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**MAUI PLANNING COMMISSION
REGULAR MINUTES
JULY 24, 2018**

A. CALL TO ORDER

The regular meeting of the Maui Planning Commission was called to order by Vice-Chairperson Larry Hudson at approximately 9:04 a.m., Tuesday, July 24, 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. Larry Hudson: Good morning. Welcome to the Maui Planning Commission meeting of -- what is today -- July 24th, 2018. My name is Larry Hudson, the Vice-Chair. I'll be the acting Chair today because Keaka Robinson could not attend. We'll do a quick roll call or record of attendance. Commissioner Dela Costa, La Costa.

Ms. P. D. La Costa: Aloha Chair.

Mr. Hudson: Commissioner Castro.

Mr. Stephen Castro: Morning Chair.

Mr. Hudson: Commissioner Tackett.

Mr. Christian Tackett: Good morning Chair.

Mr. Hudson: Commissioner Gomes.

Ms. Tina Gomes: Morning Chair.

Mr. Hudson: Kahu Hill.

Kahu Alalani Hill: Good morning Chair.

Mr. Hudson: We have the Planning Commission -- I mean Planning Department Director and Corporation Counsel. So we have established quorum and we can move on because if we didn't then it would be a very short meeting.

Next item of note, if you have cell phones, to be courteous to everybody please put your cell phones on silent so you don't disturb people that are talking.

We get to public testimony. Public testimony will be taken when each agenda item is discussed. Testimony will be limited to a maximum of three minutes. Three minutes is three minutes. That is not four minutes. It is three minutes. Remember when you guys come up here we want public testimony, we want to hear your opinions, we want input from you. But if you're going to give just an opinion try and back it up with something. The Commission has to make decisions based on information it receives. The more information we have, the more evidence we have backing up that information, the more informed decision we can make. So when you're doing public testimony please back it up with something. You cannot just come up here and say I

1 don't like black . . . (inaudible) . . . you got to explain why you don't like black . . . (inaudible) . . .
2 okay. And we will keep to three minutes. Director?

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

7
8 **C. COMMUNICATIONS**

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

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

18
19 Ms. Michele McLean: Thank you Chair. Good morning. The first item on the agenda is a
20 communication item from Mr. Charles Jencks on behalf of Honua'ula Partners, LLC requesting
21 adoption of the Draft Preservation/Mitigation Plan and Habitat Conservation Plan for the
22 proposed Honua'ula Project, formerly known at Wailea 670, at TMK: 2-1-08, portion of parcel 56
23 and 71, in accordance with Condition No. 27 of Ordinance No. 3554 establishing Kihei-Makena
24 Project District 9. And Ann Cua is the project planner; she'll start with an overview.

25
26 Ms. Ann Cua: Good morning Mr. Chair, members of the Commission. When we do your training
27 we take you through pretty much all of the permits that we process. This project is a Project
28 District and we don't have many of these that come before you so I want to talk about process a
29 little bit, and why we're here.

30
31 So as a Project District this project had to receive a Change in Zoning and Project District
32 Phase I Approval. Project District Phase I Approval is creation of an ordinance that is unique to
33 this project. So it doesn't use any of the ordinances in Maui County Code for zoning. Project
34 Districts have their own ordinance. So you were given a booklet by the applicant and I'm going
35 to use that, and I think I have you all on the page that I'm going to start with.

36
37 So back in 1999 the Planning Department received a Change of Zoning and Project District
38 Application and we took it through a process. And on October 30th of 2000 the Planning
39 Commission held a public hearing on the Change in Zoning and the Project District application.
40 And it was deferred actually that day. And then back on October 23rd, 2001 is when the
41 Planning Commission made their recommendation to the County Council. And as you recall for
42 Change in Zoning applications and Project District Phase I applications which is creation of the
43 ordinance you hold the public hearing and you make a recommendation to the Maui County
44 Council who is the final authority to approve a Change in Zoning and a Project District Phase I
45 application. So the Planning Commission made their recommendation in 2001 and sent it up to
46 Council. And seven years later in 2008 the County Council adopted Ordinance 3553. So the
47 first document, this November 30th, 2001 letter this is a typical transmittal letter that the Planning
48 Department does to the County Council. And the information that we put in this letter is you

1 know what the project is, who the applicant is, where the project is located. More importantly
2 though we put when the Planning Commission held the public hearing, how many people
3 testified at the public hearing, and then when you made, when the Planning Commission made
4 their recommendation which as I mentioned in this case it was October 23rd, 2001. And then we
5 list for the County Council how many and all of the conditions that the Planning Commission
6 recommended. And back in 2001 the Planning Commission recommended 13 conditions for the
7 Change in Zoning application.

8
9 So the next document that I'd like to refer you to is Ordinance No. 3553. Ordinance No. 3553 is
10 the Project District ordinance that the County Council adopted in 2008. And like I mentioned
11 this ordinance is unique to the Wailea 670, or now as we call it Honua'ula Project District. And
12 this is what governs their permitted uses, their acreages, their standards, it's all in this ordinance
13 here.

14
15 So then if you pass the ordinance and you look at the next document, these, it says Exhibit 2,
16 Conditions of Zoning. When the County Council passed the ordinance for the Project District it
17 also granted a Change in Zoning application to Kihei-Makena Project District 9, Wailea 670.
18 That's what it was called at that time. And as I mentioned earlier the Commission had
19 recommended 13 conditions, and what we explain to you in our training is that we recommend
20 conditions to you. You can take all of those conditions, you can amend them, you can delete
21 some of them, add to them and then you recommend it to the Maui County Council. They can
22 do the same thing. They can just take your conditions and run with it. They can delete some of
23 your conditions. They can add conditions. They can modify your conditions. So in this case
24 they had before them 13 conditions recommended by the Commission. And when they passed
25 the Change in Zoning they imposed 30 conditions on the project.

26
27 So why are we here today? We are here today because Condition No. 27 of their Change in
28 Zoning, and if you look on -- when you refer to those conditions, that sheet with the conditions, if
29 you look at Condition No. 27. It's on page 33. I'm just going to read you the first paragraph.

30
31 *"That Honua'ula Partners LLC, its successors and permitted assigned shall*
32 *provide the report remnant Wiliwili Forest Habitat at Wailea 670, Maui, Hawaii by*
33 *Lee Altenberg, Ph.D., along with a preservation/mitigation plan, to the State*
34 *Department of Land and Natural Resources, the United States Fish and Wildlife*
35 *Service, and the United States Corps of Engineers for review and*
36 *recommendations prior to Project District Phase II approval. The Maui Planning*
37 *Commission shall consider adoption of the plan prior to Project District Phase II*
38 *approval."*

39
40 That last sentence is why we're here today. The -- as I mentioned the Project District Phase I,
41 creation of the ordinance is complete. In terms of the Project District processing the next step is
42 the Project District Phase II. That is a preliminary site plan of how the entire project is going to
43 be laid out. That has to come before you, the Planning Commission, and you are the authority
44 to approve a Project District Phase II application. So we're anticipating that. We have the
45 application, sending it out for agency review. That's going to be the next step where you're
46 involved after today. But before that can happen this Condition says that you have to adopt
47 what you're going to hear today. If you adopt that then we'll be able to move forward to the next
48 step. So I just wanted to kind of put that into perspective. Project District is a complicated

1 process and you don't get many of them that come before you so we just wanted to explain
2 where we're at in the process. There's also a Phase III approval to the process, but that's
3 administratively. So do you have any questions on process before I introduce the applicant?
4 Okay so he's going to take you -- he's going to give you a little bit more background information
5 and then he's going to explain the detail why we're here today and what is before you. Charlie
6 Jencks represents Honua'ula.

7
8 Mr. Charles Jencks: Good morning members, Mr. Chair. Thank you for all your time. I know
9 you're all really busy, probably have other things to do on a daily basis, but I'll keep this as brief
10 as I can. I want to bring you up to speed. Some many of you may know that I was at one time
11 the Director of Public Works for Maui County, years ago, in my prior life and I always made a
12 habit of trying to bring people up when I was before the Council or the Planning Commission on
13 a project representing the County I always try to bring people up to speed and tell them a little
14 bit of background so they're a little fully informed so they can make . . . (inaudible) . . . decisions.
15 And when I discussed this with Ann Cua about this Condition No. 27 issue, I suggested to her
16 that most of the members, as a matter of fact, all of the Commissioners here today probably
17 know, they've heard about the project, they maybe had to do with a few items on the agenda
18 with regard to conditions, but really don't have a lot of background on the project. So I said look
19 why don't I just do a quick workshop, bring everybody up to speed so they understand the
20 background, how we got to where we are, and then we can move on to the discussion of
21 Condition No. 27 with maybe a little more information that you could use to make a decision. So
22 that's why I'm here today.

23
24 I've got a power point and I think what I'm going to do is --. Ann, they have this power point as
25 well right?

26
27 Ms. Cua: They do.

28
29 Mr. Jencks: Okay. This is a power point that's entitled Maui Planning Commission Honua'ula
30 Project District 9 Project Workshop Briefing July 24th, 2018. The --. So this map shows --.

31
32 Ms. Cua: Excuse me Charlie?

33
34 Mr. Jencks: Yes?

35
36 Ms. Cua: Can I just make one comment? Commissioners, you actually have two power points.
37 One is on the workshop. If you look at the first. If you flip the first page you're going to see one
38 says workshop and one does not. And so he's going through the one that says workshop first.

39
40 Mr. Jencks: So this first exhibit shows you where the project area is located; south of Maui
41 Meadows, and mauka side Wailea Resorts. It abuts Ulupalakua Ranch, Makena Resort, Wailea
42 Resort, and Maui Meadows property. Now this, in this booklet I provided to you there's a map
43 which gives you the same information just so you have a better look at the exact location of the
44 property.

45
46 Next slide there. Okay a little bit of the entitlement history. Ann touched on some of this. But
47 just going back, in 1988 an EIS was prepared for a Community Plan Amendment for the same
48 670 acre area and that EIS was accepted and passed on. In 1992 a Community Plan

1 Amendment was approved modifying the description of the permitted uses in the property by the
2 Maui County Council. In 1993 the Project District Phase I was approved. Now I was the, at the
3 time, the Deputy Director of Public Works. The property was owned by a Japanese Partnership
4 and they received an approval, Phase I approval, for two golf courses and no development. No
5 residential, no commercial or anything, just two golf courses which you all thought at that time
6 was really strange frankly. But that's what they asked for and that's what they got. In 1994 the
7 ownership took the land to the State Land Use Commission and had the land designated as
8 Urban allowing for further zoning work on the property. In 1998 the existing Kihei-Makena
9 Community Plan was approved, in 1998, and it includes a description of Project District 9 which
10 is Wailea 670 and it includes all of the uses that we're contemplating today for the property.
11 And then in 2008 as Ann mentioned the Phase I Zoning was approved and we have in front of
12 you today in this booklet the ordinance, the zoning ordinance for the Project District and the 30
13 conditions of approval that are tied to the unilateral agreement because it is a Project District.
14 And then finally in 2012 because the project had to do some significant infrastructure
15 improvements including a waste water treatment facility we had triggers for an EIS. The project
16 did an EIS, submitted that to the Maui Planning Commission in 2012 and it was accepted by the
17 Maui Planning Commission and finalized for Project District 9. Shortly after that period of time a
18 lawsuit was filed and I will get into more detail on that in a few minutes, but I'll just continue on.

19
20 But Project District 9 Wailea 670 as described in the Community Plan is basically a mix of single
21 and multi-family housing, village mixed use commercial uses, golf courses, public and private
22 amenities meaning clubhouses and those kinds of things, buffer zones, and future public use
23 site. Now that's how the plan is described in the Kihei-Makena Community Plan today. Next
24 page.

25
26 This table, this is in this power point, was done to help you understand how we transitioned from
27 our original plan that would get the zoning done for this project to today. Now on the left-hand
28 side of the table you'll see the uses, Residential, Village Mixed Use, Commercial Square
29 Footage, Golf Course, Parks and Open Space. And across the top you'll see the original
30 proposal that we put forth in about 2000, the 2008 Zoning approval, and then the current FEIS
31 plan.

32
33 Now for Residential we started out with 1,400 units. This was in 2000. The zoning approval
34 allows for 1,400 units, but the EIS that was accepted by the County of Maui and was finalized
35 only allows for 1,150 units. Okay.

36
37 Village Mixed Use which is a designation that you use for multi-family housing and commercial
38 in the project. 53 acres straight across. I began with that. I ended up with 53 acres of Village
39 Mixed Use in the current EIS.

40
41 Commercial Square Footage, we started out with 80,000 square feet. I ended up with 100,000
42 gross square feet of commercial, neighborhood local commercial in the project to serve the
43 project. This is intended to be food service, professional offices, the kinds of things that you
44 want to be able to walk to in the project to get whatever you get on a daily basis.

45
46 We started out with one 18-hole golf course, not the two that was originally approved for the
47 property. One 18-hole golf course, 17,000 yard, 200 acres of golf course. In the 2008 zoning

1 approval said okay fine 18-hole golf course is fine. The EIS that was done ends up, the current
2 EIS is a 19 acre golf course amenity. So we went from an 18-hole golf course to a golf amenity.

3
4 Parks and Open Space, I started out with 56 acres. The zoning says 350 acres maximum, not
5 minimum, but maximum which I thought was interesting. And right now even with the golf
6 course coming out I have 318 acres of Parks and Open Space in the project. So that's 318
7 acres of the 670 acre total. So that's a pretty large component of the project.

8
9 So the current zoning that was approved in 2008 it's designated Urban. We have in the zoning
10 ordinance single-family dwellings approximately 40% of the total average. So of the 1,150 units
11 approximately 40% of single-family, 60% are multi-family and they, the zoning ordinance
12 provides some ranges on density. For example, the single-family I'm supposed to have an
13 average of 2.5 DU per acres. Pencil them up by family 10 DU per acres, dwelling units per
14 acre, which is typically just for point of reference like a stacked flag type of product for multi-
15 family. Then single-family would be lots or maybe duplexes.

16
17 Recreational Open Space and Utility a maximum of 350 acres which I mentioned previously.
18 Village Mixed Use 53 acres. Maximum unit count 1,400 including any off site units and a
19 maximum floor area of 100,000 gross feet of Commercial. And then finally the concept plan
20 which I will show you in a second. And this map that you have in front of you in the handout this
21 is the 2008 concept plan. Now this plan shows the golf course. It shows a 7,000 yard, 200 acre
22 golf course as a component of the project. That was at the time the cache for the project. That
23 was going to be selling point. Tom Weiskopf was the golf course designer and it was really
24 what we were going to use to market the project and help sell the residential component. This
25 was 1,400 units, including the 100,000 gross feet of commercial. And that was the plan that
26 was the basis for the zoning approval from the Maui County Council.

27
28 Now the next exhibit summarizes of the 30 conditions that Ann mentioned that the Council
29 awarded me, this list highlights those that are major, major triggers, and major contributions to
30 public infrastructure.

31
32 Condition No. 2 I'm required to widen the Piilani Highway from Kilohana to its terminus at
33 Wailea Ike Drive from two lanes to four lanes. We started that work. We have an accepted and
34 approved Environmental Assessment and the drawings are at 35%. Now the cost to do that
35 improvement is approximately \$28 million. And if I don't do it as a condition of this project with
36 partners, for example Makena Resort and A&B Wailea, it will have to be done with public
37 money. So we agreed to pull the properties together and coordinate a joint venture where we
38 would make this improvement jointly based upon how much development we're contributing to
39 the area. And my cost is about 40% of that. Makena Resort is about 40%. The balance would
40 be A&B and maybe another partnership.

41
42 Condition 5 required the development of off-site affordable housing units. Now this Planning
43 Commission months ago approved a request to modify that condition and the Maui County
44 Council agreed and now I can relocate those offsite affordable housing units into the project, not
45 exceeding the 1,150. But now all those affordable instead of being offsite of North Kihei are
46 now going to be built in the project which we all think is a good idea.

1 Condition 7, animal management plan, that's been completed as a part of the Habitat
2 Conservation Plan (HCP) that I will describe later.

3
4 Condition 9, Hawaiian bat and owl assessment also done.

5
6 Condition 10, now this is a really good one. Upon Phase II approval of this project which Ann
7 also talked about I got to write a check for \$5 million that goes to the County of Maui for park
8 development in South Maui. That's a condition of the project; a \$5 million check. Once I get
9 Phase II approval I've got to write a check for \$5 million. So I think you can understand why a
10 bank would say I need some certainty here before I give you a check for \$5 million. That's why
11 I'm here today.

12
13 Condition 13, a Cultural Resource Preservation Plan (CRPP) adopted by the CRC.
14 Condition 13 provides specific direction for this document. This is an unsolicited document. In
15 other words, it's not a document that SHPD requires. It has no criteria for its development or
16 review. Nevertheless we supported the idea of doing this. We did it. Followed the directions
17 explicitly in the condition and had that adopted by the CRC months ago. And in fact, in your
18 booklet there's the acceptance letter from the CRC on that document. You're going to be
19 improving that document and amending it in the near future. But as of today that document was
20 submitted and adopted by the CRC.

21
22 Condition 16, a sewer analysis. This project because it's not located to close to any municipal
23 facilities, would either, (a), have to build its own sewer treatment plant or possibly tie into the
24 Makena Plant. We proposed that to Makena Resort and they think that's a great idea because
25 they have excess capacity so we can combine uses and reduce infrastructure cost for
26 everybody by using that facility. That has been done and accepted.

27
28 Condition 18, letters from agencies. I have all those letters. They have all concurred. We're on
29 the right track.

30
31 Condition 26, now this is another one having to do with historical resources. This Condition 26
32 requires per State law a Historic Resource Preservation Plan (HRPP) to be done and accepted
33 by SHPD. That has also been done and accepted by SHPD. It will be amended as we go
34 forward because there are other things we want to include in that, additional input, from the
35 cultural community, for example. But I do have and the letter is in this booklet, a letter from
36 SHPD accepting that document.

37
38 Condition 27, preservation mitigation plan adoption pending the Maui Planning Commission.
39 That's why I'm here today. We'll get to that a second.

40
41 And then lastly but not least, the transportation management plan was required as a condition.
42 That's been done and approved by both the County of Maui, Department of Transportation and
43 the State Department of Transportation.

44
45 Okay so I mentioned earlier that we did an EIS that was accepted by the Maui Planning
46 Commission in 2012. There's an appeal period after acceptance by the County Planning
47 Commission for this EIS by State law. About the 59th day of the 60 day appeal period a lawsuit
48 was filed on behalf of Sierra Club Maui and Maui Unite requesting changes to the project and

1 updating things like the archaeological inventory survey for the project. They didn't feel it was
2 adequate and frankly I didn't think it was either. But nevertheless we started negotiations on
3 settlement of that lawsuit shortly thereafter and we finally concluded on negotiations with Sierra
4 Club, Maui Unite in October of 2016. It took us four years to get through the settlement
5 discussions and get settlement. That settlement was signed by the County of Maui, the
6 ownership of the project, the Sierra Club Maui, and Maui Unite.

7
8 Now that agreement provides structure for a number of things. One of the things we had to do
9 was redo the Archaeological Inventory Survey (AIS). I just thought I'd show you, just show you,
10 give you an idea of the work amended. This is the archaeological inventory survey of the
11 project. This document was developed over a year and a half period of time with a lot of in the
12 field of that time was spend by interested folks in the cultural community. It was accepted by
13 the State Historic Preservation Division, of DLNR, in I think it was December of 2015. And it is
14 the foundation, this document, the Archaeological Inventory Survey is the foundation for the
15 Historic Resource Preservation Plan and the Cultural Resources Preservation Plan. Because it
16 tells you what's on the property, where it is, what it is, what it could possibly could have been
17 used for, etcetera, etcetera. So this is the AIS done for the project.

18
19 And last but not least, this document is the settlement agreement document of the lawsuit which
20 by reference includes that . . . (inaudible) . . . So this has been a very time consuming and
21 complex process. A lot of money and a lot of time and effort by everyone including the cultural
22 community on the project. Briefly the result of all of this has been the golf course is now gone
23 and there is a golf amenity of 19 acres. And I have in the project a 134 acre Native Plant
24 Preservation Area (NPPA) which is by the way described in your booklet. There's a couple of
25 concept plan maps. This one was on the screen showed the golf course. The following map is
26 the plan without the golf course. On your, on your, on the right-hand side of this map there's a
27 large light green area, that is the native plant preservation area; 134 acres. Now that NPPA,
28 Native Plant Preservation Area, includes the best of the botanical resources on the property
29 which includes at least one that we know of the endangered species, Wiliwili plant, possibly
30 Yellow Face Bee, and possibly Habitat for the black . . . (inaudible) . . . It also includes the bulk.
31 There's probably at least 83 significant archaeological sites and over 200 archaeological
32 features. And by that I mean a feature is something like an agricultural terrace. And a site is
33 something like a platform, a wall, a hale, whatever. So this 144 acre area, the Native Plant
34 Preservation Area, basically includes all of these major botanical resources and the bulk of the
35 premiere cultural sites on the property. Trails, pathways, site features are all in that area. Now
36 there's additional outside of that -- they're also being preserved by the way -- but this is the core
37 area that we've proposed. So we lost the golf course. So now this is basically a residential
38 project without the cache of the golf course if you will. It's still 1,150 units, 40% single-family,
39 60% multi-family, and all of the affordable that we are required to build which will be 215, this
40 will be in the project, not outside.

41
42 Okay let me move on here. So you've seen the current concept plan which is the one that I was
43 just showing you that shows the NPPA. And this table on the power point is basically the same.
44 We're at 1,150 units, 53 acres of VMX, 100,000 square feet of commercial, a 19 acre golf
45 amenity, so the golf course, and 318 acres of park and open space. Now that brings you up to
46 date on where I've been, what I've been doing since 2001 on this project. It's been an
47 interesting process to say the least. And as Ann mentioned the real reason I'm here today is to

1 ask you to consider taking action on Condition 27. And for that I have this other submission
2 here; I have another power point.

3
4 Mr. Hudson: Excuse me, do you guys have any questions for him before we move on the next
5 power point?

6
7 Mr. Jencks: Yes ma'am.

8
9 Ms. La Costa: Thank you Mr. Jencks. Appreciate very much your time and your presentation.
10 Not being a golfer can you please tell me what a golf amenity is?

11
12 Mr. Jencks: I'm not golfer either to be honest with you. The golf amenity is intended to be I
13 guess the best way I would describe it is a short course like an executive nine. Something that
14 gives you the play you need, the practice time you need, not a driving range because that takes
15 up too many acres and too much water frankly. This will be a short course, maybe nine holes or
16 less, very compact, gives you the play because we have some requirements for Maui Junior
17 Golf to play and practice and also tournaments. We still want to accomplish that. It's just going
18 to be a very condensed area allowing for golf playing the project. And as part of that a
19 clubhouse that would provide other tennis, pool possibly, theater space, maybe a restaurant or
20 two to address the needs of the community that are looking for that kind of product. So it's kind
21 of -- and that's not part of the 19 acres. That is exclusively for the golf amenity.

22
23 Ms. La Costa: Thank you. One more please? And also Mr. Jencks you talked about the \$5
24 million payment that you have to make to the County of Maui for the little league facility. Where
25 is that facility going to be placed?

26
27 Mr. Jencks: The deal, the deal that --. When I first started working on the project, the zoning
28 that was done back in '91 for some reason they decided that the County wanted a little league
29 facility out at the end of Piilani. And by the way Piilani Highway wasn't even extended then
30 okay. It was out in the middle of nowhere. And it just at the time when I took over the project it
31 didn't make much sense to me to be building a little league facility where there are no kids. So I
32 came to the County I said look I have this specific condition I want to help out but it seems to me
33 you could use the money, let's come up with a dollar amount. And we'll give you the money,
34 you can build park facilities where they're needed, where the kids are located, adjacent to
35 schools for example, in central Kihei. So they agreed and the, the, the follow up was well how
36 do we come to a dollar amount? Well, what we'll do is we'll use the value of the land when it's
37 zoned properly and the value of the improvements to that little league facility and we can
38 escalate those if we need to. They agreed and we settled on \$5 million, so they said okay.
39 When you get your Phase II we don't need it. We don't want it now because there's no zoning
40 approval. You can still have discretionary approvals to go through. Once you get to the last
41 discretionary approval which is Phase II you write us a check, we're good, and that's it. Now I still
42 have to pay all of the park fees for every unit in the project and still build park and open space in
43 addition to that. So I've got, I've got two or three things I've got to do. Pay the money for the
44 little league facility which is fair. Also pay park fees which in today's dollars are probably
45 something around the order of maybe \$16,000 a unit that I'll have to pay when I subdivide or
46 when I build a multi-family project, plus build park and open space in the project which is part of
47 the condition, so I've got a lot to do.

1
2 Ms. La Costa: So just for clarification the little league facility is not going to be within Honua'ula.

3
4 Mr. Jencks: No.

5
6 Ms. La Costa: Okay, thank you.

7
8 Mr. Hudson: Any other questions Commissioners? Kahu Hill?

9
10 Kahu Hill: Mahalo Chair. Aloha. I wanted to understand something that you had just said I had
11 seen in the archaeological inventory survey that revealed 200 historical sites, and the SHPD
12 recommended the preservation of 125 sites in southern section, and six sites in the northern
13 section. I think you just mentioned though there's 83 archaeological sites. I want to understand
14 what you just said.

15
16 Mr. Jencks: You know I was just reading through the historic resource preservation plan this
17 morning, but I think it said 83 specific sites, but 200 features. And then what you just quoted
18 was I think the letter from the State on the Historic Resource Preservation Plan talking about --.
19 Yeah I would defer to that. That's the more specific count on the exact number of sites that will
20 be preserved. All of the sites in the NPPA whether they're features or sites will be preserved.
21 Those outside of the NPPA and the other survey area between the boundary of the NPPA and a
22 site . . . (inaudible) . . . will also be preserved. In addition, in the northern part of the property
23 towards Maui Meadows there are six sites that we had proposed for data recovery. But at the
24 request of SHPD we reversed that, said we'll just preserve them as they are, where they are.
25 So no data recovery. In addition to that there are I would say another 25 or so sites in the
26 northern portion of the property that are in -- some of them are in drainage ways for example.
27 Those are going to be preserved as well. We made a commitment to Sierra Club Maui and
28 Maui Unite to preserve those. So we're going to modify the HRPP to include those in the
29 preservation as well.

30
31 Kahu Hill: Mahalo.

32
33 Mr. Hudson: Any other questions before we move on?

34
35 Ms. Tina Gomes: I do.

36
37 Mr. Hudson: Go ahead.

38
39 Ms. Gomes: Thank you Chair. I have a question my dear I'm -- for Condition No. 9. I'm sorry
40 Condition No. 7, I'm taking a look at -- and just for clarification purposes this particular major
41 condition compliance this is current. This is current that you have listed. Animal Management
42 Plan, can you clarify a little bit on that?

43
44 Mr. Jencks: We have on this property as you can probably well imagine a lot of deer, pigs.
45 There have been from time to time goats on the property, feral cats. So when you start
46 developing the land, the Department of Land and Natural Resources want us to come up with a
47 plan to manage these animals. And by example they wanted two things. No. 1 they wanted us
48 to put a fence on the mauka boundary between the property and Ulupalakua Ranch to help

1 keep the deer from coming into the property down into the resort area and the golf courses and
2 creating other kinds of problems. So that will be done. As a part of the native plant
3 preservation area, that's a 134 acre area that will be fenced with an eight-foot high deer fence.
4 And part of our goal there as part of the animal management plan is to go and take out all of the
5 deer, all of the pigs, and whatever else in there because those animals tend to destroy the
6 cultural sites and also feed on some of the native plants and certainly to protect the plants. So
7 this is -- so the animal management plan is a couple of things. It's fencing, it's animal control,
8 it's declaring to the residents that there could be deer in our neighborhood, making it known,
9 making it appear to them that what's going on. But our goal is to stop that and then prevent the
10 animals from coming in a makai direction into the resort area or onto the highways and causing
11 accidents.

12

13 Ms. Gomes: And you're working with DLNR. Is this done humanely or --?

14

15 Mr. Jencks: Yes. Yes, we're not using traps or snares or anything like that.

16

17 Ms. Gomes: Okay. I also have, Chair, a question.

18

19 Mr. Hudson: Go ahead.

20

21 Ms. Gomes: In regards to -- I know that you were talking about affordable housing in regards to
22 Condition No. 5 which I think is great. You are putting the affordable housing into this project.
23 Is this going to be the way that Waikapu Gardens how Spencer Homes was where it was a
24 mixed of where we had fair market with affordable built at the same time simultaneously? How
25 are --? Is there a plan for this or do you have designated areas where you're intending? Or is
26 this something that was still in the, in the works?

27

28 Mr. Jencks: The condition requires us to build 250 units okay. Those units, 125 of them will be
29 rental by condition. That's specified in the condition. I don't have an option on this. 125 will be
30 rental, and 125 will be owner occupant. Okay. And the County's affordable housing ordinance
31 provides the pricing sale structure for the units. So many is 100%, some many is at 120%,
32 etcetera. And on the rental side they have to be rental at 60% I think of the County median.
33 Certain proportion. For example I think everyone here would understand or could understand
34 the fact that when you build affordable housing, affordable housing is highly subsidized.
35 Somebody pays for it. It costs money. So you want to build that housing in an area where it is
36 easiest to develop on the flattest land that you can find. It doesn't do well on highly sloping
37 terrain because it's very expensive to build on that kind of terrain. You also want to put
38 affordable housing where it's close to the commercial resources in the project, whether it's food,
39 where there's professional services, or bus stops, and things like that. So we haven't
40 specifically defined the exact location, but I can tell you it will be built in the areas where it's the
41 least costly to build and probably closest to infrastructure in terms of retail commercial and
42 access in to and out of the project. And it will be rental, it will have a rental component, and an
43 owner occupied component.

44

45 Ms. Gomes: With the condition of selling if they --. Would they have the option to sell after x-
46 amount of years? Is that what the intent is?

1
2 Mr. Jencks: Yeah, the County ordinance, the County ordinance allows an owner occupied unit
3 to be sold after so many years.

4
5 Mr. Hudson: Okay, we're going to move on. Mr. Tackett you had a question?

6
7 Mr. Tackett: No, I'm good for now.

8
9 Mr. Jencks: Yeah, it's all in the ordinance.

10
11 Mr. Hudson: Mr. Jencks, let's move on to the next power point please.

12
13 Mr. Jencks: Okay, no problem. Okay so today here talking about Condition No. 27 and the
14 needs of that condition. Now...2008 zoning of approval, the conditions of approval, Condition
15 27 provided for a creation of the Native Plant Preservation Area and some other specific
16 responsibilities. Condition No. 27 requires the adoption of Preservation and Mitigation Plan for
17 this area, and a conservation easement for a native plant preservation area between 18 to 130
18 acres with specific requirements for review and adoption by the Maui Planning Commission. I
19 guess I would --. You know you're in discussions with the Council and you've been in
20 Committee for upwards of two years and you get a condition that says of an area somewhere
21 between 18 to 130 acres that is a lot to choose from. We started out with a smaller NPPA of
22 about 22 acres. In fact that's the size that's on the concept plan that was adopted by the
23 Council for the zoning. Again that plan has evolved through time and knowledge, the revised
24 Archaeological Inventory Survey to 134 acres. So we're actually exceeding now that
25 requirement of 18 to 130 acres. At the time this condition was put on the property in 2008 there
26 were some -- there was a plant, a Wiliwili plant which was a candidate endangered species, a
27 candidate. They were thinking of maybe listing it as an endangered species. Subsequent to the
28 zoning approval and a couple years down the line it transitioned from being a candidate to being
29 listed as an endangered species. That meant that this idea of a preservation and mitigation
30 plan which nobody really knew what it was. What is this document? What's its structure?
31 There's no State guidelines for it. There's no County guidelines. What is this thing? It
32 transitioned from that to a required document which is a Habitat Conservation Plan, and HCP
33 which you received a copy of in your package.

34
35 Now that document is a specific document driven by State and Federal Statutes addressing
36 HRS 195 and the Endangered Species Act because you have to provide for adequate mitigation
37 for endangered species to prevent their loss. And if you're going to have take, for example, if
38 there's a plant out in the middle of nowhere on the property, if you have an incidental take
39 license or permit, you're allowed to take x-numbered of plants as long as you're preserving in
40 this other area a number of plants to balance it out. So instead of just doing this preservation
41 mitigation plan which nobody really knew what it was -- and we took a couple stabs at it.
42 Actually developed the document, sent it to the State agencies and their first response was what
43 is this? We can't review this, I don't know what it is, what is it for? We now have a formalized
44 document which is a Habitat Conservation Plan which is this document right here that you have.
45 Habitat Conservation Plan that is once again required by State and Federal law, has specific
46 structure and requirements, okay. So we went from a preservation mitigation plan with no
47 description to a formalized highly regulated document to protect this area. And we're in the
48 process of completing that process right now.

1
2 Now in addition to the preservation mitigation plan we're required to develop a conservation
3 easement as a part of Condition No. 27. That would provide for -- its establishment as
4 conservation easement in perpetuity. Okay that easement has been developed. It's included in
5 the HCP appendices and the body of the document developed in concert with not only the
6 Federal and State agencies but also local stakeholders for example Sierra Club Maui and Maui
7 Unite as well as the ownership to make sure that we covered all the basis for the conservation
8 easement. So this easement will be established as a part of this Habitat Conservation Plan and
9 then put into place and held as a native plant preservation area in perpetuity.

10
11 Now the maintenance of that area is significant. Our requirement here is two-fold. To pay for
12 this mitigation plan, there's a 15 year permit period. When you start construction you go 15
13 years and there's a specified list of tasks over the 15 year period. One, of course, in the
14 beginning is to fence the NPPA, the 134 acre with an eight-foot high deer fence. Okay, that's a
15 \$500,000 cost just to fence that NPPA. We've got to get that done and then we have to remove
16 the animals from the inside, and then launch into an out planning program for more native
17 plants, maintain the native plants that are in there and the cultural sites that are in there. Okay,
18 this costs money. The budget for the first 15 year period is approximately \$2 ½ million. In
19 addition to that because the easement is there in perpetuity, the 134 acres conservation
20 easement, I am required to post, to create an endowment, an endowment up front that will have
21 enough money in it invested to return on a yearly basis enough money to maintain this in
22 perpetuity. Now that endowment in today's dollars at a 3 ½% return held by a Federal agency is
23 approximately \$3 ½ million. So that money has to go into an endowment account to start the
24 process of accruing the money to help pay for the maintenance of this conservation easement in
25 perpetuity. So that is another one of the requirements here, okay, on this Habitat Conservation
26 Plan. So this is a very complex, complex document and project.

27
28 Now in addition to the Conservation Easement, Condition No. 27 also says I think importantly
29 that we need to take care of the cultural resources in this area, in this area, the 134 acre area,
30 the NPPA. Again I mentioned previously two documents. One was the Historic Resource
31 Preservation Plan that was done by State law, accepted by SHPD which is going to be updated
32 as we work along. And the Cultural Resource Preservation Plan that was done. Another
33 unsolicited document that was adopted by the Cultural Resources Commission in Maui County
34 which will also be updated as we discover more and we include some more comments from
35 some of the folks in the cultural community.

36
37 So we've done not only handled the preservation and mitigation for the botanical resources in
38 the Habitat Conservation Plan, provided for the easement and the money to maintain this piece
39 of property in perpetuity but also taking care of the cultural resources through these plans that
40 have been reviewed and accepted. Okay. Part of the cultural resource preservation effort for
41 the property is the establishment of a Cultural Advisory Committee. And we were just talking
42 about this last night with some of the stakeholders it's going to be a nine member advisory
43 committee that will include educators, perhaps a representative from OHA, other folks resource
44 manager for the property will be an ex-officio member, possibly a member of the ownership of
45 the property would be a member for a while. The point here is to establish a group of people
46 that will meet on a regular basis, get the input from the Federal agencies and the State agencies
47 on the botanical resources but also then leverage what they know to properly maintain the
48 cultural resources in the property. That is all part of the series of the documents that are the

1 plans for the NPPA, the HCP that you have, the Historic Resource Preservation Plan that you
2 have and the CRPP that you have. So this is a, this is a multi-layered approach. It's just not as
3 simple as was originally envisioned by the Council back in 2008 because of regulatory changes
4 and changes in what is important, as well as going from an Archaeological Inventory Survey that
5 identified 24 sites to an Archaeological Inventory Survey that identifies 100's of sites. So it's a
6 completely different project in that sense requiring a completely different look in terms of the
7 complexity of the preservation mitigation plan, what it's going cost and how they're going to
8 manage it. What has evolved overtime I'm asking you today, I'm asking you today so I can
9 move along and satisfy Condition 27, I'm asking you to adopt this Draft HCP in its current form
10 which by the way has been reviewed by State and Federal agencies, had two public hearings in
11 Kihei to garner input as the document to move forward so that I can complete satisfaction of
12 Condition No. 27. Before I get to Phase II, before I get to Phase II there's still more to work,
13 much more work to do. And I'm going to come back to you and report to you at Phase II how I
14 satisfied all of the others some of which I talked about today. And some of them are obligations
15 as part of the settlement agreement with Sierra Club. So I've got more to do. I'll be back to
16 you. But in order for me to move forward if I could get you concurrence with adopting this as the
17 plan. It's going evolved, it's going to get more complex most probably. This is the plan we're
18 looking for adoption today I can then move on to Phase II. That's another condition I've
19 satisfied. I know that's an awful a lot. You've heard about HRPP, CRPP, HCP, AIS.

20

21 Mr. Hudson: Are we done Mr. Jencks?

22

23 Mr. Jencks: Yes Mr. Hudson. Thank you very much.

24

25 Mr. Hudson: Okay, questions from the Commissioners before we go to public? No questions
26 right now? We're going to open up the floor to public testimony now.

27

28 Ms. Lucienne de Naie: I signed up so I'm walking up here.

29

30 Mr. Hudson: Lucienne de Naie.

31

32 Ms. de Naie: Lucienne. Yes.

33

34 Mr. Hudson: Please identify yourself and you have three minutes.

35

36 Ms. de Naie: Thank you Commissioner Hudson, and Commission Members and staff. My name
37 is Lucienne de Naie. I'm the conservation chair of the Sierra Club Maui. Appreciate that the
38 Commission has given extra time for the Sierra Club and others, Maui Unite, reps to all work out
39 some better language in this Habitat Conservation Plan. I know this was originally scheduled in
40 May and so there's been some meetings between then with the parties. So the document you
41 have today does not have that updated language because it's just been agreed upon in the last
42 few days. But we were concerned that the plan although it make good provisions for the plants
43 and the endangered creatures forgot that we have actual Hawaiian cultural practitioners using
44 the land regularly and they need to be included in the decision making. So we are trusting that
45 with the new language which unfortunately you're going to sign off on before you see that
46 language, but we're trusting that that language will be there and that will fix things. I just wanted
47 to mention that in the Native Plant Preservation Area we have seen the caterpillar for black burn
48 moth, the Manduca moth and so that moth is very likely established there and in other areas

1 outside of the native plant preservation area hence the need for a take license in case one is
2 injured in the preserved area.

3
4 I also want to mention a little about the history. Mr. Jencks gave you a great presentation, but
5 the reason that these have these very lengthy conditions, like Condition 27, is that when the
6 project originally went before the Council they did not have a completed archaeological survey
7 and so there were conditions put in that that had to be done, and that took a while, and it took a
8 lawsuit by Sierra Club to actually get a proper, more proper AIS. It also did not have a
9 completed botanical survey so it did not acknowledge that there were any endangered species
10 on the property. And so this condition of a 130 acres was the idea that this is a rear lava flow
11 area, a young lava flow area that would support these kinds of rare and endangered plants.
12 And that's why the 130 acres was put there. I doubt if that would have happened without the
13 lawsuit, but it has happened and we're very grateful. And definitely urge you to read over the
14 plan and make your decision.

15
16 We do want to bring up the fact that the archaeological reports are not yet complete. OHA just
17 sent a letter asking for more work on the preservation plan in part because the northern sites
18 that were in our settlement agreement were not included in that plan, and we were never
19 notified that they weren't going to be included so it was a little hard to weigh in. So that's going
20 to be fixed. We thank the HP folks. They're going to fix that. They're going to fix some of the
21 other language that was not accurate. And then OHA also has to sign off on this in order to
22 satisfy the conditions of zoning, so that hasn't happen yet, just for your information. Mahalo for
23 your time.

24
25 Mr. Hudson: Thank you. Is there anybody else in the audience that would like to offer public
26 testimony? Please state your name, and you have three minutes.

27
28 Ms. Claire Apana: Thank you. My name is Claire Apana, I'm from Wailuku and actually I believe
29 it was -- whenever this came before the Planning Commission before is when I joined the Sierra
30 Club and mostly to help and watch the lawsuit. And being Kanakamaole this place is very dear
31 to me and I have gone there many times. As a matter of fact it was my second home for at least
32 a year and half and --. So I know this project very well and I am happy to see that so much
33 more has been included in the Archaeological Inventory Survey. I'm sorry that they never
34 marked me down as ever having attended any of the public meetings of which I went to almost
35 every one. But I find that always the Kanaka have to fight for their voice and for rights. And this
36 letter I don't know that you got one from the Office of Hawaiian Affairs reviewing this particular
37 HCP, but that is the one that they reviewed. And I can see that we, I can see that the Kanaka
38 voice is still trying to be worked out. I wish I could say that everything was, everything was
39 worked out together for this project and it has been a really a lot of work and much time from
40 citizens and the public, practitioners, lineal descendants and just people who love this place.
41 And one day you will get to see it. It is an absolute amazing place for especially the Kanaka
42 people because it's all still there. It hasn't been destroyed. The ancient sites, the culture, the
43 way the things were planted, it's all still there. And I don't know that there's another place like
44 that, like this on Maui right now that can be preserved and brought forth as a living testament of
45 the people of old and the people of now who's us using this land and bringing it alive. And
46 there's so many beautiful times that I've been there with the . . . (inaudible) . . . hoku which is
47 the star cruise and watching, watching the stars go by.

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Ms. Carolyn Takayama-Corden: Three minutes.

Ms. Apana: I bring this to you just for your information and thank you very much for your attention to the project. And I'm so happy to see that people have actually read through all of the documents. Thank you.

Mr. Hudson: Thank you. Is there anybody else from the audience that wishes to offer public testimony? Seeing none, public testimony is closed. We're going to take a ten minute recess. Be back at 10:15 a.m.

(The Maui Planning Commission recessed at 10:05 a.m. and reconvened at 10:15 a.m.)

Mr. Hudson: We heard some of the public testimony. I'm going to give you an opportunity to respond to it right now.

Mr. Jencks: Yeah, I think, I think Claire handed out the OHA letter. Just so you understand what's going on here, the Office of Hawaiian Affairs received the Historic Resource Preservation Plan in January of 2016. I met with them numerous times. After about six months of meeting with OHA, they said to me well we're not going to provide to you any comments until SHPD provides their comments. So SHPD finally got their comments in August of 2017 and I went back over and said okay now that we know what SHPD wants and we've modified the plan, here's the plan and we've added some sites for preservation, can we kind of move on and give me your thoughts. Okay we'll take a look at it. And I said we can have a meeting. I'll just supply whatever you need to facilitate a decision on this. We met probably about half a dozen of times and the ownership, the partnership that I worked for asked the Department of Planning for the sake of expediency to send OHA a letter saying look you had this now for quite a while, how about responding because we have a process we'd like to get through. We want to move this project out. Frankly Ann said I'm tired of talking to Charlie Jencks about his project, let's move on, and could you get us a response in 30-days? Well, the letter you received today was driven by that request after a significant period of time waiting for a letter. So this wasn't an easy process. The letter isn't I think don't an issue. Some of the things we're going to be doing, with respect to cultural input, adding to these documents, will be reflected as solutions to some of the things they brought up in the letter. There's nothing in there that surprises me and we can easily deal with it. But other than that I think, I think you've got the story. We are as I said in my presentation the Historic Resource Preservation Plan has been accepted by SHPD. It meets all their requirements. It will be amended to include additional sites as we go through this process. We've already agreed to do that. And the CRPP as well will be amended to reflect additional cultural input. I'm going to be looking for a facilitator if anybody is interested to help me do that.

Mr. Hudson: Thank you Mr. Jencks.

Mr. Jencks: So that's where we're going.

Mr. Hudson: I'm going to open up the floor to Commissioners.

1
2 Ms. Gomes: I have a question. This letter from OHA, you dealt with OHA on Oahu not
3 specifically OHA here on Maui?

4
5 Mr. Jencks: I did both.

6
7 Ms. Gomes: You did both?

8
9 Mr. Jencks: Yes ma'am.

10
11 Ms. Gomes: Okay but this letter is coming from Honolulu.

12
13 Mr. Jencks: That's correct.

14
15 Ms. Gomes: Okay.

16
17 Mr. Jencks: And that's where it's supposed to come from.

18
19 Ms. Gomes: Right. But you did deal with the Office of Hawaiian Affairs here?

20
21 Mr. Jencks: Yes.

22
23 Ms. Gomes: Okay.

24
25 Mr. Hudson: Any other? Kahu Hill?

26
27 Kahu Hill: Mahalo Chair. I have a few questions for you. In the 134 acres, the NPPA, is
28 completely talking about being completely fenced in. I'm wondering how are the Hawaiian
29 cultural practitioners going to be able to gather or access that area.

30
31 Mr. Jencks: Well, we've been talking about that. To secure the area for the benefit of the plants
32 and the cultural sites it will be fenced, there will be gates. Those gates you know we're talking
33 okay do these gates need to be locked today? If the fence was up today would I want to lock
34 the gates? Probably. Access is facilitated by use of the key. When the project is built out those
35 would probably not be locked but they would be secured. They'd be like self-closing gate
36 because we want to keep the deer out, animals out because of the native plants. It will be
37 gated. Access will be facilitated by the CAC working with the resources manager on the
38 property. So if they want to get in and we were talking about coming up with a schedule of
39 significant dates that would be of interest of the Hawaiian culture, dates that they would want
40 to be on the property visiting sites. We can set those down and make sure they have access at
41 any time they want. And by the way that access has been ongoing while we've been working
42 on the project.

43
44 Kahu Hill: So also that's was other question is will they be able to access during construction
45 because this could take years.

46
47 Mr. Jencks: Yes. Yes. The --. I'm sure you can understand there's a trail plan in the project.
48 There's about 12 miles of trails in the project. Some of those trails won't be accessible because

1 of construction that is immediately adjacent, but that doesn't mean they still can't get on the
2 property. It doesn't mean they still can't get to the NPPA. In fact as part of the settlement
3 agreement we included three parking areas to facilitate folks getting on the property located
4 close to the NPPA and the other sites on the property so that they could park close to and then
5 walk in. There's a road through the NPPA, on the map there's a black dotted line that is actually
6 the alignment of the older Kanaio Kalama Park road or trail. So that's being preserved as a part
7 of the NPPA and they can use that to get into the middle of the area if they will with vehicles if
8 they have to. But that's the only road in that area. It's very, very rugged. And then there are
9 trails that take you to the cultural sites.

10
11 Kahu Hill: Okay, mahalo. Can I ask a couple more questions?

12
13 Mr. Hudson: Go ahead.

14
15 Kahu Hill: Mahalo. I wanted to know at what point are going to form your Cultural Advisory
16 Committee. You mentioned nine members of that and I wanted to see when that's going to
17 happen.

18
19 Mr. Jencks: I'm glad you brought that up. Right now the Habitat Conservation Plan talks about
20 having that formed at the time that we trigger construction and we have possible take. But
21 we're moving that back maybe six months earlier because we talked about this last night with
22 Sierra Club. And the idea here is to have this thing, have the CAC formed and operational with
23 some guidelines in place prior to the start of construction so we are ready to deal with access,
24 timing of access, construction related access, etcetera. So we're going to back it up and get
25 that formed prior to the start of construction maybe by six months.

26
27 Kahu Hill: Okay, mahalo for that. I wanted to know will the entire . . . (inaudible) . . . fill system
28 that's mentioned in your report. It's such a precious piece of land since the 1600's. But is that
29 system located that you're going to preserve in the NPPA exclusively?

30
31 Mr. Jencks: The bulk of it, yes.

32
33 Kahu Hill: The bulk of it. Okay.

34
35 Mr. Jencks: There are terraces outside south of the 200 wall. There are terraces outside the
36 NPPA. But the bulk of them, there are 200 of them in the NPPA. All those outside south of the
37 wall the bulk of those except for like three will be preserved as well.

38
39 Kahu Hill: Okay. And I wanted to know was it true in this report that it said like you had not
40 found iwi kupuna at this point and I wanted to know if that was the case and if you do find iwi
41 kupuna what is the protocol you intend to follow?

42
43 Mr. Jencks: Well there's standardize protocol in the State of Hawaii so we'll follow that. And no
44 we haven't found anything.

45
46 Kahu Hill: Okay. And let me see if there's anything else. I wanted to know about the water.
47 You could just share about the water for property.

1 Mr. Jencks: Water to serve the project?

2

3 Kahu Hill: Yeah.

4

5 Mr. Jencks: At the time I took over the project in 2001 there was a significant debate in Maui
6 County about how much water there is. How do you get it through? How do you get it to the
7 development? And how do you serve people with water? So I -- my proposal to the ownership
8 was I said you need to make a decision. You can either follow the idea that you're going to use
9 municipal water if it's available at the time that you want to do it or you can develop your own
10 private system and there's provisions for them in State law. The property that existed and when
11 it was acquired by the current ownership had two wells on it at the northern end close to Maui
12 Meadows. Those two wells will do nearly a million gallons a day. And it's, it's -- in its current
13 state pump today it's potable. Now when you pump it it will probably get a little saltier, you've
14 got to . . . (inaudible) . . . it and that's standard. So we have a million gallons on property and at
15 the time -- remember I talked about an 18-hole golf course -- that alone would take a million
16 gallons a day to irrigate a golf course. So we went in with an agreement with Haleakala Ranch
17 north of Maui Meadows, north of Maui Meadows in the Kihei-Makena Plan District we identified
18 a well development area that's about a 1,000 feet long that we've already drilled two wells in.
19 And those two wells, they'll produce something in the order of 750,000 gallons a day. Those
20 wells exist today. They're drilled, cased, and ready for pumps. So between the wells onsite and
21 the wells offsite we have adequate water for the project.

22

23 Kahu Hill: Mahalo.

24

25 Mr. Jencks: You're welcome.

26

27 Mr. Hudson: Commissioner La Costa.

28

29 Ms. La Costa: Thank you Chair. I noticed on the rendering in Exhibit 1J that you have single-
30 family segments right outside. How will that impact the preservation area after you have folks
31 close to it?

32

33 Mr. Jencks: The lots are in that area large. They're something in the order of a 1/3 and a 1/2
34 acre, okay. And we have as a part of the Planned Development we developed Urban Design
35 Guidelines for the project. And we developed proto-typical homes and siding criteria for those
36 homes. That land is immediately adjacent to the NPPA is fairly disturbed. It's . . . (inaudible). . .
37 basalt and with adequate setbacks and minimized grading where possible we don't see any
38 issues. Fish and Wildlife Services or DLNR said they have no concerns over that. They are
39 concerned about pesticides and overspray, that's something we can deal with as well.

40

41 Ms. La Costa: Thank you.

42

43 Mr. Hudson: Any other questions from the Commissioners? Seeing none, Ms. Cua?

44

45 Ms. Cua: Yes Mr. Chair pursuant to Condition 27 the Planning Department is recommending
46 that the Commission adopts the plan that was presented to you today.

47

48 Mr. Hudson: Thank you. Commissioners, discussion? Seeing no discussion, any motions?

1
2 Mr. Tackett: I have a motion.

3
4 Mr. Hudson: Go ahead.

5
6 Mr. Tackett: I motion to approve the adoption of the Draft Preservation Mitigation Plan and the
7 Habitat Conservation Plan for the proposed Honua'ula Project. And I believe that by putting the
8 these things into effect that you're going to be protecting it at a higher level than has ever been
9 protected before and in a way higher level if that lot happened to developed as a golf course.
10 So it's nice to see huge chunks of lands put aside and protected from goats and protected from
11 deer and protected from alien species that could have an unfavorable impact. Who knows, who
12 knows how long they would survive as we all know that deer, and goats, and pigs are rampant
13 and the herds are huge. So it seems -- I'm in absolutely in favor it and that's my motion. Thank
14 you.

15
16 Mr. Castro: Second.

17
18 Mr. David Galazin: Thank you Chair. And just to clarify and help the members, it's best first to
19 just make the motion, wait for a second, and then the maker of the motion is given the
20 opportunity to speak first to it and explain the rationale.

21
22 Mr. Tackett: Thank you.

23
24 Mr. Hudson: And we have a second by Mr. Garcia.

25
26 Mr. Tackett: Castro seconds.

27
28 Mr. Hudson: I'm sorry. I'm sorry. Okay, that being said Mr. Tackett well spoke. We have a
29 motion on the board, it was seconded, discussion? Seeing no discussion I'm going to call for
30 the vote. All those in favor of the motion signify by saying aye and raising your right hand.

31
32 **It was moved by Mr. Tackett, seconded by Mr. Castro, then**

33
34 **VOTED: To Adopt the Preservation/Mitigation Plan and Habitat Conservation**
35 **Plan.**
36 **(Assenting – C. Tackett, S. Castro, A. Hill, T. Gomes, P.D. La Costa)**
37 **(Excused –L. Carnicelli, K. Robinson)**

38
39 Ms. McLean: That's five ayes.

40
41 Mr. Hudson: That's five ayes, motion carries.

42
43 Mr. Jencks: Thank you members, Mr. Chair.

44
45
46 **D. UNFINISHED BUSINESS**

47

- 1 **1. MR. JAMES LECRON requesting a Special Management Area Use Permit in**
2 **order to construct the Roddenberry Residence, a 7,825 sq. ft. single-family**
3 **residence, including a 1,032 sq. ft. detached garage, a 658 sq. ft. accessory**
4 **dwelling, a 318 sq. ft. pool cabana, a 218.5 sq. ft. covered lanai, and a 6-ft.**
5 **deep swimming pool with spa at 10 Kai Ala Place, TMK: (2) 4-4-014: 001,**
6 **Kaanapali, Island of Maui. (SM1 2017/0007) (K. Scott) (Public hearing**
7 **conducted at the June 26, 2018 meeting.)**

8
9 **The Commission may take action on this request.**

10
11 Mr. Hudson: Okay moving right along. Director?

12
13 Ms. McLean: Thank you Chair. Your next item is request from Mr. James LeCron for a Special
14 Management Area Use Permit in order to construct the Roddenberry Residence, a 7,825 square
15 feet single-family residence, including a 1,032 square foot detached garage, a 658 square foot
16 accessory dwelling, a 318 square foot pool cabana, a 218.5 square feet covered lanai, and a 6-
17 foot deep swimming pool with spa at 10 Kai Ala Place, TMK: (2) 4-4-014 parcel 1 in Kaanapali.
18 This is under Unfinished Business as the Commission did hear this item at an earlier meeting
19 and deferred action. Keith Scott is the project planner.

20
21 Mr. Keith Scott: Thank you very much Chair and Members of the Commission. As you may
22 recall we did have a presentation. There was some -- there was one question that in the packet
23 that you had received for that meeting a page appeared to be missing and we note that that was
24 a clerical error, that the document that was online was complete so everything was there. I
25 think you have since received the complete document which is the Department's Report on the
26 project.

27
28 There was also some question about the drainage and I think you should have received via e-
29 mail a copy of the drainage report that was prepared for this project so you have that. And
30 we've also provided to you a copy of the letter from SHPD. If you want additional information,
31 presentation, Mr. LeCron is here and is prepared to give some additional information.
32 Otherwise we're available for any questions you might have.

33
34 Mr. Hudson: Could you briefly explain the project, briefly, real quickly?

35
36 Mr. Scott: Okay, it's a single-family dwelling at old airport beach and it's a very large
37 development for Mr. Roddenberry and it's ready to go.

38
39 Mr. Hudson: Where is the house zoned in?

40
41 Mr. Scott: The house is zoned Hotel. The entire area is zoned Hotel.

42
43 Mr. Hudson: Okay thank you. Kahu Hill.

44
45 Kahu Hill: Mahalo Chair. You're saying that there is something in here I think I misunderstood
46 you and I didn't see it and that's the approval from the SHPD.

47
48 Mr. Scott: I didn't say there was approval from SHPD. There is a letter from SHPD. They've

1 asked for some corrections to the document that they received and those are being prepared as
2 we speak.

3
4 Kahu Hill: Yes, okay.

5
6 Mr. Hudson: We need the recommendation first. Okay, we're going to open up the floor for
7 public testimony. Anybody in the audience wishing to offer public testimony? Seeing none,
8 public testimony is closed. Need the recommendation please.

9
10 Mr. Scott: Okay you should note in your recommendation there is a typo. In Condition No. 9,
11 the first sentence in Condition No. 9 should be little (e) in the previous condition, Condition No.
12 8. So with that change the Department recommends approval of the project.

13
14 Mr. Hudson: Thank you. Commissioners, any discussion? No discussion. Kahu Hill.

15
16 Kahu Hill: Mahalo. Yes, there were 11 requests from the SHPD to be completed...they need to
17 be completed so I don't --. Since the SHPD has not been received I would like to make a
18 motion that this agenda be deferred until an archaeological assessment has been approved by
19 SHPD.

20
21 Ms. La Costa: Second.

22
23 Mr. Hudson: Motion has been made and seconded. Discussion?

24
25 Mr. Scott: Mr. Chair, could I offer something please?

26
27 Mr. Hudson: Certainly.

28
29 Mr. Scott: One of the conditions of approval is that the project receive clearance from SHPD so
30 the concern that you have will be addressed prior to the Department receiving the preliminary
31 compliance report.

32
33 Kahu Hill: I'm just looking at that. The archaeological assessment was not acceptable and did
34 not meet the minimum requirements by law.

35
36 Mr. Scott: I understand that and the corrections are in the process of being made. And before
37 the developer can do anything on the project that will have to be completed to SHPD's
38 satisfaction.

39
40 Mr. Galazin: Thank you Chair. And, yeah, I would echo those comments. When you look at No.
41 5 in the standard conditions, you know, the applicant needs to submit this preliminary
42 compliance report. It says reviewed and approved prior to the issuance of the first grubbing,
43 grading, foundation or building permit. So whether they are putting a shovel in the ground or
44 they're wanting to pull a building permit that can't happen until the preliminary compliance report
45 is approved. And a preliminary compliance report itself can't be approved until they have
46 approval from SHPD. So that's a built in fail safe. They cannot --. This is just the SMA Permit

1 which has the conditions. They can set if you think that it meets the SMA requirements that's
2 fine. But just know that no shovel is going into the ground until SHPD says it's okay to do so.

3
4 Kahu Hill: On that note can I retract what I just said to understand that's already written?

5
6 Mr. Hudson: You're withdrawing your motion?

7
8 Kahu Hill: Yes, I withdraw my motion.

9
10 Ms. La Costa: I withdraw my second.

11
12 Mr. Hudson: Okay the motion has been withdrawn. Any new motions?

13
14 **A motion was made by Kahu Hill, and seconded by Ms. La Costa to defer the matter in**
15 **order for the archaeological survey be amended. After further discussion, Kahu Hill**
16 **withdrew her motion to defer and Ms. La Costa withdrew her second to the motion.**

17
18
19 Mr. Castro: Move to accept the recommendation.

20
21 Mr. Hudson: Motion to accept.

22
23 Ms. Gomes: Second.

24
25 Mr. Hudson: Second. Motion to accept and seconded. Discussion? Seeing no discussion, all
26 those in favor say aye? Motion carries.

27
28 **It was moved by Mr. Castro, seconded by Ms. Gomes, then**

29
30 **VOTED: To Approve the Special Management Area Use Permit as**
31 **Recommended by the Department.**
32 **(Assenting – S. Castro, T. Gomes, A. Hill, C. Tackett, P.D. La Costa)**
33 **(Excused – L. Carnicelli, K. Robinson)**

34
35 Mr. Scott: Thank you.

36
37 Mr. Hudson: With five ayes.

38
39
40 **E. PUBLIC HEARING** (Action to be taken after conclusion of public hearing.)

- 41
42 **1. ROBERT and STEPHANIE OSWALD requesting a State Land Use**
43 **Commission Special Permit in order to operate Tranquil Palms, a bed and**
44 **breakfast, with two bedrooms located in the main farm dwelling and two**
45 **bedrooms located in the accessory farm dwelling, located in the State**
46 **Agricultural District at 4356 Opana Place, TMK: (2) 2-8-002:186, Haiku,**
47 **Island of Maui. (SUP2 2018/0001) (K. Willenbrink)**

48

1
2 Mr. Hudson: Okay, moving right along. Director?

3
4 Ms. McLean: Thank you Chair. Your next item is a public hearing item. A request from Robert
5 and Stephanie Oswald for a State Land Use Commission Special Permit in order to operate
6 Tranquil Palms, a bed and breakfast, with two bedrooms located in the main farm dwelling and
7 two bedrooms located in the accessory farm dwelling located in the State Agricultural District at
8 4356 Opana Place, TMK: 2-8-002 parcel186 in Haiku. And Kim Willenbrink is the project
9 planner.

10
11 Ms. Kimberley Willenbrink: Good morning Mr. Chair and members of the Commission. Very
12 nice to finally meet you Commissioner Gomes. I came to the -- for your information -- I came to
13 the Planning Department last July. Prior to that I worked for the Offices of Council Services for
14 12 years. As always, as resident of this County, may I thank you for all of your hard work and
15 dedication.

16
17 This matter is scheduled for your review and recommendation today. The owner applicants,
18 Robert and Stephanie Oswald, are seeking approval of a State Land Use Commission Special
19 Permit to operate a bed and breakfast in Haiku off of Ulumalu Road which is in the State
20 Agricultural District on approximately two acres of land. There were no comments from the
21 State related to the proposed bed and breakfast. There were no reports filed with the Police
22 Department. However the Police Department did submit comments after the report that I
23 drafted was prepared. Those comments are in front of you today.

24
25 The comments note three calls to the house. I spoke to someone at the Department who
26 confirmed the calls were made in 2012, 13, and 15. And this is prior to Mr. and Mrs. Oswald's
27 purchase of the property.

28
29 There have been no Requests for Services on the property. That documentation is Exhibit 14 in
30 the Department's Report. There are no other bed and breakfast or short-term rental homes
31 within a 500-foot radius. Mr. Chair, I did bring a copy of that if you would like to see it. I only
32 have one copy but it shows that there are none.

33
34 The Department received a total of eight letters in support of the proposed B&B and two letters
35 in opposition. The Department notes that there is an approved and implemented farm plan for
36 the property that is not anticipated to be negatively impacted. That was updated in 2017 when
37 they applied.

38
39 Vegetation on the farm -- and this impressive -- includes a citrus orchard, avocado, banana,
40 lychee, papaya, coffee, coconut, mango, cherry, pineapple, guava, and vegetable garden.

41
42 You are here today to approve or deny the State Special Permit. If you approve the Special
43 Permit, the B&B Permit will be approved administratively by the Department. As of June 30,
44 2018, there were 43 permitted bed and breakfast in the Paia-Haiku Community Plan region.
45 The bed and breakfast permit cap for the region is 88. Mr. and Mrs. Oswald are here today to
46 deliver a presentation and to answer any questions that you may have. After the presentation I

1 will provide the Department's recommendation. If there are no objections or questions I will
2 invite the applicants to come to the podium.

3
4 Mr. Hudson: Please proceed.

5
6 Ms. Willenbrink: Thank you.

7
8 Mr. Robert Oswald: Good morning Chair Hudson, Director McLean and Commissioners. I'm
9 sorry. Commissioners and Chair Hudson, Director McLean, Deputy Corporation Counsel
10 Galazin. My name is Robert Oswald. This is my wife Stephanie. We've been married for 18
11 years and we live in our dream home in our small farm, on our Haiku farm that we call Tranquil
12 Palms. Maui's our home and Lord willing we intend to reside at Tranquil Palms for the rest of
13 our days. We're before you today seeking approval of our State Land Use Commission Special
14 Permit required for our B&B license.

15
16 We'd like to tell you a little bit of ourselves and our little farm. My background is in engineering
17 and business, Stephanie is in teaching and music, which as we like to say makes us a complete
18 left brain, right brain couple. We enjoy growing and using our crops to ourselves. We also give
19 back to the community by sharing our crops with local residents. As our fruit orchards mature
20 and crop fields increase we will sell our surplus fruits to Mana Foods in Paia, local harvest in
21 Kahului, as well as from a roadside stand at the base of our driveway. Future earnings from
22 crop sales will be used to expand our farm's agricultural activities. And we will keep giving back
23 by continuing to offer our fruit to local residents and by donating to the Paia branch of the Maui
24 Food Bank.

25
26 The B&B application process requires neighbor notifications and communications and we've
27 gone well beyond those required, those minimum requirements. The 500 foot and abutting
28 mailings are included -- included a personal neighbor letter and that's included in your handout.
29 The letter describes our proposed B&B and its planned operation in detail. The letter includes a
30 friendly invitation to our neighbors to contact us by phone, e-mail, text or to just drop by to see
31 our ongoing open house to discuss our proposed B&B and have a look around. We also did
32 additional neighbor outreach to those beyond our 500 foot list. Attached to the B&B notice sign
33 at the base of our driveway is an info tube containing copies of the neighbor letters for drive-by
34 and walk-by. So far about a dozen of letters have been taken and the only response was a nice
35 one, a neighbor support letter. We gave our two next door neighbors special attention with door
36 to door personal visits to discuss our B&B plans and to hand deliver a neighbor letter. We
37 received a total of eight support letters including one from our next door neighbor on the 500
38 foot list, another on the 500 foot list, and one from a neighbor on our street living a bit farther
39 down just beyond the 500 foot line. There are also five support letters from others outside the
40 neighborhood such as friends, family and local associates. Only two of the 28 homeowners
41 within 500 feet sent written objections including one from our other next door neighbor. We
42 understand our neighbors voicing their concerns and we appreciate the inclusiveness and the
43 transparency of this application process and we'll address the neighbor concerns in part three.

44
45 Our brief presentation for you this morning has three parts, and the good news is part one is
46 almost over. Part two will be a quick slide presentation tour of our farm. And Part three we'll

1 wrap up with means of compliance and how we are addressing and mitigating our neighbors'
2 concerns. Thank you.

3
4 Ms. Stephanie Oswald: Good morning Chair and Commissioners. I'm going to give a brief slide
5 show presentation. Do you mind if we turn the lights down? Thank you.

6
7 So this first slide is just an overview of our Tranquil Palms property. It shows a few photos of
8 our crops and just the property in general. This is a general map of Maui which shows our
9 property on the North Shore. We're about eight miles east of Paia. You can see we're there,
10 4356 Opana Place. This the 500 foot radius which is the green -- oh there we go -- green circle
11 right there. You can see our property there. It also shows there are two other B&B's licensed.
12 My hand is shaking. My pointer is moving. The Maui Tradewinds is here, and then North Shore
13 Ocean is here. They're both within 2,000, around 2,000 feet from our property. So not within
14 the 500 foot radius, but B&B's are established in the general area.

15
16 This is an aerial photo of our property. You can see the red boarder here mark the two acre
17 boundary. There's two buildings. The blue which is our main house and then the cottage to the
18 left. The red x here, this shows that our driveway is the first driveway on Opana Place. From
19 Ulumalu you turn onto Opana, and then we're the first driveway so no other, the guests will not
20 be driving past any of the properties or homes on our street. So no additional noise or impact
21 there. There's also dense Areca hedges on both sides here and here to our neighbors which
22 provides visual separation and privacy. This neighbor on this house here enters from Ulumalu
23 Road coming right up -- you can't see it -- right up here. And the other neighbor here enters
24 from a driveway from behind. So the two neighbors don't actually access right on Opana Place.

25
26 This is a photo taken from the base of our driveway. You can see there's the application sign.
27 You can also see that the buildings are not visible from the street. They're set back and so
28 they're nice and remote and should provide no additional impact.

29
30 This photo was taken from the carport which is behind the main house and it shows on the right
31 the photo to one neighbor where there's a dense Areca hedge, and the left, the other neighbor
32 where there's dense Areca hedge you can see the visual privacy and the buffer with the
33 hedges.

34
35 This is the lot layout that was provided with the application we submitted to the County and you
36 can see there's the pink building here is the main house. We live on the upper floor. And this is
37 the cottage down here. You can see the circular driveway and red rectangles here are the
38 parking spaces so there's definitely --. There are four parking spaces but you can see there's
39 lot of other space for parking and a turnaround for the guests. Our parking is behind the main
40 house in these purple spots so we're well separated from the guest's area. As I mentioned we
41 live on the upper level here which is one bedroom. Downstairs there's two bedrooms and one
42 bathroom. And the cottage has two bedrooms and one bathroom. But it's important to note that
43 we would only rent those out as two bedrooms, one bathroom units, so only two units. We
44 would not be renting out individual bedrooms at all to individual parties.

45
46 This shows the approved and implemented farm plan by Maui County. And this is the map that
47 we submitted with our application for the farm plan that shows the crops and their location on

1 the property. And you can see on the left the list of the crops that Kim read to you. I'll just go
2 through this quickly. These are some of our current produce.

3
4 This is the downstairs of the main house which is two bedroom, one bath as I mentioned. It
5 shows the bedrooms here and the patio. This is the cottage, two bedrooms, one bath and it
6 shows here this is the carport which is one of the parking spaces. There's parking in front,
7 there's parking to the side and there's room to turn around also.

8
9 The house policy we would incorporate into our rental agreement of course making sure that
10 guest take care of the quiet hours in evening to morning, no amplified sounds, and to be sure
11 we keep the serenity of the neighborhood which we also enjoy living.

12
13 This shows the neighbor support and opposition letters just to give you an idea. The 500 foot
14 radius, one letter of support from an adjacent neighbor, a letter of opposition from the other
15 neighbor, two more letters of support here this one within 500 feet, and a letter of opposition
16 from this one. The other letters of support as I mentioned the other five was from some other
17 residents from Maui and also some family and friends as character references.

18
19 Here are a couple of excerpts from our neighbor support letters. Oswald will be very good
20 operators of a B&B in our neighborhood. I am confident they will maintain the local character of
21 the neighbor and that is very important to us. Taking a walk down Opana Place we were
22 delighted to see a B&B was seeking a permit to open its down. We both look forward to it
23 opening. And the last, we support Robert and Stephanie Oswald's application for bed and
24 breakfast license. We actually provided another handout with the letters in their entirety should
25 you wish to read them.

26
27 This is a picture of my family. So my mom is the middle there with some of my family members.
28 My mommy's in here 80's and is in poor health and comes to visit a couple of times a year.
29 When she does due to her not being so mobile it takes a couple of family members to be able to
30 support my mom. We have to take her and help her around. So we have one bedroom and we
31 do use the other bedrooms for families and these visits so that the family can get together and
32 mom can be taken care of. We also have extended family in California, Arizona, Ohio and
33 Minnesota who come to visit throughout the year as well.

34
35 That's the end of the slide show. I'm going to turn it back to Robert so we can wrap up. Thank
36 you.

37
38 Mr. Hudson: Thank you.

39
40 Mr. Oswald: Thank you my dear. Robert Oswald again.

41
42 This is part III, we call it neighbor concerns . . . (inaudible) . . . compliance. At the June 26th
43 Planning Commission meeting, we all learned why it is important that we as applicants take the
44 time in the presentation to address the concerns of our neighbors and show our meets with
45 State and County ordinances. And so those topics are in this final part III, just an additional five
46 minutes of so. In the public testimony portion of the hearing, and as you consider the number
47 and substance of the neighbor objection letters, we respectfully ask that you keep a couple of

1 points in mind. The neighbor objections are general objections that could be applied to any and
2 all B&B's. They are not specific to our Special Use Permit application before you today nor are
3 they specific to us personally. And we're grateful to that because we've established ourselves
4 as good neighbors. We've never operated an unlicensed vacation rentals. We've had no noise
5 or other complaints. Our ag land use is proof of zoning in our farm plan and we're in
6 compliance with all County laws and ordinances. The first of the two objection letters was from
7 Mr. and Mrs. Campbell on Opana Place. Although the Campbells are the owners, they actually
8 reside and live in Livermore California per Maui County tax records. We replied in writing
9 directly to Mr. and Mrs. Campbell in California and provided additional information to address
10 their concerns which were mostly matters to owner to owner covenant, codes, and restrictions
11 with which we are in full compliance. We will be happy to address this topic with you but will not
12 devote time to it here because per County Code CC&R are not a matter for the Planning
13 Commission.
14

15 The second objection letter from Mr. and Mrs. Mac Isaac owner residence of an adjacent
16 property 75 Ulumalu Road. We notified and attempted communications with the Mac Isaac's
17 several times to discuss our B&B plans before and after our application submittal. On June 23rd
18 we spoke in person with Mrs. Mac Isaac and discussed her objection letter. We also replied
19 directly in writing and addressed their concerns as follows. One concern was regarding our ag
20 operation and of course we replied that our Planning Department approved a fully implemented
21 farm plan assures that ongoing compliance with agricultural and zoning requirements. The Mac
22 Isaacs also mentioned that our B&B guests will not be previously known to us and that is a
23 concern, a security concern to them. Researching the matter online we found that areas around
24 local B&B's are not associated with illegal activity and this was confirmed by Maui Police
25 Department's intelligence research analyst.
26

27 We want good neighbor relations so we offered the following means of mitigation for the Mac
28 Isaacs objections. Guest vetting will be via reservation booking system that we'll use. Fencing
29 on the common property. Security is all about perception and we do want to be good neighbors.
30 So in our reply letter to the Mac Isaacs we repeated our verbal offer to install at our expense a
31 fence that will -- on our common property line that will be a show of good will.
32

33 Our application complies with the five guidelines of County Chapter Code 15, Subchapter 12,
34 Special Permits. The first point is the agricultural use of our property is consistent with Hawaii
35 Revised Statutes and Commission Rules, and that is all about agriculture which we're in
36 compliance with. Two is our proposed B&B use will not affect the surround properties. That's
37 where we have complete visual privacy not visible from the neighbors. We are the first driveway
38 on the street, no traffic issues, and next door neighbor driveways are on a different street
39 anyway than of our driveway. Our proposed B&B will not be a burden on public agencies, no
40 additional building or public service will be used. We're using existing buildings. Our B&B will a
41 minimal effect on traffic levels for the neighborhood due to typically one vehicle per rented unit
42 and high occupancy vehicle rate. Tourists usually share a car. Unusual conditions and trends
43 and needs have arisen since the ag district rules were established back in the 60's under the
44 original Hawaii Revised Statutes. Agricultural tourism is a new form of tourism and has become
45 popular in recent years, and our Tranquil Palms farm is good means of providing that service.
46 We're using the land for the purpose consistent with its agricultural zoning. I've said it a few
47 times before but it bears repeating. The B&B use will not detract any way from the ongoing Ag

1 use. B&B use is already part of our character of our ag district neighborhood as evidence by
2 the two existing licensed B&B's established and already there.

3
4 In conclusion owner occupied bed and breakfast is a legally permitted use according to Maui
5 County Code, Maui County Policy Plan, Maui Island Plan and the Paia-Haiku Community Plan
6 which directs that the community quote limit visitor accommodations to owner occupied bed and
7 breakfast establishments, and that is what we hope to become.

8
9 In our presentation here this morning we hope we have shown the Commission that all Special
10 Use Permit application criteria and legal requirements have met, and we have been addressed
11 and reasonably mitigated our neighbors' objections. We thank the Chair and the
12 Commissioners for your kind attention and fair judgment, and we respectfully request the
13 Commission's approval of our Special Use Permit. Happy to take your questions.

14
15 Mr. Hudson: Thank you. We're going to open up the floor for public testimony. First person
16 signed up to testify is Kathleen Mac Isaac. Please identify yourself. You have three minutes.

17
18 Ms. Kathleen Mac Isaac: Thank you. My name is Kathleen Mac Isaac and I have never spoken
19 before a hearing before so I'm a little bit nervous. I am here today to oppose the proposed bed
20 and breakfast application for TMK 2-2-8-002:186. The owners of the property Robert and
21 Stephanie Oswald recently purchased the property and are proposing to operate a four
22 bedroom bed and breakfast in two houses on their agricultural property. Although I submitted
23 written testimony opposing this, I feel very strongly in my opposition to this proposal and I'm
24 here today to reiterate that opposition. I am speaking today on my behalf as well as for my
25 husband, daughter and son-in-law who also live on my property. And my daughter and son-in-
26 law who had to work today and couldn't be here.

27
28 The property in question is located on agricultural land. We operate a small farm on our
29 property which is what agricultural property should be used for. We self-produce grown on our
30 property and pay County, State and Federal taxes on any income generated from those sales.
31 It is my feeling that agricultural land should be used for that purpose and not for a visitor
32 industry business. We have lived in this neighborhood for 30 years. Like most longtime
33 residents of Haiku we have chosen to live in this area for the quiet country lifestyle it provides.
34 Like most long term residents we have chosen to live in an area away from the hustle and
35 bustle associated with tourists. The Haiku Community Plan, the Haiku-Paia Community Plan
36 reflects this philosophy by stating that there should be no bed and breakfast or short-term visitor
37 rentals. This application clearly goes against that grain of that plan. There are no other
38 vacation rentals in our immediate neighborhood and I believe allowing this application would be
39 a terrible precedence opening the door for more such applications. I also did not like this idea
40 for safety reasons. I don't like the idea of having numerous transient people coming in and out
41 of the property next door to us. I'm sure the applicants will not be thoroughly checked out for
42 every visitor by doing criminal background checks or by checking for any sexual offenders. We
43 have young children living on our property -- my grandchildren -- and their safety is our number
44 one concern. The Oswald's have stated that they would fully fence their yard, but apparently
45 they're only going fence the boundaries between our properties. But that doesn't really help us
46 in keeping any unwanted or unsafe visitors out of our next door property. We have never felt
47 the need for securing our property with a fence and would not want to do so now at

1 considerable time and expense. One reason why that I am strongly opposed to this application
2 is that it helps to contribute the acutely affordable rental situation Maui has experienced and has
3 been experiencing with the increase number of both legal and illegal vacation rentals. The
4 ohana on their property has been used for many years as a long-term rental unit for a local --
5

6 Mr. Hudson: Ma'am please conclude.
7

8 Ms. Mac Isaacs: Well, that's I guess is all I'm going to have to say.
9

10 Mr. Hudson: Thank you very much. I'll open the floor up to public testimony who has not signed
11 up. Anybody in the audience wishing to offer public testimony? Please identify yourself. You
12 have three minutes.
13

14 Mr. Tom Croly: I would be remised if I didn't try to Chair. My name is Tom Croly and I do want
15 to say that I know the applicants. They contacted me before they purchased this property and
16 asked would this be an appropriate property to operate a bed and breakfast, would it meet the
17 criteria. And I went through the criteria with them as far as they had to establish a farm plan;
18 something that they did on their own. That they would need to make notice to their neighbors
19 and that it would be a good idea to contact their neighbors first which is something that they did.
20 That they should not even dream of operating prior to, you know, getting approval to do so
21 which is something they have not done. They have not operated. I can just tell you I've met
22 these people. I've known them now for a year and these people are trying to do everything they
23 can to both fit into their neighborhood and to operate within the bounds of the laws that have
24 been set up.
25

26 I don't want to discount the neighbor's opposition to this because I understand that's genuine.
27 But I do want to correct that the neighbor said the Haiku Community Plan says that no bed and
28 breakfast and short-terms rentals are allowed, and it doesn't say that, and this board knows that
29 because it's gone past them. It said no short-term rentals but limit the types of visitor rentals to
30 owner operating bed and breakfast, and that is exactly what this is. So again I'm in full support
31 of this application and I'm just speaking primarily to the character of these people as someone
32 who in no way ever tried to get around the rules and have done everything that they can to
33 comply with the rules and I'm sure they'll be good operators. Thank you Chair.
34

35 Mr. Hudson: Thank you. Commissioners, discussions? Questions? Ms. Gomes.
36

37 Ms. Gomes: I have a question for the owners. When was this property purchased?
38

39 Mr. Hudson: Please identify yourself again.
40

41 Mr. Oswald: Robert Oswald.
42

43 Ms. Oswald: I'm Stephanie Oswald. We purchased the property in August last year, August
44 30th, of last year so we are fairly new to the neighborhood. But we are aware. We listened to
45 the meeting on June 26th and we are aware that it shouldn't affect the Commission's decision
46 whether we're new owners or whether we've been here a long time. We believe we deserve
47 equal rights and we're doing the very best we can to do things the correct way.

1
2 Ms. Gomes: Thank you.

3
4 Mr. Hudson: Commissioner La Costa.

5
6 Ms. La Costa: Thank you Chair. The letter of opposition talked about security and the concerns
7 which everyone has with their respect of where they live. I haven't heard of anyone who vets
8 anyone who signs up or reserves a room so please tell me if you have any plans for that to ease
9 your neighbor's concern. Thank you.

10
11 Mr. Oswald: Thank you for the good question. Yes, we do, and the online booking services
12 have something that you probably wouldn't be aware unless you were an owner. It's an owner
13 rating of guests where owners rate guests. And in that guests rating, the guests rating by the
14 owners follows the guest around and is assessable by other owners such as us. So someone
15 wants to rent our property through a booking service, we can look and see what other owner
16 ratings are and what they think about this guests. You know it's a standard rating system
17 feedback kind of thing. And so that's a fine means I think what other owners saying about a
18 particular guest and that's what we can do.

19
20 Ms. Oswald: In addition we'll have a -- we'll develop a rental contract we have obviously the
21 house policy and there will be plenty of communication prior to signing a contract just to check
22 that they are in compliance with everything that we plan to be doing and fit into the character of
23 the neighborhood being you know tranquil and calm. We don't really fit into the party crowd.

24
25 Mr. Oswald: That's a fair point. Not previously known that could be construed in a number of
26 ways. It isn't like we have a shingle out. We're a bed and breakfast. Somebody drives up and
27 they're staying there that night. There's a long communication process from the time they first
28 contact to when they actually show up, you know making payments. Payments in advance, fully
29 in advance, 100% in advance. So there's a give and take communication with the prospective
30 guest for a long time before we ever you know actually meet face to face when they come. So
31 it's not like they're completely unknown, walking up unannounced and you know staying in our
32 home. We wouldn't want that. We wouldn't have that all.

33
34 Ms. La Costa: Thank you.

35
36 Mr. Hudson: Any other questions? Seeing none. Thank you.

37
38 Ms. Oswald: Thank you.

39
40 Ms. Willenbrink: Mr. Chair, I think I failed to mention by name for the record. My name is
41 Kimberley Willenbrink. I am a planner for the Planning Department, Current Division.

42
43 The Department's full analysis is included in the staff report before you. The Department has no
44 additional analysis or comments to add. The application complies with the applicable standards
45 for a State Special Permit. However before I give the recommendation I would like to point out
46 the very final paragraph in the recommendation has a non-substantive revision. It states

1 November 14th, 2017 when it should it state July 24th, 2018 as today's date. It does state that at
2 the beginning.

3
4 In consideration of the foregoing the Planning Department recommends that the Maui Planning
5 Commission adopts the Planning Department's report and recommendation as its Findings of
6 Facts, Conclusion of Law, and Decision and Order, and to authorize the Planning Director to
7 transmit said written decision and order on behalf of the Planning Commission. Thank you
8 Commissioners. Do you have any questions for me?

9
10 Mr. Hudson: Thank you. Do you have any questions? Thank you.

11
12 Ms. Willenbrink: Thank you.

13
14 Mr. Hudson: We received the recommendations. Any discussion? We need a motion.

15
16 Ms. La Costa: Chair?

17
18 Mr. Hudson: Yes?

19
20 Ms. La Costa: I move that the recommendation as provided by County of Maui Planning
21 Commission is adopted as is.

22
23 Mr. Castro: Second.

24
25 Mr. Hudson: We have a motion and we have a second. Discussion? Seeing none, all those in
26 favor signify by saying aye. All those opposed signify by saying --. Okay, we'll start again. All
27 those in favor signify by saying aye. All those oppose signify by saying no.

28
29 Mr. Tackett: No.

30
31 Mr. Hudson: Okay the vote falls on me. I'll vote aye; approved. Thank you.

32
33 **It was moved by Ms. La Costa, seconded by Mr. Castro, then**

34
35 **VOTED: To Approve the State Land Use Commission Special Permit as**
36 **Recommended by the Department.**
37 **(Assenting – P.D. La Costa, S. Castro, A. Hill, T. Gomes, L. Hudson)**
38 **(Dissenting – C. Tackett)**
39 **(Excused – L. Carnicelli, K. Robinson)**

40
41 Ms. Willenbrink: Thank you Commission.

42
43 Mr. Oswald: Thank you Chair and Commission. Thank you.

44
45
46 **F. DIRECTOR'S REPORT**

47

- 1 **1. MS. MICHELE CHOUTEAU MCLEAN, Planning Director, notifying the Maui**
2 **Planning Commission pursuant to Section 12-202-17(e) of the Maui**
3 **Planning Commission's SMA Rules of her intent to process the following**
4 **time extension request administratively:**

5
6 **MR. RODERICK FONG, General Partner of MAUI WAIOHULI PARTNERS**
7 **requesting a two (2)-year Special Management Area Use Permit time**
8 **extension on the period to initiate construction of the Hoonani Subdivision,**
9 **a 27-lot residential subdivision and related improvements at TMK: 3-9-001:**
10 **007, Kihei, Island of Maui. (SM1 2008/0024) (P. Fasi)**

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

15
16 Mr. Hudson: Okay Director.

17
18 Ms. McLean: Chair, the next item on the agenda is the Director's Report. And the first item is
19 notification that pursuant to Section 12-202-17 (e) of your SMA Rules the Department's intent to
20 process a time extension request administratively. This is a request from Mr. Roderick Fong the
21 general partner of Maui Waiohuli Partners for a two-year SMA Permit Time Extension on the
22 period to initiate construction of the Hoonani Subdivision a 27-lot residential subdivision with
23 related improvements at TMK: 3-9-1 parcel 7 in Kihei. The staff planner is Paul Fasi. He's not
24 here at the moment. I believe Mr. Fong is here if he wishes to make any comments to the
25 Commission.

26
27 Mr. Hudson: Please state your name.

28
29 Mr. Roderick Fong: My name is Roderick Fong representing the partnership that owns the
30 property. I just wanted to brief you on where we're at. It's taking a long period of time. We
31 originally got our SMA approval beginning of 2010 or ending of 2009, and we've gotten several
32 time extensions since then, two-year time extensions. We're pretty close to getting the phase of
33 the construction plans approved and signed. A few months ago the final plat was done. There
34 were discussions for about half a year with the Planning Department. One part of the Planning
35 Department regarding bike paths that needed to be placed on the final plat drawings. So that
36 was taken care of and we submitted the final plat to DSA a few months ago and it's going
37 through the process of being approved. I basically have two minor comments on that and have
38 to take care of that. And with that with the final plat being basically approved the engineer now
39 is finishing up all the touching up of his revisions to his construction drawings. And the one
40 department he needs to submit to is the Department of Water for their --. He didn't want to do it
41 previously before the final plat. And most of the final plat items required the lot sizes to be
42 corrected and accurate, and that's what the changes were made by the engineer to submit to
43 the Water Department with some minor comments. And so that hasn't been done yet. And
44 once we do submit to the Department of Water Supply and get it back then the final drawings
45 will be submitted to DSA for distribution and comments. Thank you. Any questions?

46
47 Mr. Hudson: Kahu Hill.

48

1 Kahu Hill: Mahalo Chair. Aloha Roderick.

2

3 Mr. Fong: Hi.

4

5 Kahu Hill: I would like to know about the drainage and if you could explain to us about the
6 drainage and flood control. I'm very familiar with living next to that for 29 years on Kapuhau
7 Place and flooding was huge concerns and happened several times when I lived there. And I
8 wanted also to know if you have legible map that we can see of the proposed subdivision in
9 more detail.

10

11 Mr. Fong: Yeah, I don't have a map. I have one here. Just to show you from these construction
12 drawings. The property . . . (inaudible. Did not speak into a microphone.) . . . Sorry. That's
13 what the project is called Hoonani Subdivision. Basically we're doing half of the property of 27
14 house lots that's basically adjacent to the existing home sites with the same type of zoning of
15 R2 about 7,500 square feet lots. And we're building it on the same -- it's a flat property where
16 throughout the flooding none of the adjacent homes have ever been flooded out. And so we're
17 not -- there's no filling or excavating. We're just putting it on the flat land. The flood, the flood --
18 we had to go through FEMA to do a . . . (inaudible) . . . of sea level of no rise and so forth on the
19 development. And that was done prior to having SMA approval. And basically we're not
20 changing the drainage way that comes down through this property, from the top of the property
21 and comes down along this channel along the residents on Hoonani Street. And so -- but we're
22 adding a retention basin and taking like a storage of the existing flood that comes in holding it a
23 little while before it comes out. There's a project here on the other side, Kamalii, a housing
24 project that was done and they have a basin also and have been taking care of some of the
25 flooding that occurred you know from the past. So they did -- our flood engineer did an analysis
26 and we're not changing any of the existing flood maps by very much. But you still have to go
27 through a process of showing what this project is being affecting. And at the end of the
28 construction you would have to do a as built to show that what is really out there to be added to
29 the flood maps of Maui.

30

31 Mr. Hudson: As a reminder guys what we have before us is we acknowledge receipt of the time
32 extension and we also decide whether or not we're going to waive our review. Okay.

33

34 Mr. Fong: That was a good question so I know that is a concern. We feel that this project would
35 just help the flooding in that area which is, which is a bad problem mainly right along South
36 Kihei Road.

37

38 Mr. Hudson: Thank you.

39

40 Mr. Fong: Thank you.

41

42 Kahu Hill: Mahalo.

43

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

45

46 Ms. La Costa: I'm not sure if this is pertinent to what we're discussing so please let me know if
47 it's not. You talked about it being a A2 zoned and your SMA was approved with R2 rather?

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Mr. Fong: Yes.

Ms. La Costa: Is it going to more than single-family homes so that is a consideration for the subdivision?

Mr. Fong: It's single-family homes. And this is -- we are under the affordable housing, workforce housing project so it's all 27 lots are affordable homes.

Ms. La Costa: Will there be ohana?

Mr. Fong: I think under our current there's going to be 10 year period and the lot owner has the right to go in their own cottages or ohana after.

Ms. La Costa: Okay.

Mr. Hudson: Any further questions? Seeing none. Thank you.

Mr. Fong: Thank you.

Mr. Hudson: The only thing we have to decide is whether or not we're going to --. Well, first we have to acknowledge receipt of the request which I'm pretty sure we can do that. But we have to decide whether or not we're going to waive our review of the time extension request at a future meeting. Discussion?

Mr. Tackett: I would like to keep the review.

Mr. Hudson: For clarification Director --

Mr. Tackett: I would like to motion to keep the review.

Mr. Hudson: Okay one second. For clarification Director how long would the review -- when will we see this next?

Ms. McLean: The next couple of agendas are rather full as you'll see so it maybe -- it may be a couple of meetings before we we're able to get it back on an agenda.

Mr. Hudson: That's fine. Okay. The Chair recognizes the motion. Is there a second?

Ms. La Costa: Second.

Mr. Hudson: Discussion? Seeing none, all those in favor signify by saying aye. We have five ayes. Motion carries.

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

VOTED: To Not Waive Review and to Review the Special Management Area Use Permit Time Extension Request.

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

4 Mr. Fong: Thank you Commission.
5
6

7 **2. SMA Minor Permit Report**
8

9 **3. SMA Exemptions Report**
10

11 Mr. Hudson: Thank you. Director?
12

13 Ms. McLean: Continuing with the Director's Report, you have the SMA Minor Permit Report and
14 the SMA Exemption Report as well as the memo outlining the items for the next meeting. Are
15 there any questions on the SMA reports?
16

17 **No questions on the reports.**
18
19

20 **4. Discussion of Future Maui Planning Commission Agendas**
21

22 **a. August 14, 2018 agenda items**
23

24 Ms. McLean: I would like to note that on the memo for the August 14th meeting there are a
25 couple of items listed there that we do not intend to schedule on this day because this was
26 getting really, really busy. So Item C.1., Krause Companies will most likely not be on that
27 agenda. And Item D.1., R.D. Olsen Development will likely not be on the agenda. Those would
28 be put to the August 28th meeting instead. Any other discussion on future agendas?
29

30 **Director McLean indicated Item C.1 and D. 1 will not be on the August 14, 2018 agenda**
31 **and would likely be placed on the next agenda.**
32

33 Ms. Gomes: Director I'd like to --. Chair, if you mind?
34

35 Mr. Hudson: Go ahead.
36

37 Ms. Gomes: I'd like to get an update if possible on an agenda somewhere fitting in regards to
38 the KIVA system. Just an update on that because as you know I had Chair the Cost of
39 Government and that was something that was back in 2012 that was looked into and the
40 software. We were moving forward into changing the KIVA system and I believe we're still on
41 that system if I'm not mistaken. So I believe that was supposed to change some time ago, and
42 it still hasn't, it has been years. So somehow if we could get an update on that on an agenda in
43 the future, please.
44

45 Ms. McLean: Okay. Sure we can do that.
46

47 Ms. Gomes: Thank you.
48

1 **Ms. Gomes asked if an update on of the KIVA System replacement be placed on a future**
2 **agenda.**

3
4 **G. NEXT REGULAR MEETING DATE: AUGUST 14, 2018**

5
6 **H. ADJOURNMENT**

7
8 Mr. Hudson: Any further discussion Commissioners? Seeing none, meeting is adjourned at
9 11:21 a.m.

10
11 The meeting was adjourned at approximately 11:21 a.m.

12
13 Respectfully submitted by,

14
15
16 Leilani A. Ramoran-Quemado
17 Secretary to Boards & Commissions II

18
19 **RECORD OF ATTENDANCE**

20
21 **Present**

22 Steven Castro
23 Tina Gomes
24 Kahu Alalani Hill
25 Larry Hudson, Vice-Chairperson
26 P. Denise La Costa
27 Christian Tackett

28
29 **Excused**

30 Lawrence Carnicelli
31 Keaka Robinson, Chairperson

32
33 **Others**

34 Michele McLean, Director, Planning Department
35 David Galazin, Deputy Corporation Counsel, Department of the Corporation Counsel

36
37