

**MAUI PLANNING COMMISSION
SUMMARY MINUTES
NOVEMBER 27, 2018**

([HYPERLINK TO AUDIO RECORDING OF THE MEETING](#))

A. CALL TO ORDER

The regular meeting of the Maui Planning Commission was called to order by Planning Director Michele McLean at approximately 9:04 a.m., Tuesday, November 27, 2018, Planning Conference Room, First Floor, Kalana Pakui Building, 250 South High Street, Wailuku, Maui.

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

Due to both the Chair and Vice-Chair not being in attendance the Commission elected a Chair Pro Tem for the meeting.

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

VOTED: Lawrence Carnicelli to Chair Pro Tem.

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

B. PUBLIC HEARINGS (Action to be taken after each public hearing.)

1. STATE OF HAWAII KAHOOLAWE ISLAND RESERVE COMMISSION requesting a Special Management Area Use Permit for the proposed construction of the Kaho'olawe Island Reserve Commission education and outreach center consisting of one (1) two-story building of approximately 24,000 square feet, outdoor performance area, plant nursery, parking and related improvements located at 2780 South Kihei Road, Kihei, Maui, Hawaii 96753, TMK (2) 3-9-004:151 (SM1 2018/0008) (C. Thackerson)

(Item B 1 begins at 00:2:25 of the audio recording.)

(Motion was made at 01:30:30 of the audio recording.)

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

(Vote was taken at 01:39:54 of the audio recording.)

VOTED: To Approve the Special Management Area Use Permit, as Recommended by the Department with Recommended Conditions and Additional Amendments by the Commission as Discussed.

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

2. R.D. OLSON II INVESTMENTS, LLC requesting a Special Management Area Use Permit for the Keolani Triangle Retail Center, a 4-unit commercial retail space in two structures, with supporting infrastructure, onsite parking, and loading zones, located on 0.779 acres in the M-2 Heavy Industrial District at 520 Keolani Place, Kahului, Island of Maui, TMK: (2) 3-8-079:015. (SM1 2017/0005) (K. Scott)

(Item B 2 begins at 01:41:13 of the audio recording.)

(Motion was made at 02:30:38 of the audio recording.)

It was moved by Mr. Carnicelli, seconded by Ms. Pali, and

(Vote was taken at 02:33:50 of the audio recording.)

The Motion to Approve the Special Management Area Use Permit as Recommended by the Department as Amended by the Commission, FAILED.

(Assenting – L. Carnicelli, K. Pali, A. Hill)

(Dissenting – C. Tackett, P D. La Costa)

(Excused – S. Castro, T. Gomes, L. Hudson, K. Robinson)

(Motion was made at 02:34:43 of the audio recording.)

It was then moved by Ms. Pali, seconded by Ms. La Costa, then

(Vote was taken at 02:36:26 of the audio recording.)

VOTED: To Defer the Matter until the Next Available Meeting and More Members are Present.

(Assenting – A. Hill, K. Pali, C. Tackett, P D. La Costa, L. Carnicelli)

(Excused – S. Castro, T. Gomes, L. Hudson, K. Robinson)

3. RODELL NOTBOHM is requesting a Short Term Rental Home Permit in order to operate Rodell Notbohm STRH, a six (6) bedroom STRH located on a 13,851 square foot oceanfront lot in the R-3 Residential District. The property is adjacent to Keawakapu Beach and located at 3066 S. Kihei Rd., Kihei, HI 96753, TMK (2) 2-1-010:025. (STKM T2018/0005) (J. Burkett)

There are already two existing permitted STRHs within 500 feet of the proposed STRH property.

(Item B 3 begins at 02:40:30 of the audio recording.)

(Motion was made at 03:35:45 of the audio recording.)

It was moved by Ms. La Costa, seconded by Kahu Hill, and

(Vote was taken at 03:43:17 of the audio recording.)

VOTED: To Deny the Short Term Rental Home Permit as it does not meet the standards of Maui County Code Subsection 19.65.030(n)(4),(5),(6), and (7)

**(Assenting – P D. La Costa, A. Hill, C. Tackett, L. Carnicelli,
K. Pali - Abstained)**

C. COMMUNICATIONS

1. MR. GALE NOTESTONE, Chair of the HANA ADVISORY COMMITTEE TO THE MAUI PLANNING COMMISSION transmitting the Committee's recommendation on the following application:

MR. DAVID GOODE, Director, DEPARTMENT OF PUBLIC WORKS, COUNTY OF MAUI requesting a Special Management Area (SMA) Use Permit for the Keanae Road Safety Improvements Project for the installation of rock fall protection and guardrails, road realignment, widening, and restriping, relocation of fire protection standpipe, and related improvements at TMK: (2) 1-1-002: 005 (Portion), (2) 1-1-002 :009 (Portion), (2) 1-1-002: 010 (Portion), (2) 1-1-003: 041 (Portion), (2) 1-1-003: 065 (Portion) and Keanae Road Right-of-Way (Portion), Keanae, Island of Maui. (SM1 2018/0004)(K.Scott) (Public Hearing conducted on August 27, 2018)

The Commission may take action on this request.

(Item C 1 begins at 03:44:07 of the audio recording.)

(Motion was made at 04:01:33 of the audio recording.)

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

(Vote was taken at 04:02:38 of the audio recording.)

VOTED: To Approve the Special Management Area Use Permit, as Recommended by the Department and Hana Advisory Committee with Recommended Conditions.

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

2. WAILEA GOLF, LLC requesting a Step 1 Planned Development Approval for the expansion of the Wailea Planned Development area to include 37.97 acres of the Wailes Emerald Golf Course located at TMK: (2) 2-2-008: 140 (por.), Wailea, Island of Maui. (PD1 2018/0004) (T. Furukawa)

(Item C 2 begins at 04:03:30 of the audio recording.)

(Motion was made at 04:28:42 of the audio recording.)

It was moved by Ms. Pali, seconded by Mr. Carnicelli, and

(Vote was taken at 04:31:53 of the audio recording.)

The Motion to Approve the Step I Planned Development Approval, FAILED.

**(Assenting – K. Pali, L. Carnicelli, A. Hill – Abstained)
(Dissenting - C. Tackett, P D. La Costa)
(Excused – S. Castro, T. Gomes, L. Hudson, K. Robinson)**

After further discussion:

(Motion was made at 04:53:12 of the audio recording.)

It was then moved by Ms. Pali, seconded by Ms. La Costa, then

(Vote was taken at 04:54:03 of the audio recording.)

VOTED: To Approve the Step I Planned Development Approval, as Recommended by the Department.

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

3. COMMISSIONER LAWRENCE CARNICELLI indicating at the Commission's November 13, 2018 meeting that he would make a Motion to Rescind the County Special Use Permit denial action by the Maui Planning Commission on September 25, 2018 of the following:

Hearing Officer's Report dated July 13, 2018 from E. JOHN MCCONNELL, Retired Judge, and Hearing Officer, containing his proposed Findings of Fact, Conclusions of Law, and recommendation regarding the following remanded application:

County Special Use Permit application from SEASHORE PROPERTIES, LLC for the proposed nine (9) room transient vacation rental on the property referenced as the Paia Inn located at 93 Hana Highway, TMK: (2) 2-6-002: 027, Paia, Island of Maui. (CUP 2015/0006) (CTB 2015/0009) (SMX 2015/0522) (K. Wollenhaupt)

An Executive Session may be called in order for the Commission to consult with its attorney on questions and issues pertaining to the Commission's powers, duties, privileges, immunities and liabilities.

The Commission may consider a Motion to Rescind the above-referenced County Special Use Permit denial action by the Maui Planning Commission on September 25, 2018. If the motion is approved by a majority vote, the Commission may take action related to the County Special Use Permit.

(Item C 3 begins at 04:54:30 of the audio recording.)

(Motion was made at 04:55:22 of the audio recording.)

It was moved by Mr. Carnicelli and seconded by Ms. La Costa to Rescind the Denial of the County Special Use Permit.

Mr. Terry Revere, Attorney for Seashore Properties, LLC objected that they don't believe the motion is proper at this time and noted as a point of information they don't believe the Commission has jurisdiction; that they believe under the Commission's own rules that it has to be a party that asks for reconsideration or rescission not a commissioner; and that under Robert's Rules of Order this type of motion has to take place in the same session. Also, stated the Commission was required and did state its position on the record and they have taken appeal from that and believe the case is before the Second Circuit currently and for those reasons don't believe the motion is proper at this time and is out of order to which Chair Pro Tem Carnicelli so noted for the record.

(Motion was made at 04:58:35 of the audio recording.)

Chair Pro Tem Carnicelli moved that the Commission go into Executive Session to discuss the Commission's powers, duties, privileges, immunities, and liabilities with Corporation Counsel which the Commission unanimously voiced no objections.

(The Planning Commission recessed the regular meeting at approximately 3:39 p.m. to enter into Executive Session. The Planning Commission reconvened the regular meeting at approximately 4:20 p.m.)

(Motion was restated at 04:59:13 of the audio recording.)

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

(Vote was taken at 05:01:50 of the audio recording.)

VOTED: To Rescind the Denial of the County Special Use Permit.

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

(Motion was made at 05:07:46 of the audio recording.)

It was moved by Mr. Carnicelli, seconded by Ms. La Costa, and

(Vote was taken at 05:31:50 of the audio recording.)

The Motion to Reject the Hearing Officer's Report because the Commission Disagrees with the Finding that the Application Met Items 1, 5, and 6 of Maui County Code, 19.510.070, Criteria for a Special Use Permit, FAILED.

**(Assenting – L. Carnicelli, P D. La Costa, A. Hill, C. Tackett)
(Dissenting – K. Pali)
(Excused – S. Castro, T. Gomes, L. Hudson, K. Robinson)**

(Motion was made at 05:40:44 of the audio recording.)

It was moved by Mr. Carnicelli, seconded by Mr. Tackett, then

(Vote was taken at 05:42:56 of the audio recording.)

VOTED: To Defer the Matter to the Next Available Meeting.

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

D. ADOPTION of WRITTEN DECISION AND ORDER

1. Rejection of the Hearings Officer's Report and Denial of the County Special Use Permit by action taken at the September 25, 2018 Maui Planning Commission meeting on the following: (Tom Kolbe, Deputy Corporation Counsel)

Hearing Officer's Report dated July 13, 2018 from E. JOHN MCCONNELL, Retired Judge, Hearing Officer, containing his proposed Findings of Fact, Conclusions of Law, and recommendation regarding the following remanded application:

County Special Use Permit application from SEASHORE PROPERTIES, LLC for the proposed nine (9) room transient vacation rental on the property referenced as the Paia Inn located at 93 Hana Highway, TMK: (2) 2-6-002: 027, Paia, Island of Maui. (CUP 2015/0006) (CTB 2015/0009) (SMX 2015/0522) (K. Wollenhaupt)

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

The Denial of the County Special Use Permit was rescinded by an earlier vote by the Commission.

E. DIRECTOR'S REPORT

(Item E begins at 05:43:18 of the audio recording.)

1. SMA Minor Permit Report

This is for notification and review purposes. No action is anticipated.

2. SMA Exemptions Report

This is for notification and review purposes. No action is anticipated.

No questions on the SMA Minor and SMA Exemptions Reports.

3. Discussion of Future Maui Planning Commission Agendas

a. December 11, 2018, 2018 agenda items

Ms. McLean went over the November 26, 2018 memorandum from Clayton Yoshida regarding items scheduled for that meeting.

F. NEXT REGULAR MEETING DATE: DECEMBER 11, 2018

G. ADJOURNMENT

The meeting was adjourned at 5:05 p.m.

Respectfully Submitted by,

CAROLYN TAKAYAMA-CORDEN
Secretary to Boards and Commissions II

RECORD OF ATTENDANCE

Present

Lawrence Carnicelli
Kahu Alalani Hill
P Denise La Costa
Kellie Pali
Christian Tackett

Excused

Stephen Castro
Tina Gomes
Larry Hudson, Vice-Chair
Keaka Robinson, Chair

Others

Michele McLean, Director, Department of Planning
David Galazin, Deputy Corporation Counsel, Department of the Corporation Counsel
Rowena Dagdag-Andaya, Deputy Director, Department of Public Works (9:00 a.m. - 11:52 a.m.)