right. And just a comment Mr. Chairman?

30

31 Mr. Robinson: Director.

32

33 Mr. Spence: Corporation Counsel reminds all the Directors to remind all of their Staff, write your
34 emails or in this case your personal notes as if somebody else is going to read them. As if
35 opposing counsel is going to read them. So it's fine to write notes to remind yourself to ask
36 about the zoning, remind yourself to do this or what about that, what's the validity of this RFS or
37 you know those kinds of things. If you think a testifier is just, you know belongs in an insane
38 asylum don't put that in your personal notes. That's not a good idea because somebody else is
39 going to read that.

40

41 Mr. Carnicelli: I gotta change my note taking.

42

43 Mr. Robinson: Commissioner Hudson.

44

45 Mr. Hudson: In another lifetime we used to carry around little notebooks in the back of our
46 pocket and on these notebooks we would take notes on the cases and stuff like that. Now this a
47 notebook handwritten and those notebooks were not constantly but often enough to be subject
48 to subpoenas. So I learned a long time ago that what I write everybody can read. But also

1 learned a long time ago that whatever you do you're on camera. So if I'm writing something I
2 understand that other people are gonna be reading it. If I write something in the Cloud I know
3 that I'm gonna have to be able to answer for it. Discretion, common sense these things can
4 work as we long as we take it from the point of view that unless you're in the bathroom your life
5 is public. Thank you.

6
7 Mr. Robinson: So to sum it up, we'd like to have iPads, we'd like to access, and like to have
8 them here. Commissioner Carnicelli.

9
10 Mr. Carnicelli: Another request would be as large of a screen as possible.

11
12 Mr. Robinson: With stand, right. We also want a stand.

13
14 Kahu Hill: Seventeen inch.

15
16 Mr. Carnicelli: The stand, 'cause for me is obviously we're gonna be looking at a lot of plans,
17 pictures, details and the last thing you want to do is expand it and then okay, then I gotta scroll,
18 you know I gotta move it around to be able to see and you don't see it in the context. So as
19 large a screen as possible would be good for me. I mean, I also...my desktop I have three
20 screens. You know I'm a visual person I do it that way, so this would be, you know limiting. So
21 but I'm game.

22
23 Mr. Robinson: Anybody else?

24
25 Mr. Wollenhaupt: Could I?

26
27 Mr. Spence: Kurt came here with some...can we ask him?

28
29 Mr. Robinson: Kurt would you like to comment. We're going to have public testimony, but
30 would you like to comment on this prior to that?

31
32 Mr. Wollenhaupt: Well, this is very simple. This is just an example of one project, two volumes
33 Draft EIS. Now normally in the past we would have given all the Commissioners this. This
34 would have all gone to recycling. Then this all comes back as a Final EIS then it goes back to
35 recycling. Then when what we do is we write a staff report, we either recopy this again because
36 we have to reference this or we take huge sections out of here and then copy the traffic report,
37 copy the archaeology report so the staff report becomes this big. So this is about \$800 for a set
38 to copy. So this is just an example of what we're trying to somehow minimize.

39
40 Mr. Robinson: So what you're saying is we'll be affecting job security.

41
42 Mr. Wollenhaupt: Maybe a FedEx—

43
44 Mr. Robinson: I don't want to get involved in layoffs, that's not our—

45
46 Mr. Wollenhaupt: I don't know if Carolyn...she likes to copy. So that's just the reality.

47
48 Mr. Robinson: Thank you Kurt.

1
2 Mr. Spence: Mr. Chairman?
3
4 Mr. Robinson: Director.
5
6 Mr. Spence: So Commissioners what I'm understanding is you still want paper everything sent
7 to you but you want electronic here is that? Okay, then I'm...I've heard both.
8
9 Mr. Robinson: It's I think what we discussed Commission is that we can get our agendas and
10 our packets printed if we wanted ourselves online and I think what I'm hearing is that we'd like
11 our agendas on paper when we come for the meeting but then have just iPads that we walk in
12 here. So we can walk in with nothing except maybe our agenda that we carried home with us to
13 verify, but again, everything is online. Am I mishearing anything?
14
15 Mr. Spence: Well, I was hearing Commissioner Hudson say he doesn't want to take that thing
16 home, he doesn't want to carry it with him.
17
18 Mr. Hudson: No I don't want to—
19
20 Mr. Robinson: We are not taking the iPad home.
21
22 Mr. Spence: Oh, you don't want to take that...okay, awesome.
23
24 Mr. Robinson: So we would like paperless except for the agenda. Yes.
25
26 Kahu Hill: I'm not in support of complete paperless. I think it's great to go green and this is
27 really important but some of the papers I think it's good to have in front of us for those that want
28 to refer to it. If we're on a screen and we have to go from here to there and it might even be
29 more time consuming. So things that we need to have like the size of this packet today was
30 great. That was useful.
31
32 Mr. Robinson: Kahu Hill, I think what we're saying is we can print out what we choose off line
33 and everyone can do and I think if that becomes a burden, some maybe we can email Carolyn
34 to say can you print certain things out for me to have a meeting is that something instead of
35 trying to print everything out for us that don't need it.
36
37 Mr. Spence: That creates an additional burden on staff to do that.
38
39 Mr. Robinson: Okay, so it's either all or nothing?
40
41 Mr. Spence: I think it's pretty much all or nothing. I mean we can continue to mail out your
42 agendas but if we're going to have...if we're gonna have big documents, I mean those will be
43 available for download.
44
45 Mr. Robinson: Kurt would you like to--
46
47 Mr. Wollenhaupt: One idea is the staff report usually can be between say five to well maybe
48 50 pages for a bigger project and the recommendation maybe ten. But then references to all

1 the exhibits—

2

3 Mr. Robinson: Exhibits.

4

5 Mr. Wollenhaupt: --that's what really is the issue, you know these giant 50-page traffic reports
6 or 200-page archaeology reports and 300-page...review. So that's kind of –

7

8 Mr. Robinson: So Kurt is here's the question. I have nine commissioners if they two of them
9 you know always want to have all those printed out, could you guys prepare that for them before
10 the prior agenda and then the other seven you guys actually save time or is it you want to print
11 out nine every time?

12

13 Mr. Wollenhaupt: Now that's, that's a management decision how customized that each
14 commissioner is going to want to be.

15

16 Mr. Spence: I'd like to talk to Staff about the practicalities of providing some with one thing,
17 some with something else or putting out just the staff report and downloading, I mean, then
18 we're starting to get more complicated as we're right now...we throw everything in the copier
19 push print nine copies, boom you're after a while you wait and it's done, shove it in the envelope
20 and you send it to all of our commissioners. As we're now we're talking about okay,
21 individualized, some people get this, some people get that and it becomes really complex and
22 you're gonna have, you're gonna have times where things are missed. And that's my concern
23 on that as well as the additional time taken.

24

25 Mr. Robinson: Commissioner La Costa.

26

27 Ms. La Costa: Do you have any idea how much money is spent on paper in your Department
28 every year?

29

30 Mr. Spence: Carolyn does not. She does the...yeah, we go through boxes.

31

32 Ms. La Costa: Okay, since I have been here, I have a full banker's box full of documents from
33 here and that's only been for this is meeting number four for me.

34

35 Mr. Spence: Right.

36

37 Ms. La Costa: And I see all that paper and it gets shredded because there are a lot of
38 documents that nobody else should see and it's just every time I get it it's like look at these trees
39 that get used when we could have this printed for the...so that when we come we a printed
40 agenda and anything else is...and if it's in PDF Acrobat you can do find, put in a word and it can
41 take you to the page that you want to look for.

42

43 Mr. Spence: Right.

44

45 Mr. Robinson: Kurt.

46

47 Mr. Wollenhaupt: Well, these are, if these were sent out these are between \$500 to \$800 to
48 print. So if we have 17 copies you can just...and now, you could say well, that's too bad the

1 applicant has to pay it.

2

3 Mr. Robinson: Okay, is guys we're gonna take a quick ten-minute recess and let Will confer
4 with his Staff. Thank you.

5

6 A recess was called at 10:37 a.m., and the meeting was reconvened at 10:57 a.m.

7

8 Mr. Robinson: ...is in session. We're currently on Item E, and after some consideration is we're
9 gonna go ahead and we're gonna let the Planning Department do some more research as far as
10 public availability for everything. And the Director will get back to us. But while we're
11 discussing that I'd like to open up the floor at this time who would like to testify on the subject.
12 Hi, please state your name you have three minutes.

13

14 Mr. Tom Croly: Aloha Chair. My name is Tom Croly and I'm speaking on my own behalf and I
15 just wanted to take the opportunity to thank the Department for what they implemented in the
16 past year where the agendas include the links to the department's report and so forth. I find that
17 tremendously useful to understand what the issue is that's gonna come before...just the agenda
18 and reading doesn't necessarily tell the public what are they hearing. But when you can click on
19 the thing and go to the report and understand what the item is, it's tremendously useful for a
20 member of the public to be able to then comment and have your comments be relevant to really
21 what the issue is. Whether it's a bed and breakfast, a short-term rental, a major project that's
22 taking place, all of those are great. And having that ability to have those links on the agenda is
23 great and I hope that all of the commissioners are already taking advantage of that.

24

25 I did have a suggestion for Commissioner Hill. If you wanted paperwork to look at on this type
26 of thing—

27

28 Mr. Robinson: Croly, can you not single out commissioners and just say that the planning
29 commission as a whole.

30

31 Mr. Croly: I appreciate...I have a suggestion for the commission. If they needed paperwork to
32 look at that it be available in the Department just as it would be available to any member of the
33 public to go review the paperwork in the Department. But refining the ability to view these
34 things on an iPad in one way or another certainly not just benefits you guys, but it benefits the
35 public as well to be able to access that information and truly understand the project. Sometimes
36 people want to be here, and they want to comment on the project, but they don't even know
37 what the project is, they don't even know what's been proposed. But having that information
38 available online the way that it is now and hopefully will get better in the future, it really just
39 helps everyone and that again, I ...for whoever was involved in creating putting those links in for
40 the agendas I couldn't be more grateful. So thank you.

41

42 Mr. Robinson: Thank you.

43

44 Mr. Michael Spalding: Are you taking comments on—

45

46 Mr. Robinson: We're taking just comments on Item E. Please state your name and you have
47 three minutes.

48

1 Mr. Spalding: Michael Spalding. Chairman, Planning Commission Members and Staff, just
2 listening to the discussion I think it's imperative that you allow the Commissioners to take these
3 devices home with them. I think that would make it a lot easier and just doesn't seem, make
4 very much sense to hold them here in the vault. Let them use them how they're supposed to be
5 used. Thank you.

6
7 Mr. Robinson: Thank you. Any questions? Okay, seeing none. We are done with Item E.

8
9 Mr. Carnicelli: Actually Chair if I could?

10
11 Mr. Robinson: Yes, Commissioner Carnicelli.

12
13 Mr. Carnicelli: If I could Chair, just since the Department is gonna go off, couple just...you know
14 rather than just saying going to do research, a couple of things that I would like to see is what
15 are other jurisdictions doing? The other part too, just knowing you know what I know about the
16 budget process, what's going to be the timing of this. I think that would be very relevant to the
17 conversation because if we're looking at okay, it's not in this year's budget then we're looking at
18 okay, it's not until March of next year that we put it in the 2020 Fiscal Year Budget. So I mean,
19 what would just be the timing of it?

20
21 And then also rather than just there being something portable what if it's...there's I don't know
22 11 desktops sitting here, you know and not that the screen would be like this so I can't see
23 anybody but the screen being lower, but again, go to Palo Alto, go to someplace in the Bay area
24 that's been doing this for you know a decade plus and see what they're doing and really try to
25 cull from them. So that's rather than being like okay, do the research on just iPads I would just
26 like to see it be what's, you know the endless possibility and then maybe bring it back. So that's
27 all Chair. Thank you.

28
29 Mr. Robinson: Commissioner La Costa you have something to say.

30
31 Ms. La Costa: Mahalo Chair. In thinking about this too, not only would we save paper, but the
32 screens larger if we have blueprints or things that are...have minutia we should be able to have
33 them in front of us because it is very difficult regardless of the size of your screen to go back
34 and forth and look at things that are important or elevations. So my last thought is to have the
35 agenda printed, any blueprints printed and everything else in the Cloud.

36
37 Mr. Robinson: You know it's...and Commission it's, you know it's, it's we can go over this with a
38 fine pencil but this, that, this, that is just going to add on layers of what we're trying to do and
39 what we're trying to accomplish, we're able to print. I think what the Director is going to do, he's
40 going to look at what the LUC does. The LUC does everything we do, just you know larger lots,
41 you know, bigger projects, but you know, they look at a lot of stuff. So let's take a look and see
42 what they come back with, see what other people do and see what kind of compromise you
43 make. And he's also gonna check on the legality 'cause what I'm hearing there's always gotta
44 be something paper turned in all the time. You know a person doesn't have to have a computer
45 to get information from the County. So we just gotta figure it out. You know we'll take our time
46 and nothing's going to happen, you know, tomorrow and hopefully the budget...but you know,
47 let's let the Planning Department come back with some recommendations. Kahu Hill.

48

- 1 Kahu Hill: Mahalo Chair. Just wanted to also suggest in looking into this is some people have
2 iPhones and iPads, other people use PCs and just being able to really look at the technology to
3 make sure it's easeful for everyone to learn.
4
- 5 Mr. Robinson: Yes, and you know I think it's going to be helpful too guys is I mean the
6 hyperlinks like the testifier mentioned people can now be in our audience and they can pull up
7 these hyperlinks and be informed instead of coming up and hearing testimony that they're
8 completely wrong because they're looking at two months ago, you know information. I don't
9 know how many times I've heard people not even talk about the right, the right zoning or what it
10 was for and I think as we go forward these hyperlinks are definitely an asset for all of us.
11 Director do you want to add anything before I close this?
12
- 13 Mr. Spence: No, if the equipment is going to staying here, it kind of resolves the issue about
14 loss and personal responsibility. We will look at tablets, at larger screens for Mr. Carnicelli
15 and...
16
- 17 Mr. Robinson: Three.
18
- 19 Mr. Carnicelli: Three screens in front of me.
20
- 21 Mr. Spence: Bullet proof. And we'll iron out some of the kinks with it and report back to you.
22
- 23 Mr. Robinson: Okay, thank you.
24
- 25 Kahu Hill: One last thing.
26
- 27 Mr. Robinson: Yes, Kahu Hill.
28
- 29 Kahu Hill: Maybe there's also a thought that if they're building a new, a new offices for the
30 planning commission that's coming in the future to actually design that in the new desks and
31 keep that in mind 'cause we are moving there. We're already there in technology.
32
- 33 Mr. Robinson: I think that would be great but for 24 meetings that might be a little economic
34 cumbersome for our County. You know if everybody uses the same meeting rooms and we
35 kind of rotate it, every commission, where we sat in the planning, I think to do that, but for us
36 just to do it twice a month that would, I think that would be a little expensive.
37
- 38 Kahu Hill: No, I was saying if they're actually building this in the new parking lot which I heard
39 things next door that actually could be built in so you could open the desks.
40
- 41 Mr. Robinson: Put it in the desk.
42
- 43 Kahu Hill: And take your iPad, yeah, or you close it or have it there or not have it there and still
44 have a flat desk. Could have a different kind of desk.
45
- 46 Mr. Robinson: Yeah, I hear you.
47
- 48 Mr. Spence: We're not building anything like tomorrow.

1
2 Kahu Hill: In the future.

3
4 Mr. Robinson: Yeah.

5
6 Mr. Spence: That's a...it's a good consideration when they build...start on this new building.

7
8 Mr. Robinson: All right moving onto the next item, Item F, and is we're gonna go through these
9 items but just let you guys know it's, it's my feeling is because we deferred Item No. C which is
10 our powers and things that we wanted to get stuff, it's I wanted to go ahead and try to defer
11 these items but it is a public hearing we will go through the process and we will hear from the
12 respective people. So Director if you please.

13
14 Mr. Spence: Okay. Commissioners with us this morning we have Mr. David Raatz. He is
15 going...you have on your public hearings you have three different items both of them are
16 amendments to the County Code. All of them are amendments to the County Code and Dave
17 will got through these one at a time and we'll go on from there.

18
19 **F. PUBLIC HEARINGS** (Action to be taken after each public hearing.)

20
21 **1. MR. WILLIAM SPENCE, Planning Director, transmitting proposed**
22 **amendments to Title 19 of the Maui County Code to allow for the temporary**
23 **extension of any State Special Permit, Conditional Permit, Bed and**
24 **Breakfast Home Permit, Short-Term Rental Home Permit, or County Special**
25 **Use Permit while an application for the permit's extension or renewal is**
26 **being processed, unless the applicant causes substantial delay in**
27 **processing. (D. Raatz)**

28
29 Mr. David Raatz: Thank you. Good morning Chair and Members of the Commission I'm
30 David Raatz, Administrative Planning Office, and first of all I'm here to request your
31 recommendations on a proposed land ordinance referenced in a memo that hopefully you have
32 before you dated June 12, 2018, titled "Temporary Extension of Permits". And I'll just briefly
33 provide an overview.

34
35 The purpose of this bill would be to allow for a permit's temporary extension when an application
36 for extension or renewal is being processed unless the applicant is causing a substantial delay
37 in processing. So for the record the title of the proposed bill is a bill for an ordinance relating to
38 permit extensions and renewals which is attached to the memo.

39
40 The Department thinks this bill would establish a greater degree of fairness in the County's land
41 use processes, encourage the timely submittal of applications for the extension or renewal of
42 permits that do have expiration dates and would further objectives of the General Plan. And
43 again, because this is for a countywide land use ordinance the Council can't consider the bill
44 until it receives the findings and recommendations from all three planning commission and
45 you're the first planning commission that we're taking this to.

46
47 Your options when you decide to take action on the bill are referenced on Page 2 of the memo.
48 Number one, you could recommend approval of the bill as drafted in its current form before you.

1 Number two, you could recommend approval of the bill with amendments. Three, it sounds like
2 you may be doing today vote to defer action to gather specific additional information, and finally
3 could recommend that the Council disapprove the bill.

4
5 The bill itself is very brief. It just goes into the five chapters of the Comprehensive Zoning
6 Ordinance where we reference the type of permits that do have expiration dates so that the
7 concept of needing to apply for a renewal for an extension would be applicable.

8
9 So the first one is in Section 2, Chapter 19.30A of the Maui County Code, that Section 2 of the
10 bill, when there's a State Special Permit issued pursuant to HRS Chapter 205. And in Section 3
11 of the bill we reference Chapter 19.0 excuse me, 19.40 of the Maui County Code which is
12 Conditional Permits. And we go on to reference in Section 4 of the bill Chapter 19.64 which is
13 Bed and Breakfast Home Permits, then Section 5 of the bill is Chapter 19.65 of the Maui County
14 Code which is Short-Term Rental Home Permits, and then finally we reference Special Use
15 Permits which is in Section 6 of the bill and that is Chapter 19.510 of the Maui County Code.

16
17 And as you'll see the formatting it's what we call the Ramseyer format which most of the
18 commissioners have seen before where proposed new text to the Code is underlined and text
19 that is being proposed for deletion is in brackets. So again, the basic concept if somebody gets
20 their renewal or extension application in to us in time, we would allow for the existing permit to
21 remain in effect if this bill passes. So somebody who has some sort of transient
22 accommodation and is applying for an extension or a renewal and they get it in in time we would
23 allow them to continue operating, they could remain in business and we think this would
24 encourage timely applications for renewals and extensions and reward the applicants and
25 permittees who are trying to comply with the County Code. Thank you very much.

26
27 **a) Public Hearing**

28
29 Mr. Robinson: At this time, we'll take public testimony on the item. Is there anybody here like to
30 testify? Welcome back.

31
32 Mr. Tom Croly: Aloha Chair, Tom Croly. It just appears to me that this is codifying a practice
33 that's been in place for many years and I am in full support. Of course, always my goal is that
34 people who want to make short-term rental uses are doing it under the law and this helps that
35 make that that compliance easier and I'm in full support of it. Thank you.

36
37 Mr. Robinson: Thank you. Any questions? Director, would you like to...

38
39 Mr. Carnicelli: Close the public hearing.

40
41 Mr. Robinson: Sorry, at this time I'd like to close public testimony.

42
43 Mr. Spence: The comment was that this is a long time practice. It's just codifying it. The
44 problem comes sometimes when people come in and they apply to no fault of their own their
45 applications get stuck past their deadlines for renewal and so we're not gonna shut people down
46 just because something happens that is not their fault and not their responsibility and out of their
47 control. So this is the way we've practiced this for decades but it's just clarifying it in the Code.

1 Mr. Robinson: Discussion? Any questions? Commissioner Kahu Hill.

2

3 Kahu Hill: Mahalo. David I wanted to ask a few questions. Does this amendment mean that
4 the Planning Commission will no longer review temporary extensions and that all of this would
5 be approved administratively.

6

7 Mr. Raatz: No that's not the case. Thank you for the question. Well it just means while an
8 application for an extension or renewal is pending and it's still before the Planning Commission
9 or the County Council or the Planning Director whoever has the authority that the existing permit
10 would be allowed to remain in effect until the appropriate authority makes a decision up or down
11 on that renewal or extension application.

12

13 Kahu Hill: I have a couple more questions.

14

15 Mr. Robinson: Yes, yes please.

16

17 Kahu Hill: Is there a format or a template I don't know what it would be called that applies to the
18 time parameters that are usually involved in a temporary extension?

19

20 Mr. Raatz: No, it can vary widely depending on the circumstances.

21

22 Kahu Hill: Okay, and I also noticed, I just want to be educated on it the proposed amendment
23 that as mentioned about the State Special Permit and I'm wanting to know how does the State
24 Special Permit come under the purview of the Maui County Planning Department?

25

26 Mr. Raatz: Thank you for the question. That's just a system that's been set up by the State
27 government where on certain matters the County authority has been granted the authority to
28 issue State permits. And it does get a little confusing. You have a County entity issuing a State
29 permit but that's just the authority we've been granted by the State in certain instances.

30

31 Kahu Hill: Mahalo David. One last question. Could you clarify the length of time that is
32 considered a substantial delay?

33

34 Mr. Raatz: That's a very good question and it's really impossible to quantify. It's kinds of just an
35 out for the County frankly if an applicant is not acting in good faith, not providing requested
36 information in a timely fashion. Then the Director would have the authority under this proposed
37 ordinance to step in and say, okay, we're not going to allow that preexisting permit to continue in
38 operation because we've done our best to try to process the application for renewal or extension
39 and you're not cooperating. So we're gonna put an end to that permit that has technically
40 expired already.

41

42 Kahu Hill: Mahalo.

43

44 Mr. Spence: Comment Mr. Chairman?

45

46 Mr. Robinson: After. No, one second. Yeah, yeah. Commissioner La Costa you have
47 something to comment on that?

48

1 Ms. La Costa: Thank you. I have a few questions for David if I might please. When you talked
2 about substantial delay, thank you Kahu Hill, do I direct it to...

3
4 Mr. Robinson: If you want you can, it's up to up.

5
6 Ms. La Costa: Okay, I'll toss up for whomever can answer these questions and again, forgive
7 my ignorance because I'm new on the commission. So there is no time frame for substantial
8 delay. It's not 30 days or 45 days or 60 days and it is discretion of each of the planner to decide
9 what is substantial?

10
11 Mr. Raatz: Thank you for that question. Yeah, we struggled with this issue a little bit within the
12 Department before proposing this bill and we concluded that putting in a specific number of
13 days or months would be kind of arbitrary and not really effective in furthering the policy we're
14 trying to codify here. So it would ultimately be under the Director's discretion to use good
15 judgment and apply a reasonable standard of substantial delay.

16
17 Ms. La Costa: Okay, but reasonable is different for everyone. So I have an issue with this
18 because if you have 15 permits and other people have five permits then the people who are
19 waiting longer I don't think it's, I don't think it's a fair treatment by not having a baseline or
20 having a parameter in which everyone knows to operate and leaving it up to Mr. Spence to
21 decide whether or not this should be thrown out. So to me that needs to have...substantial
22 needs to be defined whether it's 45 days, 30 days, whatever so everyone is on the same playing
23 field.

24
25 Mr. Raatz: Thank you.

26
27 Mr. Robinson: Commissioners any other questions?

28
29 Ms. La Costa: I'm sorry, I have a couple more.

30
31 Mr. Robinson: Sure, no it's—

32
33 Ms. La Costa: So when someone submits a permit how long is the timeframe for it to be
34 reviewed and/or commented upon?

35
36 Mr. Raatz: We can't give a firm answer to that. Every circumstance is different. Partly based
37 on who the authority is, again whether it's one of the planning commissions, the Planning
38 Director or the County Council and partly based on the type of permit it is there's different levels
39 of review for different types of applications. So there's not a standard answer to that question
40 unfortunately.

41
42 Ms. La Costa: Okay, so unlike building permits it have a six-month expiration period?

43
44 Mr. Raatz: I don't think we have the equivalent for the types of permits that we're talking about
45 here.

46
47 Ms. La Costa: Okay, the reason that I'm asking is as I reviewed this it said that the applicant if
48 we move to the second...Section 3, that they have to give 90 days prior to the expiration. How

1 do they know if it's going to expire if they don't know the timeframe under which they're
2 operating?

3
4 Mr. Raatz: Okay, thank you for the question. So for the permits we're talking about now the
5 permitholder will know the expiration date because they've been granted for a specific duration.
6 So in some cases as a courtesy we'll provide reminders and encourage people to submit an
7 application for a renewal or extension when their permit is about to expire. But that part it's
8 clear because we're talking about permits in this case that are issued with a very specific ending
9 date.

10
11 Ms. La Costa: So just from my standpoint if I submitted something and it had an expiration date
12 of six months and I didn't hear from you or didn't have any action after three months then I
13 would have to go through the mailing of all of these to my neighbors because I would not expect
14 it to be finished in the next 90 days? I guess, I guess what it is is 90 days is a really long period
15 of time if you have the six-month period so half way through you have to get ready to renotify
16 everybody. It would seem to me that that...that number should be short.

17
18 Mr. Robinson: Yeah, I think that's a, that's a little different than what they're talking about.

19
20 Mr. Spence: Yeah.

21
22 Ms. La Costa: Okay.

23
24 Mr. Robinson: Yeah, that's a non, that's a non-applicant. So but is...do you have another
25 question? The Director wants to hit a couple points from your, your...our questions.

26
27 Ms. La Costa: Nope, I'm good.

28
29 Mr. Robinson: Director. And I think he wants to start with you commissioner.

30
31 Mr. Spence: Just about what constitutes a substantial delay and Dave reported that, you know,
32 it's gonna vary from applicant to applicant. For instance, let's say a particular use needs a
33 Conditional Permit as well as a Land Use Commission Special Permit. The Land Use
34 Commission Special Permit is under your jurisdiction, under your authority, but the Conditional
35 Permit is by the Council. For instance, Haiku...Haiku Mill wedding business she needed both
36 permits one is under your jurisdiction and let's say that's timely given. They're not in control,
37 we're not in control of what the Council does. They could take six months, eight months to get
38 to her application. We're not in control of those kinds of delays yet the applicant is doing what
39 they can. Other example, what if...I don't know why but there's a state law or something where
40 SHPD now has to review everything. SHPD can take up to a year to review different
41 documents. That's not in the control of either the County or the applicant. So there may be a
42 substantial delay even though the applicant is acting in good faith. So there could be a wide
43 variety of delays and the applicant still is acting in good faith. The documents I see that Staff
44 sends me when we close a file or an application is when we get in an application and we're
45 reviewing it and we ask for certain information. The applicant doesn't reply. Couple months go
46 by, we send them even six months goes by, we send them a notice via certified mail if you do
47 not provide us with this information within 30 days we're going to close your file. So then
48 30 days goes by, we either get that information or if we don't we send them another certified

1 letter saying your file is now closed and you no longer have an application with us. So staff
2 stays on top of their applications and timely requests for information. The same thing with...I
3 hear if somebody comes in to extend their permit and they don't provide us with the information
4 and after sending them a certified letter saying okay, we need this information they don't do that,
5 you know we'll...we do it with certified letters so they know exactly what has been requested
6 and are given deadlines by which to respond and if they don't then that's our discretion to say
7 okay, you're permit is terminated. It happens occasionally, it's not often, but we do do that.

8
9 Mr. Robinson: Any further questions? Okay, seeing none Commissioner Hudson.

10
11 Mr. Hudson: Just like to really briefly talk to that for just a moment. The things that the
12 applicant is not in control of I understand. I mean, there's no problem there. But I'm thinking
13 that we have to 'cause I agree with her, we have to limit the amount of time that we give an
14 applicant to respond. I'll give you another story according to Larry. I had to drop a student off to
15 take a test and I said to the person I dropped off, well when can I come back for the student?
16 Well, there's no time limit on this test. We don't know how long. My next response was well,
17 then I'll be back tomorrow to pick him up. The guy said, whoa, whoa, whoa, no, no, no, he'll be
18 done before tomorrow. Okay, so we've established that at some time between now and
19 tomorrow he's going to be done. Yes, okay, so then we worked out I'll be back in two hours.
20 That will be fine. The timeline for the applicant to respond I think is the issue whether it's
21 60 days or 30 days or whatever. I think that's the issue not the fact that it gets stuck in the mire
22 that is known as the bureaucracy that we live in. That's my concern. Thank you.

23
24 Mr. Robinson: Corp. Counsel.

25
26 Ms. Thomson: I wanted to point out that it looks like to me that a completed application would
27 have to have been submitted within the timeline. So the applicant has to have submitted the
28 application for extension prior to this, this kicking in where you would have basically a grace
29 period while scheduling is going either before a board or a commission or the Council. So it's
30 not...I don't see it as a free ride of an incomplete application just being extended. They would
31 have to have done...the applicant has to do their work in advance.

32
33 Mr. Spence: We definitely hold applicants accountable. This isn't something we just take
34 lightly. We require information and part of what we do...what I'm trying to explain with the
35 certified letters and everything is hold them to some kind of time limits. And if, and if they're just
36 not responding it's pretty evident that they're not going to respond and we'll go ahead and close
37 their file.

38
39 Mr. Robinson: So the reason why I asked that this commission defer it until our next meeting is
40 because I wanted to make sure that we understood what we're recommending to the Council. I
41 think this is an issue that has been coming up as far as applicants, as far as fairness, as far as
42 everybody sort of, you know, following the same rule, but at the same point as a commission we
43 don't want to overstep our grounds when we start putting conditions on permits, putting
44 conditions prior to these people doing that which we might be able to. You know, we might be
45 able to say well, this has to come back in front of us that the Planning Director cannot, you
46 know, unilaterally go ahead and extend this for a period of time. But, but my concern is that I
47 want to make sure that we all as commissioners understand what we're gonna say in these next
48 three recommendations to the Council 'cause they're gonna vote on it and it's you know as

1 moving forward and I don't think it's a bad thing that we decide today, I think it's just...I think it
2 would just be more helpful if we got that that one more seminar that I apologize is again on me
3 that I didn't get a chance to to get to you guys today and so that's what I'm asking today.

4
5 I'm on the mindset that a application knows when he's applicant...application is due because he
6 came forward and he's usually getting a permit. And a permit is something that somebody is
7 asking to do. It's not something that they're entitled to it's already part of regular statutes. It's
8 something that's you know, that you have to apply for. So it's I think it's always an onus of any
9 applicant to make sure that they get everything in time and nobody says they have to wait
10 90 days before or 30 days or 60 days, you know they can, they can start the process as soon as
11 they start the next one especially when something important, you know. And again, there are
12 business that you know they have a five-year permit or ten-year permit and you know,
13 management switches hands and the other management might not know that there was a
14 permit that had to be done and you know, then they get their ...(inaudible)...notice, oh by the
15 way your permit's done in 30 days. Oh shoots, you know what do I gotta get done, there's
16 education. So you know, it's...I think it's important. You know, I think there's all different
17 especially Special Use Permits you know, Health Department, you know we have a lot of big
18 permits and a big stuff so I don't want us to really be hasty and say you know this is what we
19 want to do for all of them. We want give it all the discretion and we want to give none of
20 discretion. I think, you know, I think we...something that we should look at and when we give
21 our recommendation hopefully our recommendation of this planning commission will stand on a
22 little bit more facts, a little bit more precedent so that the Council just doesn't like normally just
23 yeah okay, thanks and they already have their own agenda. You know, and that's all it is. So
24 with that being said you guys have any more questions or comments for anybody?
25 Commissioner Carnicelli.

26
27 Mr. Carnicelli: So Chair am I getting this that you are asking us to defer not just this one but all
28 three of these today?

29
30 Mr. Robinson: Yes, I am.

31
32 Mr. Carnicelli: Okay. So and the new information that we're going to get beyond what we have
33 now is the presentation under the discussion of powers and duties of the Planning Commission
34 that's what you're saying is what we're going to have. That's the new information you want
35 before we make decision on these?

36
37 Mr. Robinson: That's correct.

38
39 Mr. Carnicelli: Okay, thank you.

40
41 Mr. Robinson: Corp. Counsel.

42
43 Ms. Thomson: Thank you Chair. Wanted to point out that all three of the public hearing items
44 today fall under your powers that are granted under the Charter and it's Charter Section 8-8.4
45 that the planning commission review, conduct the public hearing and transmit your findings and
46 recommendation on the proposed ordinance change amendment to the Council within 120 days
47 of the public hearing. So in the context of what authority you're exercising today on each of the
48 three it's just under that Charter Section. It would be a good idea if you are going to defer each

1 of these three to give the Planning Department and also myself so that I can let David Galazin
2 know what information you're needing before you can make a decision or to offer
3 recommendations to Council so that when the item comes back that you know, we have what
4 you're missing today so we can get back to you.

5
6 Mr. Robinson: And again, that falls on me and I'll have that information for you guys and I think
7 you guys will be comfortable with our next meeting. You know again, it's, it's I want to be able
8 to sit down with Corporation Counsel and go over some items that we'll present to you folks for
9 the next time, the next go around and I just appreciate the consideration. Thank you. Do we
10 have a motion on the floor? Commissioner La Costa.

11
12 Ms. La Costa: I move that we defer under public hearing information F-1.

13
14 Mr. Robinson: Okay. Do we have a second? Kahu Hill.

15
16 Kahu Hill: I'll second that.

17
18 Mr. Robinson: Okay, we have a motion to defer F-1. Discussion on the motion?
19 Commissioner Carnicelli.

20
21 Mr. Carnicelli: Yeah, Chair just briefly I'm gonna speak against the motion, same reason I
22 spoke against deferring Item C. I personally don't think that that presentation is going to give us
23 any new information. We've already had that information. I just don't believe that we're gonna
24 have anything new that we don't have now in order to make a decision. So I'll just...speaking
25 against the motion. That's all.

26
27 Mr. Robinson: Thank you. Commissioner Kahu Hill.

28
29 Kahu Hill: Mahalo Chair. I just want to say there could be things that I don't know that you're
30 asking for that to have that additional information. So I think we should be able to be open to
31 get more information.

32
33 Mr. Robinson: Okay, thank you Kahu Hill. Commissioner Hudson.

34
35 Mr. Hudson: I'll vote in support of the motion. I would like substantial to be more clearly
36 defined.

37
38 Mr. Robinson: Thank you.

39
40 Mr. Spence: ...(inaudible)...

41
42 Mr. Hudson: Substantial I'm still not getting it. If it's the applicant's inactions that are causing
43 the delay I think the applicant should know straight up, hey you have 60 days, come into
44 compliance or whatever. But I don't like, I don't like ambiguous words like substantial and
45 should, these things take away from a direct, between your eyes, do it or don't do it, you're in
46 the batter's box. Thank you.

47
48 Mr. Robinson: Thank you. Director.

1
2 Mr. Spence: The motion is to defer.

3
4 Mr. Robinson: Yeah, all those in favor of deferring please raise your right hand.

5
6 Mr. Spence: That's four ayes.

7
8 Mr. Robinson: That's four. All those against?

9
10 Mr. Spence: One nay.

11
12 Mr. Robinson: And it will be deferred. Thank you.

13
14 **It was moved by Ms. La Costa, seconded by Kahu Hill, then**

15
16 **VOTED: To Defer the Matter Until After the Commission has its Discussion**
17 **on the Powers and Duties of the Maui Planning Commission.**
18 **(Assenting – P.D. La Costa, A. Hill, L. Hudson, S. Castro,**
19 **K. Robinson)**
20 **(Dissenting – L. Carnicelli)**
21 **(Excused – C. Tackett, T. Gomes)**

22
23 Mr. Robinson: Moving onto the next item, Item No. 2. Director.

24
25 Mr. Spence: Again we have Mr. David Raatz our Planning Administrative Officer transmitting a
26 proposed amendment to Title 19 regarding pending enforcement actions and other permits.

27
28 **2. MR. WILLIAM SPENCE, Planning Director, transmitting proposed**
29 **amendments to Title 19 of the Maui County Code to prohibit or suspend the**
30 **processing of an application for land use on a parcel that is the subject of a**
31 **pending enforcement action by the Planning Department. (D. Raatz)**

32
33 Mr. David Raatz: Thank you Director and Chair. And I again refer the Members of the
34 Commission to a memo dated June 12, 2018, the subject on this one is Application for Land
35 Use on Parcel that is a Subject of a Pending Enforcement Action.

36
37 The Department is proposing a bill to prohibit or suspend the processing of an application for
38 land use on a parcel that is the subject of a pending enforcement action by the Department.
39 The bill is attached to the memo. It's titled, A Bill for an Ordinance Relating to Unresolved Land
40 Use Violations.

41
42 And the concept on this proposal is that we want to do what we can to encourage compliance
43 with the Comprehensive Zoning Ordinance and if we're already taking enforcement action on a
44 particular parcel the landowner or user of that property shouldn't be able to come back to us and
45 get a new permit until we've resolved the existing enforcement action. So the attached bill is six
46 pages long but actually there's only one substantive new sentence that I can refer you to is on
47 Page 2 and it's the only underlined sentence on Page 2, we put this new standard under the
48 part of the County Code that deals with the applications and determining whether they're

1 complete and ripe for processing or not. So I'll just read this new sentence into the record for
2 the body. An application shall be deemed incomplete if it is for or relates to land use on a parcel
3 whether there is an unresolved enforcement action for a violation of the Comprehensive Zoning
4 Ordinance pursuant to Chapter 19.530.

5
6 I would point out that we would not exercise this power if it's granted for an application that
7 actually would resolve the underlying issue which could sometimes be the case, but that...that
8 wouldn't absolve the applicant of paying any fees or fines that have accrued relating to that
9 underlying issue.

10
11 And the body has the same options of recommending passage of the bill as is, proposing
12 amendments to the Council, deferring action again or recommending that the Council not
13 approve this bill. So with that, be happy to answer any questions at the appropriate time.

14
15 Mr. Robinson: Commissioners?

16
17 Ms. Thomson: Testimony.

18
19 Mr. Robinson: Oh yeah, I'm sorry. I'm being helped.

20
21 **a) Public Testimony**

22
23 Mr. Robinson: Like to open up the floor for public testimony. Anybody would like to speak on
24 the item please step forward. Welcome back.

25
26 Mr. Tom Croly: Aloha Chair. Tom Croly. And they're gonna ask you for questions so hopefully
27 I'll give you one that you can ask so that I'm well educated and that is I think that the processing
28 of bed and breakfast and short-term rental permits are handled in their own respective part of
29 the Code as opposed to this part of the Code, but are we talking about short-term rental and
30 bed and breakfast permits would be my one question related to that. And if we are, are we
31 talking about unresolved open RFSs going to your earlier discussion regarding short-term rental
32 uses that may have previously occurred without permit. So just was hoping that through the
33 discussion here I would learn exactly what the intent is. Thank you, Chair.

34
35 Mr. Robinson: Thank you. Anybody would like to testify? Seeing none, public testimony is
36 closed. Commissioners do you have any questions for the Planning Department? Yes,
37 Commissioner Kahu Hill.

38
39 Kahu Hill: Mahalo. David, I wanted to know how will this amendment aid and strengthen the
40 enforcement of violations?

41
42 Mr. Raatz: Well, it gives the landowner or user incentive to comply with the Comprehensive
43 Zoning Ordinance or any permit that's been issued by the Department of Planning or an entity of
44 the Department of Planning because again they would be ineligible for getting new permits that
45 they may want to receive until they've taken care of that underlying, unresolved enforcement
46 action.

47

1 Kahu Hill: And one other question, how exactly will this amendment improve the efficiency, the
2 reliability and the transparency?
3

4 Mr. Raatz: Well again I think it is raising the importance of complying with the Comprehensive
5 Zoning Ordinance and sometimes I think this concept is applied in any case but we want to get
6 it codified to make sure we have the legal authority. But you know if we have again maybe
7 somebody who's acting in bad faith somehow on their land and now complying with the
8 comprehensive zoning ordinance we don't want to grant them new permit. It doesn't seem fair,
9 it doesn't seem consistent with the overall principles of comprehensive planning and land use in
10 Maui County. So again, we think this furthers compliance and it rewards the good faith
11 applicants in our community.
12

13 Kahu Hill: Mahalo.
14

15 Mr. Robinson: Commissioner Carnicelli.
16

17 Mr. Carnicelli: David, the testifier, I can't remember his name, he brought up a great point. In,
18 you know, in this previous agenda item under our extensions we're changing six places in the
19 code and this particular one is only in 19.510. So why are we, we only going 19.510 and this
20 one, and other one we're changing it in six different places?
21

22 Mr. Raatz: Thank you for the question. I appreciate the testifier's inquiry as well. The intent
23 actually here is to apply this principle broadly throughout the Department of Planning and we're
24 in the section of the Code here that applies to any type of application that would be processed
25 by the Department of Planning. So it would apply to short-term rental home permits, bed and
26 breakfast home permits, anything that we're involved in. And...so again, we're in a section here
27 of Title 19 that is not specific to any particular type of permit. It's about applications. Just real
28 briefly I would say there was again some internal discussion within the Department in terms of
29 how broad to make this principle establishing that you're ineligible for new permits if you're not
30 in compliance with an existing permit or provision of the County Code. In some jurisdictions
31 they do apply this across all or many departments for instance let's say you had an enforcement
32 action with some other department of the County that would make you perhaps ineligible to get
33 a land use permit. We didn't think that was necessary or appropriate at this time but we have
34 made it as broad as possible within the scope of the Department of Planning permits.
35

36 Mr. Carnicelli: I'm still not grasping and I apologize, I'm still not grasping why we need it in six
37 areas of the code in one place and broadness...you know why does it apply in the broadness
38 but it wouldn't over there? That's the part I'm not grasping I guess.
39

40 Mr. Raatz: That's a fair question. We'll take a look at our legislative drafting principles and go
41 back and see if we're doing things a little bit inconsistently here, but in the prior bill we went into
42 those specific sections I think in part because there are actually only a handful of permits that do
43 have expiration dates on them. So we just kind of picked off those various types of permits and
44 added in the new language. For this, the intent is again to apply to everything that the Planning
45 Department does. So went into this section that's titled, General Application Procedures as
46 opposed to going into every other single chapter within the Comprehensive Zoning Code.
47

48 Mr. Carnicelli: All 137 of them?

1
2 Mr. Raatz: Right.

3
4 Mr. Carnicelli: Okay.

5
6 Mr. Robinson: Commission? Commissioner La Costa.

7
8 Ms. La Costa: Thank you Chair. The only question I had David while reviewing this is under
9 point number E, and it talks about the application, and I would like to know there is supposed to
10 be an affidavit and it's important for this because I think that this should be considered when this
11 codification is done that an affidavit certifying that notice has been sent. I personally know that
12 there are people who sign affidavits and don't do the mailings. I have been involved in that.
13 How do you confirm that they actually have done them and if not, and they said they have, and
14 if not, what is the penalty for not actually sending out that information?

15
16 Mr. Raatz: Thank you for the question. I don't have the answer on your specific question
17 maybe the Director does. But I will point out just again from a drafting standpoint that provision
18 you referenced is already in the County Code and it's not being proposed for any amendment.
19 It doesn't have bracketing for deletion or underlining for new text. But prior to your next meeting
20 I'll try to get that information in response to your question.

21
22 Ms. La Costa: Well, being—

23
24 Mr. Robinson: Go ahead finish.

25
26 Ms. La Costa: I'm so sorry. Being that this is part of the ordinance you're asking us to make a
27 decision upon then everything should be considered not just what you have ramseyered so to
28 speak so that's why I brought it to the attention because I think that needs to be addressed.

29
30 Mr. Raatz: Thank you.

31
32 Mr. Robinson: Director.

33
34 Mr. Spence: Thank you Mr. Chairman. We send out notices of public hearings. No, we don't
35 send out notices of application via certified mail, but we send out the notices of public hearing
36 certified mail and then we get the green cards, their return receipt. So we get the little green
37 cards back and so we can check to see if they have been received by the individual property
38 owner and we can go down the line and check those off.

39
40 Mr. Robinson: Commissioners? David I have a question. Can you give me an example,
41 ...(inaudible)...terms on how this is going to affect the things that you think might have come in
42 front of us the last few years? And without naming the project but assuming saying a project
43 had this and had that?

44
45 Mr. Raatz: I don't have a specific example at my fingertips unfortunately I don't...I don't know if
46 the Director does, but I know it comes up fairly frequently where a landowner will seek some
47 sort of permit relating to a parcel where we have issued a Notice of Warning or Notice of
48 Violation and it's...that hasn't been resolved and again, kinda going back to the general plan

1 principles and overriding concepts of long range planning and you know, applying the Code
2 fairly, but just doesn't feel right to be issuing a new permit on a particular land when you've got
3 an existing violation that hasn't been resolved.

4
5 Mr. Robinson: Director.

6
7 Mr. Spence: Thank you Mr. Chairman. I can't think of specific...I can think of a really good
8 SMA example which is something we're going to deal with in your SMA Rules, but as far as
9 Title 19 issues I'm not there on the day to day enforcement of things, but somebody may have
10 built a structure illegally perhaps and so we're pursuing enforcement on that and then they'll
11 come in with a building permit for another structure. And so we don't want to issue that building
12 permit for the one structure while there's this outstanding issue on another. The SMA example
13 that I have is a property on Front Street where the property owner did not build according to her
14 approved plans and did a seawall...added onto her seawall and did some repairs without
15 permission and then applies for a swimming pool. So we still have outstanding issues with this
16 landowner on the seawall and building without...not according to plans, but then we're looking
17 for ways to say no, you can't have your swimming pool until you deal with these other things.
18 So it's just...it's another, it's another tool we're looking for to bring people into compliance. But
19 then like Dave said, then they have an incentive they want their pool or they want their ohana
20 unit or whatever they want and so until they deal with the outstanding violation then they can't
21 have their other permit. So does that make sense?

22
23 Ms. La Costa: That makes sense, but that wasn't, that wasn't my question.

24
25 Mr. Spence: Okay then please reask the question.

26
27 Ms. La Costa: My question is what penalty is in place for people who do not follow these rules?
28 What penalty is...you talked about receiving the receipt—

29
30 Mr. Robinson: So is, I think you're asking about the notice for the neighbors, you're supposed
31 to give notice to the neighbors and those things is that?

32
33 Ms. La Costa: I am, and there's nothing in here that talks about it and if it is going to be codified
34 it should be included.

35
36 Mr. Spence: I'm sorry. I thought you were talking specifically about what we're trying to do with
37 this bill.

38
39 Ms. La Costa: I am and it's part of the bill, it's number E. So when you're doing a bill shouldn't
40 it be comprehensive and everything be in it.

41
42 Mr. Robinson: Well, you know it's, if you can answer it you know quickly if not we can get more
43 information for the next time we hear it.

44
45 Mr. Spence: Okay.

46
47 Mr. Robinson: And you know, and it comes to you know we're talking about this is you know got
48 big projects going on and they got a NOV on one does...is that gonna stop them from Phase 3,

1 Phase 4, Phase 5 of a eight-building project or is it going to be a discretion? You know the word
2 that we see in here is we want to have fairness across the Code. So we have to treat
3 homeowners, condo developers, hotel developers that's fairness of Code. So if we're gonna
4 say, okay well if you got one NOV we cannot give you a permit to another one that's
5 gonna...that's a huge thing, you know.

6
7 Mr. Raatz: Yeah, thank you Chair. And I would point out the language is shall, and
8 applicant...an application shall be deemed incomplete if it relates to a land use on a parcel
9 where there's unresolved enforcement action, so...

10
11 Mr. Robinson: Yeah. Director please.

12
13 Mr. Spence: If I can ask Commissioner La Costa's question now. On that Item E, this is part of
14 the requirements for application, what an applicant is supposed to do at the time of the filing of
15 the application the applicant shall file a notice of application. There's no requirement that that
16 be sent out certified so we do not have a way to verify that that notices has been sent to the
17 different people within 500 feet. It's only with the notice of public hearing that we can verify
18 because that's the certified mailing. So this particular bill is targeted at this one place in the
19 Code that we deal with on a fairly regular basis. When we do our Title 19 update we're going to
20 rewrite this entire section so things are a lot clearer.

21
22 Ms. La Costa: Thank you.

23
24 Mr. Raatz: I would just add briefly. Again, I'd point to the heading of this section, General
25 Application Procedures. So we're laying out in this part of the Code what you have to do to
26 apply for a permit. So essentially we don't apply or you don't adhere to any provision of the
27 section the penalty in a sense would be you wouldn't be eligible for the permit. You wouldn't get
28 your permit.

29
30 Mr. Robinson: Okay Commissioners. Yes, Commissioner Kahu Hill.

31
32 Kahu Hill: I just had one question for you Will. I just wanted to understand and looking at
33 something if it was a big project, but does it matter ever like you're looking at...you were giving
34 an example of a pool and a seawall, if there's an address that has two separate mailboxes, two
35 separate electric, two separate residence and they're working on an ohana and they have
36 something happen in a main house or something does that apply at all like a address who would
37 be like 12A and then 12B or difference?

38
39 Mr. Spence: It's not unusual to have two different addresses at a property since you can have
40 two different...in most circumstances you can have an ohana and those two...you have main
41 dwelling and your ohana, that ohana can have a separate address. That's not a problem.

42
43 Kahu Hill: And if it has a separate address does it...does that same kind of guidelines your
44 thoughts rules if you want to put in a pool and you didn't ask, get that permit for a seawall or to
45 protect that does that have an bearing on this? I'm just trying to understand as far as...
46

1 Mr. Spence: Well, if there's an enforcement action, say that ohana was built illegally we want to
2 be able to withhold building permits for the swimming pool or other structures that they want to
3 build.

4
5 Mr. Raatz: If I may, sorry to interrupt. Commissioner raises an issue that—

6
7 Mr. Robinson: David, proceed. David speaking yeah.

8
9 Mr. Raatz: Thank you. This issue does get to one of the elements that we are considering in
10 drafting this bill. It's currently drafted as a parcel specific prohibition—

11
12 Unidentified Speaker: Right that's the question.

13
14 Mr. Raatz: --at various stages we were thinking about making it an applicant specific
15 prohibition. If you as an individual or as a company have an unresolved Notice of Violation that
16 that would make you ineligible. But in looking at what other jurisdictions have done and what
17 we thought was a best fit with our County Code we are making it parcel specific. So there might
18 be some situations where it leads to possible unfairness or least perception of unfairness, again
19 if you're in a different unit on the same parcel and somebody else has the violation your unit
20 would be ineligible for a new permit until the enforcement action is resolved.

21
22 Mr. Robinson: Commissioner Carnicelli.

23
24 Mr. Carnicelli: Along those same lines and I think that that's a great question is project, you
25 know parcel or project. I mean, I'm sure that you guys went round and round on this. You know
26 say like parcel or project you know if you're a applicant. But there is...you know because
27 oftentimes as Chair said, maybe this is a larger project and we got more than one TMK. You
28 know so we could run into a multiple TMK thing, not just the, you know, the CPR thing, but a
29 different TMK. So how would that then change parcel if we're on a different TMK?

30
31 Mr. Raatz: Well, under that scenario Chair if I may?

32
33 Mr. Robinson: Well and also if you got a, if you got a...you went through LUC and they use it as
34 a, this LUC parcel and then to fragment from there how would you guys look at it in the big
35 projects?

36
37 Mr. Raatz: Yeah, when we're referring to parcel, we are referring to a TMK. So—

38
39 Mr. Robinson: Right.

40
41 Mr. Raatz: --again this isn't going to be a perfect fit necessarily in terms of fairness and
42 catching everything we want to catch perhaps, but again in looking at all the possible options
43 seems like parcel specific is the most defensible way of looking at this issue. We're open to
44 other ideas, but that's our proposal.

45
46 Mr. Carnicelli: Corporation Counsel, and/or project?

47
48 Mr. Robinson: Corp. Counsel.

1
2 Mr. Robinson: Thank you. Well, that would certainly...(inaudible)...you know, for what you're
3 taking a look at whether you're including multiple TMKs within, so if a...if there's an unresolved
4 enforcement issue on one parcel but the project spans multiple TMKs which is what you're
5 getting at. It could go that way. You know it can be drafted to cover those instances as well.

6
7 Mr. Carnicelli: One last thing Chair.

8
9 Mr. Robinson: Sure.

10
11 Mr. Carnicelli: And the reason why I guess I'm being a little bit digging into the minutia on this is
12 'cause just understanding that these three things that we have before us, you know, that you're
13 presenting today are just transmittals over to the Council. This is kinda our deal right, like we
14 start talking about parcel versus...the Council's not going to get into this, this level of it 'cause
15 they don't understand it. So that's why I think that it's important that we kind of address that at
16 this level here although you never know what the Council's gonna do, so...

17
18 Mr. Robinson: Commissioner La Costa.

19
20 Ms. La Costa: Thank you Chair. So in the instance that Commissioner Kahu Hill did earlier she
21 said the house and the ohana. If you live in a neighborhood as I do that have CPR lots and
22 I...my lot isn't CPR but if I were to sell half of my or my CPR portion to Commissioner Hudson
23 and he tries to build a big home and he only can live in the ohana, then if you do it per parcel as
24 that is a CPR portion of that main parcel then I couldn't do anything until his bad behavior if you
25 will is rectified. So you're punishing the CPR portion that has nothing to do with the bad
26 behavior. And how do you rectify that when you can't save your neighbor. So I sold my, you
27 know, half my property to Commissioner Hudson and he does something that's illegal and now I
28 want to build a garage and I can't because he is not complying. So he has really nothing to do
29 with me except he is a portion of the whole owner. So how do...how do you address that and
30 how do you rectify the people who are on the other portion of that CPR when they don't really
31 have anything to do with it unlike a house and an ohana under one parcel?

32
33 Mr. Robinson: And I think that's where Commissioner Carnicelli said this is where it's going to
34 be and this why I want to, to make sure we get clarification on what our powers are and what we
35 should be doing and what we should be proposing on this recommendation because it's
36 going...you know Maui's broad, there's so many different uses here, and there's so many
37 different things and I as a board we wanna try to, try to do a better job of giving a good
38 recommendation of what our thoughts are and you know we have a really good, you know,
39 broad spectrum of people. So that when it goes to the Council they have something to look at
40 and sort of say well this is what our Commission thinks, not just yeah, our Commission just
41 agrees to it. You know, and then, then the debate starts over there. I think we as a commission
42 should look into this, I think if this does carry over to the next meeting I think it gives us time to
43 go home and to think of some legislation, I mean, not legislation, but some of, some of some
44 wording that we think should be applicable to this permit. And I think every commissioner has
45 the ability to try to come up with some wording that we all feel comfortable with adopting that
46 could try to decipher it. Yeah I think this one's not a easy one. You know, I think, I think asking
47 more questions, I think going back, I think with the subjects that were brought up from our
48 commissioners I think with a deferment will give the Department more time to have more

1 clarification and be more, and more deliberate in what they're going to propose to us and say
2 you know, yeah, here's, here's what our thinking was when we did this and this is how it's going
3 to affect our questions that we brought today. And the same point we can also come back and
4 say well, here's how we think it should be done for every parcel, TMK, you know, only if effects,
5 you know, certain so much. How do we protect another person, you know.

6
7 But again, you know, you hear the County saying, well we can't let this guy keep on getting
8 NOV's and he just project and he doesn't do anything, we want to try and control. But at the
9 same sense, it's always not that simple, you know. And if he has a NOV and he wants to
10 develop something on that property that's one thing, on that parcel, but is the parcel, you know,
11 does it have multiple things on it. Is it already considered a rental, you know. You can, you
12 know...but unfortunately one bad action, you might you know, you might have collateral
13 damage, you know, and so maybe we can think of something that could soften that blow, you
14 know before we hear it again. Commissioner La Costa.

15
16 Ms. La Costa: I didn't mean to infer that Commissioner Hudson would do bad things, just a...

17
18 Mr. Robinson: Never, never, not Commissioner Hudson. Corp. Counsel please.

19
20 Ms. Thomson: I think that this is a terrific discussion and you're bringing up some good points.
21 I just took a look in 19.04 and I don't see that parcel is defined. I'm assuming that we're, you
22 know, referring to tax map key parcel. Lot is a defined term and it refers...the definition of lot in
23 Title 19 refers you back to the definition of lot for real property tax purposes. So that might be
24 something to take a look at whether you need to include a definition of parcel in 19 or a
25 reference to it. The way that I would read unresolved enforcement action for a violation of
26 the...of Title 19 is you would have to have a Notice of Violation that's been issued and is either
27 and this is just a kinda question for discussion, maybe with how the Planning Department sees
28 this. Is it a Notice of Violation that has been issued and not appealed you know or is it
29 something...you know, so where do you...if you're looking at applying this, this change how
30 would you analyze that? When do you have an unresolved...what does unresolved mean?

31
32 Mr. Robinson: Thank you. Call for a motion.

33
34 Mr. Hudson: Move to defer.

35
36 Mr. Carnicelli: Second.

37
38 Mr. Robinson: Second Commissioner Carnicelli. Discussion on the motion? All those of
39 deferring please raise your right hand.

40
41 Mr. Spence: Five ayes.

42
43 Mr. Robinson: Five ayes. All right thank you.

44
45 **It was moved by Mr. Hudson, seconded by Mr. Carnicelli, then**

46
47 **VOTED: To Defer the Matter Until After the Commission has its Discussion**
48 **on the Powers and Duties of the Maui Planning Commission.**

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

4
5 Mr. Robinson: Hopefully David that gives you a lot of, a lot of insight from us and hopefully can
6 wrap up next time. Moving onto F-3. Director.

7
8 Mr. Spence: Thank you Mr. Chairman. This is your third public hearing. What we're proposing
9 here is just a...an amendment to Title 19 for the definition of a "Lot Width" and how we measure
10 that.

11
12 **3. MR. WILLIAM SPENCE, Planning Director, transmitting proposed**
13 **amendments to Title 19 of the Maui County Code to redefine "lot width." (D.**
14 **Raatz)**
15

16 Mr. Robinson: And one second, and guys I kinda grouped all these three together. I think this
17 is, you know, this one can be come simple if you guys want to do it today. But looking at the
18 time, I'm hoping if we're agreeable we can power through, through this and get this item done
19 as well as the next one. Okay, please David. Thank you.

20
21 Mr. David Raatz: Thank you Chair. And again, I'll reference memo dated June 12, 2018. The
22 subject on this one is Definition of Lot Width. And we are simply proposing a new definition of
23 lot width. We've heard from both Staff and members of the public that the current definition is
24 confusing and actually produces some anomalies when you're applying the term. There are
25 numerous instances in the Comprehensive Zoning Ordinance where there's a minimum lot
26 width in the development standards or design standards. So it's an important term and it's used
27 very frequently.

28
29 And our proposed new definition is modeled on what we've seen in many other jurisdictions and
30 I'll read into the record lot width means the diameter of the largest circle that can be inscribed
31 within the lot lines. And you'll see that simply in the one-page bill where we're bracketing out
32 the existing definition and underscoring the proposed new definition. And once again, this is a
33 proposed land use ordinance so we're asking for your recommendation to the County Council.
34 Thank you.

35
36 **a) Public Testimony**
37

38 Mr. Robinson: At this time, I'd like to open it for public testimony. I see Mr. Spalding is here.

39
40 Mr. Mike Spalding: Chairman, Commission Members and Staff.

41
42 Mr. Robinson: Can you state your name and you have three minutes.

43
44 Mr. Spalding: Mike, Mike Spalding. So I've looked at this ordinance and because a lot of lots in
45 Hawaii have odd shapes, we're not a rectilinear state. There are situations where a lot
46 is...cannot be subdivided because of the odd shape, but it has the proper width and ratio to
47 create a house. And another situation is if a lot would have a stem for utilities, a long stem, you
48 know that would be prevented from being subdivided with the present definition of a lot width

1 code. So I commend the Planning Department for looking at ordinances that need fixing and
2 this is a no-brainer in my opinion. It's creates a more fair, equitable way of determining the
3 length width ratio of a lot that would be subdivided. So I would...I'm asking that you guys
4 support this change.

5
6 Mr. Robinson: Any questions of the testifier? I have a question Mr. Spalding.

7
8 Mr. Spalding: Yes.

9
10 Mr. Robinson: Is there any negatives to this?

11
12 Mr. Spalding: I don't see any negatives to this because it basically will give you a width that
13 would be the widest point in your lot and it wouldn't take into consideration, you know, an odd
14 shaped lot that would have a real, kind of a angle to it or a utility stem to it. So I can't see any
15 negatives. I think this is a net positive all around.

16
17 Mr. Robinson: Is would it allow density into places that might not be good?

18
19 Mr. Spalding: I don't think so.

20
21 Mr. Robinson: Don't think so. Okay, thank you.

22
23 Mr. Spalding: I think it would be the opposite. Thank you.

24
25 Mr. Robinson: Okay, thank you. Director.

26
27 Mr. Spence: We have with us this morning, this afternoon, Mr. Paul Critchlow who does
28 all...reviews all the subdivisions within the Planning Department. And I don't know if Paul, this
29 is his brain child because he spends inordinate amounts of time with it. I don't know if you want
30 to say something Paul

31
32 Mr. Robinson: So Paul this is public testimony. I can close public testimony. You can speak as
33 the Department or you can just, if it's public testimony as well. If it's over three minutes better to
34 way.

35
36 Mr. Critchlow: I can wait.

37
38 Mr. Robinson: All right, would anybody else like to speak on this topic. Seeing none, public
39 testimony is closed. Please.

40
41 Mr. Critchlow: It could be well under three minutes, up to you.

42
43 Mr. Robinson: Hopefully.

44
45 Mr. Critchlow: So I guess close to 10 years now I've been...eight years or so, reviewing
46 subdivisions and this has been one of the most challenging areas to deal with because we have
47 such odd topography here. It's not like the mainland where you've got a true grid pattern and
48 the lots are all rectangle and it's easy to say here's the front, here's the width, the back and get

1 the width. Here you got gulches, terrains, and so you get odd shaped lots. And the way that
2 current language reads is you would ...you have to measure the lot width at the least distance,
3 the most narrow point and that's...you take all the lots and find the opposite lot lines and
4 whatever is the least distance becomes the lot width. You could have cases out there where
5 you've got a 50 plus acre ag lot only needs to be two acres in area might be a big rectangle in
6 the back but have a long narrow section somewhere. And in the back area you got 500 feet or
7 more all the way around, but the narrow area is only 50 feet wide. So we're going to tell
8 somebody, yeah, if you're lot is 50 acres, only has to be two, but a portion of it makes it not be
9 200 feet wide so sorry you gotta redesign. And where the front of the lot is, where the rear
10 comes into play and where the roads are, when I believe the intent of a lot width in general is to
11 have an area that's usable, buildable of whatever width the Code requires. And in searching the
12 internet, come across many, many areas and studies that analyze how other communities do lot
13 width and the most common was that circle test. And just everyone I talked to, all the
14 subdividers out there all thought it was reasonable and simpler to administer and you'd still end
15 up a portion that is usable.

16
17 Mr. Robinson: Thank you. Any questions? Kahu Hill.

18
19 Kahu Hill: Mahalo. Sounds like a great idea. I just wanted to understand ...(inaudible)...height.
20 The topography looking at the gulch or looking if there's large boulders or anything on the
21 property besides joining it this way horizontally. Does anything with height, have anything
22 influence on this?

23
24 Mr. Critchlow: Not currently at all. And this wouldn't change anything with height.

25
26 Kahu Hill: Mahalo.

27
28 Mr. Robinson: Commissioner Carnicelli.

29
30 Mr. Carnicelli: First I just wanna say I'm happy to learn the phrase or the word rectilinear. But
31 just for the record I just wanted to ask this doesn't change setbacks at all, correct?

32
33 Mr. Critchlow: Correct. Setbacks will be the same from the actual lot or parcel line.

34
35 Mr. Robinson: Mr. Carnicelli, can you say that word again?

36
37 Mr. Carnicelli: Rectilinear.

38
39 Mr. Robinson: Okay, I just wanted to make sure that correctly. Any questions? Do we have a
40 motion? Too late.

41
42 Ms. Thomson: Thank you. I took a quick look at Title 18, the Subdivision Code and wanted to
43 ask and I'm sure you've looked at that, that definition looks like it's the same as the one that
44 you're changing and proposing to change in 19. So if the Commission if they wanted to could
45 also suggest the change to 18 to conform with this new one because then you're gonna have a
46 little bit of conflicting provisions and I don't know how that would play out in practice but I'm sure
47 you've looked at it.

48

1 Mr. Critchlow: I don't think it would cause any problem because Title 19 is where zoning is
2 covered and Title 18 defers to Zoning, Title 19 for conformance with the Zoning Code and so it's
3 only the Planning Department that administers Title 19, Zoning that has any lot width
4 requirements. DSA, Title 18 I don't...I've never heard in the time I've been here that they even
5 consider anything to do with their definition of lot width. An assumption on my part is that was a
6 carryover from way, way back in the day when the '60s and '70s when the Code started.

7
8 Mr. Robinson: Director would you like to comment on a preference before we, before we ask for
9 a motion? Are you comfortable too?

10
11 Mr. Spence: I'm very comfortable with Mr. Critchlow's explanation, and he deals with it all the
12 time.

13
14 Mr. Robinson: Okay. Do we have a motion? Kahu Hill.

15
16 Kahu Hill: I'd like to make a motion that we accept the definition of lot width.

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

19
20 Mr. Castro: Second.

21
22 Mr. Robinson: Second by Commissioner Castro. All those in favor please raise your right hand.
23 All right that's five ayes. All right, it passes.

24
25 Mr. Spence: Just Mr. Chairman, it's my understanding that this Commission with this vote is
26 intending to recommend approval to the County Council of amending Title 19.

27
28 Mr. Robinson: As written.

29
30 Mr. Spence: Thank you

31
32 Mr. Robinson: Thank you.

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

35
36 **VOTED: To Recommend Approval to the County Council of the Proposed**
37 **Amendments to Title 19 of the Maui County Code to Redefine "Lot**
38 **Width" as Recommended by the Department.**
39 **(Assenting – A. Hill, S. Castro, L. Carnicelli, L. Hudson,**
40 **P.D. La Costa)**
41 **(Excused – C. Tackett, T. Gomes)**

42
43 Mr. Robinson: Director's Report next on the agenda.

44
45 Mr. Spence: Commissioners you have your SMA Minor Permit Report and your SMA
46 Exemptions Report. Do you have any questions on those otherwise I believe your rules say
47 you just acknowledging receipt of these.

48

1 **G. DIRECTOR'S REPORT**

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

4
5 Mr. Robinson: All those in favor of accepting the SMA Minor Report, please raise your right
6 hand. Thank you.

7
8 **The Commission unanimously accepted the SMA Minor Permit Report.**

9
10 **2. SMA Exemptions Report**

11
12 Mr. Robinson: All those in favor of accepting the SMA Exemptions Report, please raise your
13 right hand? Thank you.

14
15 **The Commission unanimously accepted the SMA Exemptions Report.**

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

18
19 **a. June 26, 2018 agenda items**

20
21 Mr. Spence: And then future Planning Commission agendas for the June 26th meeting you have
22 three public hearing items scheduled. One is an SMA Major Permit for a residence within
23 Kaanapali, another is Mr. Christopher Ondatje Change in Zoning from D-2 Duplex to A-2
24 Apartment District and an SMA Permit. This is the Dickenson Street EA that you saw. So
25 they're now they're coming in to process the rest of it. Then Sprint Wireless requesting a
26 Conditional Permit for new wireless facilities in Lahaina. And we're gonna notify you of a
27 issuance of an SMA Emergency Permit.

28
29 Mr. Robinson: And Director I'd like to ask if we could get some paperwork on this falling seawall
30 in Paia if we could please on Director's Report No. 1.

31
32 Mr. Spence: Okay.

33
34 Mr. Robinson: Commission anything else. Seeing none, appreciate your patience with me on
35 those other two items. Hopefully I'll have something for you guys and thank you for coming.
36 Aloha. Commission is closed.

37
38 **H. NEXT REGULAR MEETING DATE: JUNE 26, 2018**

39
40 **I. ADJOURNMENT**

41
42 The meeting was adjourned at approximately 12:12 p.m.

43
44 Submitted by,

45
46
47 Carolyn Takayama-Corden
48 Secretary to Boards & Commissions II

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RECORD OF ATTENDANCE

Present

- Lawrence Carnicelli
- Steven Castro
- Kahu Alalani Hill
- Larry Hudson, Vice-Chairperson
- P. Denise La Costa
- Keaka Robinson, Chairperson

Excused

- Tina Gomes
- Christian Tackett

Others

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