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**MAUI PLANNING COMMISSION
REGULAR MINUTES
MARCH 13, 2018**

A. CALL TO ORDER

The regular meeting of the Maui Planning Commission was called to order by Chairperson Sandy Duvauchelle at approximately 9:00 a.m., Tuesday, March 13, 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.)

Ms. Sandy Duvauchelle: Good morning. Thank you all for being here. It's nice to see almost a full house for Commissioners today. Thanks everyone. It's March 13th, 2018 Maui County Planning Commission is now in session. Michele McLean is here, Deputy Director, sitting in for Will. Michele?

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

C. UNFINISHED BUSINESS

1. **A&B WAILEA, LLC requesting a Step I Planned Development Approval for the reallocation of planned development zoning designations involving three (3) parcels within the Wailea Resort Planned Development at TMK: 2-1-008: 127, 2-1-008:130, and 2-1-028:002, Wailea, Island of Maui. (PD1 2017/0001) (T. Furukawa) (Matter was deferred at the February 13, 2018 meeting.)**

The Commission may take action on this request.

Ms. Michele McLean: Thank you Chair. Good morning. Good morning Commissioners. Nice to see you all. It's been a while. Did you want to --? You're going agenda item by agenda item; I see, okay. Okay the first item on the agenda is a request from A&B Wailea LLC for a Step I Planned Development Approval for the reallocation of planned development zoning designations involving three parcels within the Wailea Resort Planned Development at TMK: 2-1-8 parcel 127 and 130, and 2-1-28 parcel 2 in Wailea. This matter was deferred at your February 13th meeting and Tara Furukawa is the project planner.

Ms. Tara Furukawa: Good morning Commissioners. At the February 13th, 2017 meeting the Maui Planning Commission voted to defer, defer review of the aforementioned project until an updated aerial photo could be provided that shows already developed parcels as well as parcels still under construction. So on March 1st, 2018 we transmitted to you an updated aerial photo as well as some photos of development projects in the area. And the applicant's consultant Mike Munekiyo is here to discuss the proposal in more detail.

Mr. Mike Munekiyo: Good morning Madame Chair and Commissioners. My name is Mike Munekiyo and I am here this morning on behalf of A&B Wailea LLC. Just a little bit of

1 background and then I'll get into the information that the Commission requested. As Tara
2 mentioned at your meeting of February 13th you did request --. Or we did present to you the
3 request for planned development transfer for three parcels at Wailea and these are listed at the
4 bottom. And in this presentation I'll refer to them as parcel 127, parcel 130, and parcel 002. So
5 these are the three parcels affected by this transfer request. And I'll give a little bit of
6 background just to make sure that I kind of brief, refreshed your memories as to what this
7 application is all about. I wonder if we could have the lights little bit dimmed right around here.

8
9 So this is parcel 130. It's about 46 acres. It lies along Piilani Highway. This is Wailea Ike Drive
10 here. So parcel 130. Parcel 127 lies to the south of the Wailea Gateway Center. It's about 11
11 acres. And parcel 002 lies along Wailea Ike Drive. It's about 3.9 acres. So these are the three
12 parcels that are the subject of the transfer request which was presented at your last meeting.

13
14 And again just as a fresher you may recall that each parcel has a certain number of acres
15 assigned to it in terms of zoning allocation so I won't go through everything. But just look at
16 parcel 127 for example it has B2 use. It's about 5.4 acres. A1 uses, Apartment; this is about
17 three acres. And about 2 ½ acres of open space. And similarly for parcel 002 here it has about
18 3.9 acres assigned to it of A2 uses. So again each tax parcel within the planned development
19 has zoning allocations assigned to it. And what we seek to receive approval on is a transfer of
20 some of these zoning uses. And very specifically what was presented at the last time we are
21 asking that B2 Business uses be transferred from parcel 130, and specifically about three acres
22 of B2 Business use would go to parcel 127 which is north of, south of the Wailea Gateway
23 Center, and about 3.88 acres of B2 uses would go to parcel 002. In exchange three acres of A1
24 Apartment uses from parcel 127 would be transferred to parcel 130, and 3.88 acres of A2
25 Apartment uses would be transferred to parcel 130. The resulting acreage of zoning allocation
26 should the Commission approve this request basically -- and I'll focus again on 127 and 002 --
27 you can see here that basically what has occurred is we've taken the A2 zone uses of 3.88
28 acres from 002, and we've placed that into parcel 130. And again the acreage of business that
29 went to parcel 127 from parcel 130 that was switched out with A1 zoning which then went to
30 parcel 130. But in effect what Planned Development process does is allow these types of
31 zoning use reallocations without changing the overall density. In other words the total acreage
32 for all zoning categories remain unchanged. It's a matter of placement of where these uses go.
33 So again the desire again was to transfer these zoning, put the business uses in places where I
34 think the applicant feels might be more appropriate in the context of current market and land use
35 conditions. And you may recall that Wailea was first developed back in the early to mid-70's,
36 and overtime land uses have developed. Of course there were some previous planned
37 development transfer which were approved. And so in context to today's environment this is
38 what is deemed to be appropriate for the area.

39
40 Now you may recall Commissioners that at the last meeting you did want to see a little bit more
41 information as to what might be around those three parcels. And so we did get a more current
42 aerial photos. The previous aerial photos that you looked at didn't have really updated land
43 development information. I think what we have now is probably about a year old, but it does
44 provide a little bit more information. And it's a bit dark but let me just show you what this photo
45 shows which the previous photos did not. First of all it shows the Residence in Wailea being
46 completed and that is located right here just makai of parcel 002. This is the Wailea Gateway
47 Center where the Monkey Pod Kitchen is located. And around it in the previous photos you saw

1 some grading work, but there were no buildings constructed at that time. This is the Keala O
2 Wailea project; 70-condonimium unit -- 7, 0 -- and that is under construction. And I think some
3 units may have already been completed. But I do have a little more close up view of the Keala
4 O Wailea project. Again, Wailea Gateway Center here, Wailea Ike Drive here heading makai,
5 and this is that project right adjacent. And parcel 130 is here, parcel 127 here across the street,
6 parcel 002 right around here. So again this is again under construction moving closer towards
7 completion, and I believe some units may have already been completed.

8
9 This is a ground view. I thought some ground shots might be helpful as well so this was kind of
10 a cloudy day but nonetheless you can see this is Keala O Wailea one of the buildings. The
11 Wailea Gateway Center is here, so I'm looking east towards Haleakala along Wailea Ike Drive
12 here.

13
14 This is just another photo of the Keala O Wailea project again looking from across Wailea Ike
15 Drive. This is the building pretty much finished. This photo looks towards the east, looking up
16 towards Haleakala. Now what I wanted to do is show you the relationship between again --
17 can't see it here -- but this Wailea Gateway Center. And across the street this vacant vegetative
18 parcel is parcel 127, that 11 acre parcel. And just another shot of parcel 127 taken
19 undeveloped.

20
21 This is the Residence in Wailea project and this shot is taken from Wailea Ike Drive. Of course
22 this project has been completed for a while. And looking up Wailea Ike Drive this is a driveway
23 to the Residence Inn. This parcel 002 just mauka of the Residence Inn parcel. So again
24 hopefully that provides the Commission a little bit better context as to what might be going on.
25 What this doesn't capture is further down towards Wailea Ala Nui Drive there's a commercial
26 expansion project where the clubhouse, old clubhouse is. That's ongoing, but I wasn't able to
27 get a photo of that area but you may recognize when you do pass that area near Ala Nui and
28 Ike that there is some construction work going on. There's a screen fence in that area. That's
29 for the commercial expansion for that area.

30
31 So Commissioners what we are --. We'd be able to answer any questions you may have today
32 regarding this additional information, and of course, ultimately with the information that we have
33 provided you to feel comfortable in approving our request for Planned Development transfer
34 Step I. Thank you.

35
36 Ms. Duvauchelle: Thank you. Does that conclude the presentation?

37
38 Mr. Munekiyo: That concludes our presentation Madame Chair.

39
40 Ms. Duvauchelle: Thank you. At this moment we'll open up the floor for public hearing. If
41 anyone would wish to testify on this agenda item please come forward. Okay, seeing none,
42 we'll close public testimony and we'll take questions from the Commissioners. Commissioner
43 Carnicelli.

44
45 Mr. Lawrence Carnicelli: Thank you Chair. So Mike will this -- and I probably should know the
46 answer to this question -- but is this going to trigger any sort of a Community Plan Amendment?

1
2 Mr. Munekiyo: It will not because this is part of the Wailea Planned Development project --
3 Wailea Planning Development. So what it will require however at the time of development of
4 these parcels it would request a Special Management Area Use Permit from this Commission.
5 We need to come back to you.
6
7 Mr. Carnicelli: Right. Right. Could you go back one other slide please? Yeah. Do you have a
8 slide that shows with those numbers with what's current and what will be? I mean flip back and
9 forth and I can see okay it's 3.888 on parcel 002, and then it will be B2-something and then A-
10 whatever it is.
11
12 Mr. Munekiyo: Right. So I'm not sure Commissioners if you can see this clearly but what we are
13 doing is we're taking the B2 acreages out of 130 so right now it's 9.983 I think. So what
14 happens is three acres of the B2 will go to parcel 127 which currently has 5.4 acres of business.
15 And that the post planned development transfer it will have 8.4 acres of business, adding the
16 three acres from this parcel.
17
18 Similarly we have A2 Apartment uses of 3.88 acres here at parcel 002, these --. This acreage
19 of the zoning allocation will move to parcel 130 and in exchange 3.88 acres of B2 zoning
20 allocation will come to parcel 002. So the result would be you would have B2 zoning of 3.88
21 acres. So effectively taking a B2 zoning allocation from this parcel to this parcel here and to this
22 parcel here. And then moving the apartment use back here and the apartment A2 back here.
23 Ultimately this would become a residential type of development.
24
25 Mr. Carnicelli: If I could one more.
26
27 Ms. Duvauchelle: Go ahead.
28
29 Mr. Carnicelli: Thank you Chair. So who owns the parcel makai of 002?
30
31 Mr. Munekiyo: This?
32
33 Mr. Carnicelli: Correct.
34
35 Mr. Munekiyo: Sorry. It doesn't really show it that good Commissioner.
36
37 Mr. Carnicelli: I see. It's already there.
38
39 Mr. Munekiyo: Yeah, it's part of the --.
40
41 Mr. Carnicelli: The other one just doesn't show the Residences there already. Thank you
42 Chair.
43
44 Ms. Duvauchelle: Any other questions? Yes, Commissioner Gomes.
45
46 Ms. Tina Gomes: Hi Mike. How are you?

1
2 Mr. Munekiyo: Good. Thank you.

3
4 Ms. Gomes: I do have several questions. I know the last time you guys were here there were
5 questions in regards to parcel 130 becoming completely residential. Is that correct?

6
7 Mr. Munekiyo: That's correct.

8
9 Ms. Gomes: Because of the confusion. I mean it was, it was going to be split up before and
10 because that was the bigger parcel that would have made better sense to make parcel 130
11 complete residential.

12
13 Mr. Munekiyo: And also Commissioner it already has a significant acreage of zoning allocation
14 for apartment in A1 and A2, so there is that foundation for residential development at the parcel
15 already. And so there was the matter of where would we better utilize the business allocation
16 and that was determined to be parcel 127 and parcel 002. But effectively what is happening is
17 by transferring the apartment uses to parcel 130 I think that allows that to provide a stronger
18 foundation for future residential development.

19
20 Ms. Gomes: Okay and a few more questions Chair. Thank you. I have concerns. We -- I know
21 that we didn't speak a lot on 002 considering it is a small amount of acreage that is considered
22 to be business, okay. 127 is across --. As you know they're --. Let me say this correctly
23 because the way it's spelled is delineators, right. There's delineators as you come around the
24 bend and I hate the bend because you could crash. I mean you know a lot of people do not
25 realize that. I'm wondering what is the plan for that. It was spoken about when you were last
26 year or Endo from I believe Mr. Endo from Alexander and Baldwin. I think he represented
27 Alexander and Baldwin, is that correct?

28
29 Mr. Munekiyo: That's correct.

30
31 Ms. Gomes: You know it was mentioned that gas station was a possibility, grocery store was a
32 possibility. This is all hypothetical. There's -- there's these delineators there. Was the
33 consideration --? Is there the --? There is a solution to this. I mean is there a consideration to
34 a solution to this? Because it's not people or passengers who are coming down, who are going
35 -- you know as they're going down to Shops at Wailea, I mean that's already a pain. Okay. I'm
36 surprised I mean there hasn't been any crashes into, into that. You know they're going to see --
37 let's say potentially hypothetically you put a gas station there is there room --? Because there is
38 room for extension of the highway there if you look you know on Google maps, right. You can
39 add to it. Is there any consideration to an intersection for it?

40
41 Mr. Munekiyo: I think right now Commissioner as Mr. Endo, and Mr. Endo can come up and
42 clarify as well, but I just maybe can provide some introductory remarks. Right now and just to
43 remind the Commissioners there is nothing really specifically planned for 002, nor is there
44 anything specifically planned for 130. I think they are looking at what might be possible at 127.
45 And although nothing specific has been developed I think your concern really is how do we
46 ensure that if and when that parcel is developed I think traffic safety is going to be ensured just
47 because it can cause a distraction to the drivers rounding the corner. You know I think the

1 visual impacts, the traffic impacts, all of those design related consideration that needs to be a
2 part of that SMA application because at that time they will study it in further detail both in terms
3 of what might be best operationally in terms of public safety as well as functionally in terms of
4 visibility so forth. So there's a lot I think more work to do. I'm not sure that -- I don't --. Well, I
5 know that they're not at that point yet to really have solutions identified. But certainly what you
6 have raised is important and I think that's got to be a part of the design process.

7
8 Ms. Duvauchelle: One moment, Director wants to clarify please.

9
10 Mr. William Spence: Sure. So and I appreciate Michael's applicant's explanation of everything.
11 And it's true, there is no proposed project on that parcel 127 yet. When they do come forward
12 with an SMA Assessment they're going to be looking at that intersection etcetera. You also
13 have to realize mauka of that property you have Wailea 670 going in, Honua'ula, and that is
14 going to be a substantial project. There will be intersection improvements proposed. There will
15 be a Phase II Project District Approval that will come before this Commission. And along with
16 that approval there's going to be proposals of how they deal with the intersections, how they're
17 going to deal with drainage etcetera, and the interactions between this property that we're
18 talking about now with 127 and that larger project. So this isn't something that's going to
19 happen in a vacuum. These are things that are going to come back before the Commission and
20 you are going to be able to see how all of it is going to work together.

21
22 Ms. Gomes: Thank you Mike. I mean based on the fact of the project that's above that on 127.

23
24 Mr. Spence: You're going to see both projects.

25
26 Ms. Gomes: Okay. I just --. I have further questions, I'm sorry, Chair. You know for, Mike, you
27 know, and I know Mike. Me and Mike know each other. For parcel 130 there will be no
28 affordable housing. Is this correct?

29
30 Mr. Munekiyo: Basically Commissioner whenever any type housing development over 10 units
31 is developed they will be subject to the County's workforce housing ordinance, Chapter 2.96, so
32 although we are still as I mentioned there's nothing specifically envisioned for this property
33 compliance with the workforce housing law will be required. And there are various ways to do
34 but I don't think they are at the point to consider what might be appropriate just because nothing
35 has been considered from a development standpoint at parcel 130.

36
37 Ms. Gomes: Right. I mean I just want to say that because of how developers use credit and so
38 forth. I mean I just want to state that, and I do know that Wailea is definitely not an affordable
39 housing destination or demographic area. But I just wanted to point that out.

40
41 Mr. Munekiyo: Thank you.

42
43 Ms. Duvauchelle: Any other questions Commissioners? Commissioner Kahu Hill.

44
45 Kahu Alalani Hill: Aloha Mike.

46
47 Mr. Munekiyo: Hi.

1
2 Kahu Hill: First of all mahalo for the updated photos and overviews; it really helps to see what's
3 currently going on.

4
5 Mr. Munekiyo: You're welcome.

6
7 Kahu Hill: Mr. Endo had mentioned before about having a commercial center there and I just
8 wanted to see we had okay a piece just, a parcel just south of that, and I was just wondering
9 that timing and this time if you had an idea on the timing of 127.

10
11 Mr. Munekiyo: Yeah we did discuss this previously and I think the stage that parcel 127 is at is
12 the basically the study feasibility stage so there's a lot of work ahead of that. And similarly for
13 each of the parcels, the other parcels that might be affected by this transfer parcel 002 and
14 parcel 130 there's just so many considerations in terms of how a project like that can be
15 developed in the context of a resort here. So I know that there's been ideas talked about. I
16 don't think there's anything firmed up yet, nor do I think there's any specific time table that
17 they're looking at but I think as soon as something is ready. And as I said you know we talked
18 about Commissioners Gomes issues and concerns that all of those things need to be taken into
19 consideration. And when we can get to a point where we feel comfortable in having a solution
20 brought before the Commission we will do that.

21
22 Kahu Hill: And again you're asking us to just accept the changing in the zones? And the zoning
23 is what you're bringing up necessarily the individual developments.

24
25 Mr. Munekiyo: That's correct.

26
27 Kahu Hill: Mahalo.

28
29 Ms. Duvauchelle: Commissioner Robinson.

30
31 Mr. Keaka Robinson: I think it's a good idea what you guys are doing. But I don't, I don't buy
32 the fact that you guys don't have plans for the other properties. I think A&B is a well thought
33 company. I think they think things forward. I think you guys aren't able to tell us which is fine;
34 you don't have to. I think that business on the corner makes sense. Going before 670 and how
35 things are going to work out I guess we'll see. Like fellow Commissioner said we're worried
36 about that corner. I hope A&B even though they're getting out the affordable housing market
37 they're getting assisting other developers into affordable housing. We added inventory at the
38 Residence Inn. We added inventory at those homes right there below Monkey Pod. We added
39 businesses. We're adding inventory, we're bringing more tourists in, we're bringing more rooms
40 in, but we're not helping people live and work in these places and it's affecting Maui and it's
41 unfortunate that A&B is getting out of building housing but hopefully while they're getting out
42 maybe they can assist developers with infrastructure and this so that people can actually live on
43 Maui and it's not to become all tourists. Thank you.

44
45 Ms. Duvauchelle: Any other questions? Okay, thank you Mike.

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47 Ms. Gomes: Thank you Mike.

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Ms. Duvauchelle: All right should we have the Department's recommendation.

Ms. Furukawa: So approving the proposed request would not result in a net change to the total Planned Development Land Use allocations within the Wailea Planned Development area. And the proposal meets the criteria for Phase I Planned Development Approval. No environmental impacts are anticipated at this time. The properties are located within the SMA and any development will be subject to the SMA Rules. After Step I approval the applicant will submit applications for Step II Planned Development and SMA Approval, and the project will be reviewed at that time by the Urban Design Review Board.

The Planning Department did not receive any testimony regarding the application so we recommend approval of the land use transfers, and also recommend that the Maui Planning Commission adopt the Planning Department's report and recommendation prepared for the meeting as its Finding of Fact, Conclusion of Law and Decision and Order, and authorize the Director of Planning to transmit the Decision and Order on behalf of the Planning Commission.

Ms. Duvauchelle: Thank you. Commissioners?

Ms. Gomes: Thank you.

Mr. Carnicelli: I move to approve as recommended by staff.

Ms. Gomes: Second.

Ms. Duvauchelle: Moved by Commissioner Carnicelli, seconded by Commissioner Gomes. Director, do you want to repeat the motion?

Mr. Spence: The motion is to approve as recommended by staff.

Ms. Duvauchelle: All those in favor or discussion on the motion? You almost caught me there. Commissioners Carnicelli?

Mr. Carnicelli: Thank you Chair. I just wanted to say that I'm -- obviously I made the motion, I'm in favor of it. I think that it makes sense what they're doing as Commissioner Robinson said because you know I recall the meeting when I had way too much coffee and I was all grumpy and I went on my rant. Well which one of those, which one of those meetings, right? Which one of those meetings, but with the Wailea 670. Because you know they -- what they came before us to do was to put the affordable housing onsite and that actually got approved by Council. And so Piilani is actually going to continue south at Wailea Ike. And so we're going to have an intersection there so it makes sense to put the business and the open space on that corner for me and then to move the residential onto the 46 acre parcel and then to move the business down where there's already the town center. So this just makes sense to me and so that's why I'm supporting the motion.

Ms. Duvauchelle: Thank you. Any other discussion on the motion? Commissioner Kahu Hill?

1 Kahu Hill: I just want to say it's hard to hear the words that there will be no environmental
2 impacts so that just says it moves forward that they're conscience of environmental and cultural
3 impacts in the community. Mahalo.

4
5 Ms. Duvauchelle: Thank you. Any further? Commissioner Tackett.

6
7 Mr. Christian Tackett: I'm going to be in favor of it also. It seems like after everything is said and
8 done it looks like traffic flow with the residential and the businesses is probably going to work
9 better that way so.

10
11 Ms. Duvauchelle: Thank you. Commissioner Gomes?

12
13 Ms. Gomes: I just want to say that I did second the motion with the intent to see further that
14 what was stated hopefully will come to fruition as we hope it will positive -- you know positively.

15
16 Ms. Duvauchelle: Thank you. Okay, any further discussion? Can I see hands, all those in favor
17 of the motion please raise your hands?

18
19 **It was moved by Mr. Carnicelli, seconded by Ms. Gomes, then**

20
21 **VOTED: To Approve the Step I Planned Development Approval as**
22 **Recommended by the Department.**
23 **(Assenting – L. Carnicelli, T. Gomes, A. Hill, K. Robinson, L. Hudson,**
24 **C. Tackett, R. Higashi)**
25 **(Excused – S. Castro)**

26
27 Mr. Spence: That's seven ayes; motion carries.

28
29 Ms. Duvauchelle: Motion carries. Congratulations.

30
31 Mr. Munekiyo: Thank you Commission.

32
33 Ms. Duvauchelle: Thank you.

34
35
36 **D. Discussion of proposed revisions to the County's Parking Code, Chapter 19.36A,**
37 **Maui County Code (no action will be taken) (M. McLean and D. Raatz)**

38
39 Mr. Spence: So Commission, the next three items we have for you are discussions about
40 proposal by the Planning Department regarding the parking code, accessory dwellings and SMA
41 Rules. And so what we have for you this morning is some of that discussion, and you have with
42 this morning is Deputy Director McLean and David Raatz who is our Administrative Planning
43 Officer. So they'll walk you through these proposals.

44
45 They'll discuss one at the time, but all three are proposals by the Department.

46
47 Ms. Duvauchelle: Okay Deputy Director.

1
2 Ms. McLean: Good morning again Chair and Commissioners. This is one power point
3 presentation but we'll take breaks after each one is presented so you can ask questions and
4 also take testimony.

5
6 We're calling this a sneak preview because you don't have any formal proposals before you
7 today, and we just wanted to put these out there for you to start thinking about them so that
8 when we do come back to you with the actual proposals you'll have a little bit of the background
9 on why we are proposing these changes.

10
11 And first we'll talk about the parking code. The power point generally follows the memos that
12 we provided you, so if you had a chance to look at the memos then --. If you had a chance to
13 look at the memos this goes along with them. For the parking code this is something we've had
14 a staff team working for a couple of years to identify problems with our current code and the
15 proposed changes. So it's been a combination of planners and plan examiners. Our parking
16 code is generally administered when a building permit comes into us. We review that building
17 permit not just for the building itself but also compliance with the County's parking requirements
18 to make sure that businesses have sufficient parking etcetera. Also involved with the parking is
19 required landscaping for the parking area. And overtime we've seen that some uses are
20 required to provide more parking than we believe they need and you know they ask us to
21 reduce their parking requirement which we don't have the authority to do. We've also found
22 some that the parking the current parking requirements are insufficient.

23
24 And so some of the issues we currently have and one of the exhibits with your memo is the
25 existing parking code. So you can see the uses that are identified there are rather limited. It's
26 often times we're trying fit a square peg into a round hole to figure out what requirement applies
27 to a certain use because it's, it's outdated and needs to be revised. There also isn't any
28 flexibility in the current code. There were a few occasions where the Director has some
29 discretion but it's very, very limited and we believe that there are occasions where flexibility
30 would be warranted.

31
32 The process for now is we have conducted some outreach on these ideas already. We worked
33 with the Chamber of Commerce to put together a meeting. We also held our own public
34 meeting here a couple of weeks ago. We're presenting it you now. We will send it out for
35 agency review just like all of your applications are reviewed by agencies. We'll receive those
36 comments and then we hope to bring a bill to you this spring. And then of course because it's a
37 change to the County Code final approval will be granted by the Council.

38
39 In your Exhibit-1 it describes the changes where we're proposing decreases, areas where there
40 is minimum or no change, and where there are increase requirements. So the decreases we're
41 looking at they're farm stands, farmer's markets, churches, restaurants, offices, so quite a
42 variety of uses we're proposing to decrease the existing parking requirement. There are many
43 uses that have no change at all. Ohanas wouldn't have any change. Amusement and
44 entertainment establishments, animals, hospitals, bakeries, health clubs, libraries, quite a
45 number have no change at all. And then there are a few that would have an increase
46 requirement and again these are the ones that we've seen where we apply the code as its

1 written now, we look at and we just know that's not going to be enough, but we can only
2 administer the code as its written now.

3
4 The current code also is pretty restrictive in terms of temporary parking so if someone is having
5 like the First Friday events, the Kapalua Food and Wine Festival, things like that come along we
6 have to impose the regular requirements as they're written so we're putting some flexibility into
7 the temporary parking. Also the current code allows the Director to approve temporary parking
8 for 180-days. So for example if there's construction going on at a site, and the parking on that
9 site is displaced we need to provide that temporary parking someplace else. But the Director
10 can only approve that for 180-days. What we're proposing is to keep that time limit the same
11 but to put it forward to the Commission for longer periods of time so that you can assess
12 whether that temporary parking should be allowed for a longer stretch of time.

13
14 The current requirements for paving are also pretty strict. Everything -- basically everything
15 needs to be paved. And more and more we're asking -- we've been asked to allow alternative
16 surfaces, permeable concrete, gravel, grass cretes, things like that so we would put some
17 flexibility in there for the paving requirements because it is excessive and it's much more
18 environmental friendly to allow alternative surfaces.

19
20 In parking spaces we are proposing to allow two feet at the end of parking spaces. Could you
21 go back? Allow two feet to be a bio-swale rather than being paved. Also allowing alternatives if
22 the Community Plan or certain design guidelines recommend those kinds of alternatives. So
23 there's more flexibility in there for paving. And we have a couple of drawings to demonstrate
24 how the bio-swale would work. So you can see where that car is overhanging that bio-swale,
25 that's an extra two-feet of bio-swale that can be reduced from the pavement length. So that's
26 one option for bio-swale. Then there's another option as well which the bio-swale isn't as wide
27 but then there needs to be a greater space between the two spaces to protect that tree. We've
28 all seen trees that get damaged by bumpers when the cars pull forward too far so we want to
29 make sure that the trees have enough room with the landscaping requirements.

30
31 As I mentioned before we want allow some flexibility for reductions. We're proposing that
32 shared users be allowed to share parking spaces. So if you have businesses that operate at
33 different hours of the day such as a bank and a nightclub they don't --. Rather than both of
34 them having their own parking that's empty most of the time then they can share that parking.
35 When we have the same user like a high school. We've had schools that had to build new
36 cafeterias and we end of having to assess that cafeteria and require additional parking when it's
37 still all the same people who've been using that facility that are using the existing facility.

38
39 Also allowing for transit and walkable options where it can be demonstrated that not everybody
40 is going to be getting to that location by car. They might be walking or taking the bus. So
41 there's a lot more flexibility to reduce parking requirements. Also for valet parking, bicycle
42 parking, there's more flexibility to reduce parking requirements.

43
44 For the landscaping requirements there aren't significant changes to the current landscaping
45 requirements. We do know a lot of people are frustrated with that but it's really important
46 visually to have that buffer in parking areas. But what we are allowing is flexibility for PV

1 carports and parking garages because right now if you have a parking garage the code requires
2 one tree per every five stalls, and if there's a parking garage then you end up with a bigger
3 requirement for trees and it's very difficult to find places to put those trees. So we would in
4 some flexibility for parking garages and PV carports.

5
6 So that concludes the general overview for the parking code. If you have questions or if you
7 want to do testimony then you can move on from there.

8
9 Ms. Duvauchelle: Yeah I think at this point we'll open the floor for public testimony. Anyone who
10 would like to testimony on this parking code item please come forward.

11
12 Mr. Tom Croly: Aloha Chair, Tom Croly testifying on behalf of the Maui Vacation Rental
13 Association. Parking codes deal with a lot of different businesses, and each business should
14 careful review their part of the code and my kuleana is the bed and breakfast and the short term
15 rentals. And I have some experience from the time that the bed and breakfast ordinance was
16 passed at Council 10 years ago and with the application of it since. And one mistake that I think
17 was made in terms of mapping out the parking requirements for bed and breakfast was we were
18 looking at per bedroom. But not all bed and breakfast are rented out per bedroom. My bed and
19 breakfast is. I have a one bedroom cottage. I have two bedrooms in the house. I have three
20 guests. My parking requirement is for three parking spots. It works perfect. But what I
21 observed is there's many applications where someone's not renting out individual bedrooms but
22 renting out a unit that might have two bedrooms, they might have three bedrooms, they might
23 have four bedrooms, they might have six bedrooms. And if it's for example the extreme a six
24 bedroom house as part of the bed and breakfast that they're renting out as a single unit, that six
25 bedroom house shouldn't have a parking requirement of six cars. It was never built -- the six
26 bedroom house wasn't built with a parking requirement of six cars. So that's one of the conflicts
27 that comes up when we look at bedrooms instead of rentable units. So I think the parking code
28 should consider the units that are being rented and have a parking requirement for each unit.

29
30 For example a one bedroom unit, one parking space. A two bedroom unit, I believe it should
31 still be one parking space and I base that on having owned a two bedroom, two bath condo for
32 10 years and that condo had only one assigned parking space. But in the 10 years that I owned
33 it I only had two instances out of about 400 rentals where the guests staying with me had two
34 cars. And they asked me what do I do with the other car? And I had to explain to them well
35 there's only one parking space in the lot, the other car would have to be parked on the street
36 around the corner. So only two times in 400 rentals did I have a situation where someone
37 renting a two bedroom unit actually had two cars. I can't say that's universal, but I think that
38 when someone is renting a unit they generally as a visitor they're going to have one car. As a
39 resident they're almost always going to have two cars. You know a two bedroom ohana people
40 are going to have two cars if they own and are using it as a long term rental. But as short-term
41 rental they're only going to have one car. Three unit or four unit rentals I think there should be
42 two parking spaces, and five unit or six unit for example a five bedroom house or six bedroom
43 house should have three parking spaces per house. What the mistake in the current code is is
44 it says there's a reference to the existing parking requirements and some planners will interpret
45 that to mean okay so I take the existing parking requirement and then I add these additional

1 parking requirements and that can be a problem. So anyway I wrote it up and there you go.
2 Thank you.

3
4 Ms. Duvauchelle: Thank you. Any questions? Thank you Mr. Croly. Commissioner Carnicelli?

5
6 Mr. Carnicelli: Thank you Chair. So Tom I'm a little confused because you're trying to say to
7 your experience that okay what --. What we're trying to solve here is you know what needs to
8 be enough. But I'm having a hard time following you if what the code is going to have to say
9 and what the Department's going to have to do is recognize each individual owner as to whether
10 they rent out rooms or whether they rent out in total. And so it's like we can't do the code to say
11 okay well we're going to each individual person and then we're going to change it based on
12 whether they rent rooms or not because you could change how you rent yours tomorrow and
13 you don't need a new permit. So how --? You know if I'm sitting here trying to make comments
14 on a parking space I'm not following how I can justify that.

15
16 Mr. Croly: Okay so when each application bed and breakfast application is submitted the owner
17 is making representation as to how he's going to use it. That should be part of the application
18 and part of the conditions that come with that application. Every bed and breakfast permit
19 comes with 26 conditions associated with it. If we just back it off with bedrooms and say you
20 can use six bedrooms you're right in that the code allows that person to rent each of those six
21 bedrooms individually. But if that's never the person's intent and it's part of the application, I
22 want to rent a six bedroom house, I don't want to rent six individual bedrooms, I have no intent
23 of doing that. There is no sense in making a parking requirement that is unique to that permit to
24 be specific not a broad based parking requirement, a parking requirement that would be on that
25 permit and to say to that guy you have six bedroom house you need six parking spaces for it
26 when the intention of the application and the intention of the owner is never to rent those six
27 bedrooms individually. That can be conditioned and should be conditioned.

28
29 Mr. Carnicelli: Okay, I got it. Thank you.

30
31 Ms. Duvauchelle: Thank you. Commissioner Robinson.

32
33 Mr. Robinson: Question. So with your unit you have how many rooms? Three rooms is that
34 what you said?

35
36 Mr. Croly: In my house, yes. I have a total of three rentable short-term rental.

37
38 Mr. Robinson: And right now it's two spaces required?

39
40 Mr. Croly: And as the thing stands right now I have a requirement of three parking spaces for
41 my guest parking plus two parking spaces for myself as the owner. So I have a requirement of
42 five parking spaces. But I will say that sometimes the planner will interpret that and say you
43 need six spaces because your one bedroom cottage has a requirement of one space for the
44 cottage plus another space for the use of it as a bed and breakfast. Now I have that covered in
45 my particular case, but my requirement by code is three spaces in addition to the two for the
46 owner.

1
2 Mr. Robinson: That's five, right?

3
4 Mr. Croly: A total of five in my case.

5
6 Mr. Robinson: Thanks.

7
8 Ms. Duvauchelle: Thank you Mr. Croly. Anybody else wishing to testify at this time? Okay
9 seeing none we will close public testimony. Shall we do any discussion on this section at this
10 point before we move on to another? Commissioner Gomes.

11
12 Ms. Gomes: Hi Michele. Sorry, I'm losing my voice in the process. I just have a question and
13 just for clarification purposes. This is just pertaining to bed and breakfasts and to short-term
14 rentals or is this across the board subdivisions everything for all homes including subdivisions?
15 Or is this just specific to bed and breakfasts and STR?

16
17 Ms. McLean: Thank you for the question. The proposed changes are, are to everything, to
18 businesses, hotels, schools, churches, offices, homes, everything.

19
20 Ms. Gomes: Thank you.

21
22 Ms. Duvauchelle: Commissioner Hudson.

23
24 Mr. Larry Hudson: All right this might take a while. A non-fiction story before we get going to
25 the actual thing that I want to bring up. Back in 2009 I was charged to develop a morgue. We
26 don't call it a morgue now, we call it a forensic facility. As part of the morgue I converted their
27 garage space which was a substantial into freezer units to hold bodies. So instead of having
28 just three bodies at the current morgue we could now 52 bodies which brings up to . . .
29 (inaudible) . . . I was told by Planning Department at that time because I converted garage
30 space into useable office space I had to provide more parking stalls. I informed the Planning
31 Department that the people in there aren't driving there. The moral of the story is as we review
32 this thing and you look through this table there's a lot of things that you guys added in not
33 specifically mentioned in the old code and you guys try to hit things that weren't there because if
34 you go through the old code, N2, which is where the forensic facility is there's nothing there that
35 says that a morgue can be in that particular zone. But morgues aren't mentioned anywhere
36 where the proper zoning is. But what if you took a lab which what it was and a mortuary that's
37 kind of what a morgue is. And so we got the variances and the rest of that, much help from
38 Mr. Spence at that time in his previous life. But what I want to get across is that you don't hit
39 every single building. You can't. And there's going to be different types of buildings that are
40 going to come up in the future that you don't hit and will not be in the code. There has to be
41 some discretion for either the Director, the Planning Commission or whomever to waive some of
42 the parking requirements permanently because it doesn't make sense that if I -- have a place for
43 bodies I have to provide parking for them. You understand what I'm saying?

44
45 Ms. McLean: Absolutely. It's an excellent point and that illustrates why we wanted to make the
46 changes that we're proposing. In the draft bill that we've been working on for a while that's not

1 ready for your review yet we had endeavored to have a catchall of uses not listed here to be
2 determined that the discretion of the Director based on industry standards because that's what
3 we grappled --. That's how we're coming up with the proposed changes as we've looked at
4 other municipalities what their parking codes are and we've looked at in some cases have to do
5 research into certain industries like self-storage is one of them or furniture showrooms where we
6 had to really go out and try to figure out what the appropriate requirement is. So we do need to
7 have a catchall to allow for discretion but with some sort of basis so we'll be sure to add that.

8
9 Mr. Hudson: Thank you very much. Thank you Will.

10
11 Ms. Duvauchelle: Good point. I quite honestly park in that parking lot quite often because that's
12 the only place there's parking.

13
14 Mr. Spence: Are you driven there or did you --?

15
16 Ms. Duvauchelle: No the blue print place is next door and I can't back out. Okay, any other
17 discussions, questions? Commissioner Robinson.

18
19 Mr. Robinson: Hello. So what are you looking from us today? Are you looking for comments or
20 would you like us to --? Because I'm pretty sure all of us could comment on half of these things
21 that are going to be changed and do you want to go through it one by one? Do you want us to
22 write it down and send it to you? I'm serious though.

23
24 Ms. McLean: Yeah, we would love to get as much input today as we can because we've been
25 working on a draft bill and we're -- we don't want to finalize it until we conduct the kind of
26 outreach that we want to. So if you have specific comments or questions or even you know just
27 an observation that certain uses are deficient parking or things that you want us to address
28 please we're trying to get input to make the bill better.

29
30 Ms. Duvauchelle: Commissioner Robinson.

31
32 Mr. Robinson: I think with myself and maybe some fellow Commissioners is we can just go
33 down the list and see if there's any questions on each one because I think, I think we're all
34 different from different areas and we might have different comments on things or just a quick
35 understanding. Like you know for the top one you know removing from 200 to 500 because we
36 found this you know kind of -- you know kind of that way. And I guess Lawrence has a general.

37
38 Ms. Duvauchelle: Commissioner Carnicelli.

39
40 Mr. Carnicelli: You know I would have to agree with Commissioner Robinson but if you -- before
41 we go down the individual ones the question I have is you know when you go to like apartments
42 and the multi family or residential type uses we've gone from a unit to square footage. And if
43 the Department could just please explain the rationale because that one didn't -- I didn't get the
44 nexus to that particular thing because you know you can go down to South Kamehameha
45 Avenue and you look at you know these big huge homes and you're saying okay that's -- if we

1 go by square footage that isn't going to equal bedrooms which doesn't equal the amount of cars
2 on the road. So if you could explain why you went to square footage.

3
4 Mr. Robinson: Go down the list.

5
6 Mr. Carnicelli: Okay we'll go down the list then. No but that hits, that hits, that hits a bunch of
7 them though if we go to square footage.

8
9 Mr. Robinson: Yeah that's what I'm saying.

10
11 Ms. McLean: Okay so do you want to go down the list of the decreased? Is that what you'd like
12 to do?

13
14 Mr. Robinson: I would Chair. I think it would be the most efficient to get feedback so that way
15 we went through it all and then there's no ambiguity.

16
17 Ms. McLean: Okay. For an ag product stand we're proposing to reduce the requirement for one
18 for 200 square feet of flooring area, to one for 500 square feet of floor area with a minimum of
19 three. And that's based on applications that have come in for us to review where the existing
20 requirement is excessive because with these structures you get a lot of turnaround in the
21 vehicles that come to them. They don't come and stay there for a long period of time so you
22 don't need to accommodate a lot of people all at one time.

23
24 Next on apartment duplex and farm dwelling the current requirement is two per unit, and we're
25 proposing to keep the minimum a two but to assess it at for 1,000 square feet of floor area.
26 Because with large dwellings of any kind what we're seeing would be an example of some of
27 the things we're seeing in Kahului we have multiple generations living together with a number of
28 cars rather than the standard two. So the bigger the structure the more likely the parking impact
29 is going to be. It's just simple as that.

30
31 Ms. Duvauchelle: Commissioner Robinson.

32
33 Mr. Robinson: Before Lawrence comes in. So my question is are people going to be able to
34 park on different parts of their property? You know is we're increasing the square footage for
35 auxiliary dwellings, we're trying to fit more people in smaller spaces, and we're reducing certain
36 things to try to get more people to live there. So if they need more parking spaces on property,
37 how is the code going to be for, for -- is it going back to CC&R's for landscaping? Are people
38 going to be able to use their yard? You know what I'm saying is we're going to find the parking
39 somewhere because aren't going to stop having cars. So what is the Department's idea of
40 what's going to happen?

41
42 Ms. McLean: Any existing development would be grandfathered first of all so this is going to
43 come into play with new development or with expansion of existing development. The idea is
44 for parking to be accommodated on the site, and because it's having an impact on public streets
45 which is not intended to be used for residential parking all day and night, and so it, it certainly
46 could have an impact on the full build out of a site if you wanted to build to your setbacks and to

1 your highest height. You might be limited in doing that in order to accommodate the parking
2 onsite that you need to.

3
4 Mr. Robinson: So my neighbor has a two-story eight bedroom house and he has three kids living
5 in it, and they're parking six cars on the street. I want to add an extension for my mom, but
6 there's no room for me to park on the street, and now the new code affects me but it doesn't
7 affect my neighbor. And I understand that we want to -- we don't want to affect businesses but
8 if people are using the streets and parking -- just like it's happening in Honolulu -- are we really
9 comfortable to saying that everybody is going to be grandfathered in or should we say that this
10 isn't working and this is the new proposed code and you know there's going to be some kind of
11 sanity towards it you know. I mean because to have my neighbor have 10 cars because he was
12 there first and the next neighbor has two you know that's not going to be very neighborly and
13 taxes at the same.

14
15 Ms. McLean: Well taxes should be -- a larger house should be, should have a higher property
16 tax. It's a fair point and there's not an easy answer to that kind of question. And not allowing
17 grandfathering would be difficult because then we would -- things that were done lawfully at that
18 the time that they were done to suddenly have to change that is a pretty challenging thing for,
19 for us to require. But at some point when changes need to be made you know there are people
20 who are able to benefit from the previous more lenient way versus the proposed more stricter
21 way. In way it isn't fair, I can see that and I don't have a good answer for you. It is not -- there's
22 not an easy answer to that question.

23
24 Ms. Duvauchelle: Commissioner Carnicelli.

25
26 Mr. Carnicelli: So I'm going to go ahead and piggy back on to what Commissioner Robinson
27 said and that where you know like my point is you know as you go down because we're literally
28 going through every single one of these, my comment for each one of the residential ones is
29 going to be more around livable --. I'm going to go to rooms. To me it makes more sense
30 around rooms than it does square footage because as Commissioner Robinson said we can
31 have a 5,000 square foot house as my neighbor and I know that they've got more than five
32 bedrooms and they've got more than five people living there and there's going to be way more
33 than five cars. So when I go to square footage it just doesn't seem --. You know that's where --
34 . And you know I go down to multi-family you know straight residential mixed use. Some of
35 these other ones and even like Mr. Croly brought up as far as yeah you have a two bedroom
36 cottage that's 500 square feet, 700 square feet, there's two people living there most likely if it's a
37 long term rental. So to go by square footage I just to me I think that we should come up with
38 something more around bedrooms or habitable space, living space, than just straight square
39 footage.

40
41 Ms. McLean: Okay.

42
43 Ms. Duvauchelle: Director?

44
45 Mr. Spence: Just a comment on that. Sometimes when we look at building permit plans those
46 rooms that would appear to the average person as a bedroom are listed as the yoga room, the

1 media room, the whatever. Yeah, fill in home office, fill in the blank of any kind of room that you
2 could have in your house and you know to the average person you look at it of course that's a
3 bedroom but it has different labels on it. So that don't -- you know we're -- we'd be approving a
4 building permit for a house with all these other rooms that we -- we're pretty confident they're
5 going to be turned into bedrooms. So I don't want to put words into the Deputy's mouth but
6 that's part of the rationale for going with square footage, but I get the point as well. So I don't
7 know we can look at that again but it, it may be more practical to go by square footage.

8
9 Ms. Duvauchelle: Commissioner Kahu Hill.

10
11 Kahu Hill: Mahalo Chair. Aloha Michele.

12
13 Ms. McLean: Aloha.

14
15 Kahu Hill: Since you're chiming in about residential it's really something that's been weighing on
16 me just watching mostly the south side of the island and I'm just wondering where this is
17 because I didn't see it in the parking or if it's in another place and that's watching whether it's
18 bed and breakfast or vacation rental or very high end managements actually putting boulders,
19 putting things outside of their home or landscaping up to the road which I have noticed over 30
20 years being County and where you could park in front of homes. And so these new homes that
21 are getting approved, beautiful, but they're landscaping and nobody, nobody can park in front of
22 them whether they are guests or any neighbors or anyone in the area. I went to gather . . .
23 (inaudible) . . . and limu down by the ocean and right near beach access and couldn't even get
24 to that beach access because there was five mansions and all of them have gone all the way to
25 the road or put boulders making sure no one could park in front. And I'm also noticing in the
26 landscaping where you were mentioning it that some of the landscaping I've watch grow like
27 planting . . . (inaudible) . . . or coconut palms actually creating that within several years nobody
28 would be able to park in front of those areas and access those beaches and access those
29 places. So I'm wondering on County or in front of residents where that is in this as far as the
30 paving you talked about and as far as landscaping and how we're looking at that, not only
31 what's allowed but for people who want to park there.

32
33 Ms. McLean: Thank you for the question. There is not a landscaping requirement for homes in
34 the parking code now. The landscaping requirement is for businesses and commercial uses.
35 But to address your point people are generally allowed to do what they want to do in terms of
36 landscaping or improvements on their property. And so if in those cases those boulders are on
37 their private property then they can put them there. If however they encroach which does often
38 happen, they encroach into the County or State right-of-way, then that's something that the
39 County or State can take action on to have those removed and to either require the landowner
40 to remove them or to remove them ourselves and to open that up for parking again. And same
41 with planting trees, any kind of landscaping whether it's encroaching on the mauka side of the
42 property to prevent parking or on the makai side to extend their private property into the public
43 beach area. We've seen that happen on both ways so it would just be a matter of checking with
44 the Public Works Department and seeing where their property line and if we have the authority
45 to have those boulders removed.

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Ms. Duvauchelle: Commissioner Higashi.

Mr. Richard Higashi: I think the intent of the proposal sounds great. My concern is that how are you going to enforce a lot of these because you're talking about as I've counted there's over 50 categories and for each person to try to figure out what the square footage is to appropriate adequate amount of parking I think it should be given to the Planning Department's staff to be able to monitor something like that. For, for the individual to try to figure out what's the requirement for all of this, I think it's going to be overwhelming. And I don't know how to resolve this but I think trying to enforce it becomes the criteria for which we're going to pass something. Because you could pass something with a law, but if you don't have an enforcement then you have nothing. You're just creating another problem.

Ms. McLean: The memo that we provided to you with the summary and the charts is not, admittedly is not as easy to read as we hope the bill to be. The current code right now you look at the chart of uses and you try to figure out you know where does my morgue fit into this. What we're doing now by adding a whole bunch of uses, we're putting them into categories. So we're putting them into you know business, recreation, civic, residential, so we're hoping that it will actually be easier to read and easier to find what an individual requirement is.

And in terms of enforcement or administration this generally get administered when a building permit comes in for something new or an expansion. And that's when we look and see what the requirement is. Or if someone comes in for a certificate of occupancy we go out and check if the parking is being required per the code. So that's when typically how we administer it. And then of course if there's a complaint then we go and enforce.

Ms. Duvauchelle: Commissioner Higashi.

Mr. Higashi: As I understand it from what you're saying those that are already in existence are grandfathered in.

Ms. McLean: Correct.

Mr. Higashi: So the people who are now illegally having spaces for parking where they're not supposed to be parked are going to be grandfathered in to be able to do that or is it something that they're going to try to enforce?

Ms. McLean: Grandfathering is only for uses that were lawfully established. So if someone is doing something illegal now and these changes were to pass, then they would have to comply with the new code. They wouldn't be allowed to say oh I was doing this before even though I wasn't allowed to back then. You don't grandfather in an illegal use.

Mr. Higashi: Let me give you one example. Take for example schools. You're going to project we're going to have x-number of students coming in and they build a school. But because of the population increase the school can no longer hold the number of students in that particular facility, but yet the requirement for parking is one per student, or one per 10 students or

1 whatever it is. So then it becomes a problem with how you're going to account for accountability
2 for that kind of a requirement?

3
4 Ms. McLean: For schools in particular and we did a fair amount of research and how other
5 counties and towns assess their parking for schools. It's based on the classroom and the age of
6 the students. So once students are 16 or over they have the potential to drive so there's a
7 higher requirement for classrooms with students 16 year or older. There's a lower requirement
8 for classrooms with student under 16 and that's because that determines how large the staff of
9 the school is going to be. The number of classrooms will drive how many teachers and
10 administrators and other support staff there are. And so it's a lower number when the students
11 don't drive and then it's a higher number when you factor in students that do drive. So if there's
12 a school that has to expand and add classrooms, you would have additional requirements for
13 those additional classrooms because you'd have additional teachers.

14
15 Ms. Duvauchelle: Thank you. Commissioner Gomes.

16
17 Ms. Gomes: Okay I'm sorry I just want to piggy back on Commissioner Higashi and then I also
18 have other questions. In regards to schools, I understand you know given that I'm also an
19 educator myself I understand that when you reach a certain age you know you're counting the
20 fact that they're able to drive and so you're counting the parking stalls and the school
21 population, the staff, etcetera. But, you know, there are also parents who, take for example,
22 elementary schools, intermediate schools, there are parents who are unable to park when
23 there's functions for just to even take --. I'll give you an example you know your child is
24 kindergarten you're not going to just drop your kid off at the curb and pray your kid is going to
25 find the classroom. You're going to park your car and there's no parking. And you know there's
26 a certain point where you're going to trust you know at an age where they get to the point of
27 finding the classroom and have the knowledge to do that. But that's not happening in the
28 elementary schools you know specifically what I've experienced with my children. I just wanted
29 to piggy back on that that --.

30
31 You know I have a comment to make because I have --. I'm wondering if this is in regards this
32 residential when you have a home and it seems as though that you guys are per square feet --
33 and correct me if I'm wrong -- you should have x-number of cars. Is that correct? Is that my
34 understanding?

35
36 Ms. McLean: Yes. We're proposing a minimum number of spaces and then if the home is larger
37 and larger then additional cars for additional square footage.

38
39 Ms. Gomes: So let's say you have close to 9,000 square feet home and you have the parking
40 space the way you have created your home -- and I'm going to just throw this out and you can,
41 my fellow Commissioners can think what they think -- you have seven vehicles of your own.
42 That would be a violation of that person if that's their home and they can fit seven vehicles on
43 their property.

44
45 Ms. McLean: And how large was the home?

1
2 Ms. Gomes: Probably 20 -- 24. It's in a subdivision.
3
4 Ms. McLean: No if you have extra parking on your lot that's fine you're allowed to do that.
5
6 Ms. Gomes: Yeah. Okay.
7
8 Ms. McLean: You're allowed to do that.
9
10 Ms. Gomes: I mean that's what I'm trying to figure out how this is coming to be where it's being
11 regulated because in subdivisions you have CC&R's as well and with your CC&R's you're also
12 held to --. You know luckily for, for my home the way we done our home we are able to do
13 because of what we've done to our home. But my neighbors unfortunately if they even have an
14 inch of their tire on their grass they get fined because the way the subdivision had done their
15 driveway cannot put two vehicles on their concrete properly. So I'm, I'm trying to figure out if
16 this is pertaining to that --. Will this apply in the future I guess because now you know it's
17 grandfathered, but in the future if this is applying to people who are purchasing residential
18 homes in subdivisions because I asked prior to this if this goes across the board that you --
19 you're being regulated now as to how many vehicles you can possess on your property.
20
21 Ms. McLean: No, we don't regulate how many vehicles you are allowed to have.
22
23 Ms. Gomes: Okay.
24
25 Ms. McLean: We regulate how many parking spaces you have to provide.
26
27 Mr. Robinson: Minimum. Minimum, not maximum.
28
29 Ms. McLean: So you don't have to drive at all, but you will have to provide two parking spaces at
30 your house.
31
32 Ms. Gomes: How do you view parking spaces?
33
34 Ms. McLean: It's 8 ½ feet by 18 feet. And it can be in a driveway, it can be in a garage, it can
35 be in a carport, it can be on your front lawn.
36
37 Ms. Gomes: And so it --. Just hypothetically if you have a custom driveway how do you --? I
38 mean, and we've done ours properly just so you know, but how --? I mean you have regulators
39 that will go out and do this you know for homes and measure all of this. That's kind of I guess --
40 of new development.
41
42 Ms. McLean: If a new building permit comes in for a new house we look at the house itself to
43 make sure that it complies with the zoning setbacks and the zoning height and that there aren't
44 too many dwellings on the property per the zoning. And we also look to see that there are the
45 required number of parking spaces provided. And that's just looking at a site plan. So the
46 architect or the engineer prepares that to scale to show this is where the cars will be parked.

1 Again it can be in a driveway, a carport, garage, on the front lawn. For residences it doesn't
2 have to paved. It can be grass, it can be gravel, but we look to see that there is sufficient space
3 for those cars to pull in and park. That the space is long enough and wide enough for the cars
4 to be on the property completely and not sticking into the street.

5
6 Ms. Gomes: Okay, and sorry --.

7
8 Ms. Duvauchelle: I'm going to call a 10 minute break. Go ahead. Commissioners?

9
10 Ms. Gomes: I'm sorry. I'm just wondering because you know when you have development like
11 a subdivision do you leave this up to the developer to do or, or you guys actually the Planning
12 Department actually comes out to check out 500 homes or 200 homes I guess?

13
14 Ms. McLean: If the developer is building the houses then we would review of those building
15 permits to make sure that the parking spaces are provided on each lot. We do not go out.

16
17 Ms. Gomes: So you guys are just doing . . . (inaudible) . . .

18
19 Ms. McLean: Building inspectors and plumbing, electrical inspectors will go out during the
20 phases of construction, but we do not go out. The building inspectors sign off that the
21 construction was performed in accordance to the approved plans.

22
23 Ms. Gomes: Thank you.

24
25 Ms. Duvauchelle: Thank you. At this time we're going to take a 10 minute break.

26
27 *(The Maui Planning Commission recessed from 10:18 a.m. and reconvened at 10:31 a.m.)*

28
29 Ms. Duvauchelle: Commission is now back in session. Corp Counsel.

30
31 Mr. David Galazin: Thank you Chair. And just for the Commissioners I kind of want to touch on
32 something that the Deputy Director mentioned earlier and a few things the comments that has
33 been going on. Legislatively you know it's always a game of catch up, Planning Department
34 especially more than the other department tries to project and enact legislation with an eye
35 towards what future needs will be but we're never going to be in front of it 100% of the time.
36 And so you'll have situations where parking requirements are simply inadequate based on the
37 code. So this is an attempt to fix things moving forward. There -- retroactivity is just not
38 something that's typically favored in the law and I spoke a little bit about non-conforming uses
39 before. And you know again if something is lawful at the time it's begun then it's allowed to
40 continue. And if your neighbor had some requirement that they didn't have to have more than
41 two parking spaces and they have five cars and that was lawful at the time, we changed the
42 requirement, you build a house, a new house, it's got new parking requirements and that's how
43 legislation works you know at a local level. So it's always going to be catching up and you're
44 always going to have people who are -- you know we say grandfathered in but really what is
45 happening is that they were subjected to different requirements so they complied with them and
46 presuming that they have complied it was lawful at the time and they haven't changed that use

1 so that's going to remain. So you know I've heard some back and forth a little bit about it but
2 just to make sure we try to focus on okay we know what the problems are we're trying to fix
3 things legislatively so that it's better in the future but we can't go back and reach back in time
4 retroactively and try to impose different requirements on something that's already there. Thank
5 you.

6
7 Ms. Duvauchelle: Thank you. Okay I'm going to continue discussion. Commissioner Robinson.

8
9 Mr. Robinson: Chair, on affordable housing development with the three bedroom is, do you
10 know what the requirement right now is for parking?

11
12 Ms. Duvauchelle: . . . (Inaudible) . . .

13
14 Mr. Robinson: Two right? And average square footage of a new three bedroom affordable
15 house?

16
17 Ms. Duvauchelle: 1,400.

18
19 Mr. Robinson: 1,400 square feet. So under this new then would it become three?

20
21 Mr. Spence: No.

22
23 Mr. Robinson: Because the minimum is two for 1,000 and then, and then when does the next
24 kicker hit? At 2,000?

25
26 Ms. McLean: Chair if I may, under the proposal is the requirement would be a minimum of two
27 spaces, but one per 1,000 square feet of floor area. So if it's up to 2,000 square feet then it
28 would be two. And then if it exceeds 2,000 square feet then there would an additional
29 requirement.

30
31 Ms. Duvauchelle: Okay any other discussion? Commissioner Kahu Hill.

32
33 Kahu Hill: Aloha Michele. I wanted to understand just because my own, my own things with my
34 mom and having assisted living and assistance and I wanted to know about the nursing home.
35 It says one per eight beds, and then the new proposal is one per six clients plus one for each
36 employee onsite at any time. I'm wanting to understand about besides employees about
37 hospice or volunteers or caretakers, I mean not even looking at family or visitors here where
38 that is included or how that's looked at for nursing.

39
40 Ms. McLean: For nursing homes the proposal is as you've said one per six clients plus one for
41 each employee on site at any time. So the six clients are not driving but the parking space
42 would be for visitors or volunteers or other people that come. This was one that where we
43 looked at other, what other counties and cities have for their requirements and based it on that
44 research. It is an increase from what's existing now and we felt that the existing requirement
45 was deficient to allow for more parking for visitors and other people who come to provide
46 services.

1
2 Kahu Hill: And is it the same if you're looking at let's say Hale Makua or Kula and other kupuna
3 there versus if it's more assisted living and people are coming in to assist and to bathe or to
4 take care of them or food requirements and things like that.

5
6 Ms. McLean: That's a good question. I would have to look and see if we have --. How we
7 would have -- if we would assess assisted living differently from a nursing home where there are
8 full-time residents.

9
10 Kahu Hill: Yes, if that could be looked into that would be great. I just didn't see it on here.

11
12 Ms. McLean: Thank you.

13
14 Ms. Duvauchelle: Commissioner Robinson.

15
16 Mr. Robinson: I'm just going to finish my comments on the housing and then are you ready?

17
18 Ms. McLean: Sure.

19
20 Mr. Robinson: So I guess my recommendation is if we could look at something besides just
21 square footage. If I understand the code now the home that has five bedrooms with 2,950
22 square feet only needs three parking spaces.

23
24 Ms. McLean: Correct.

25
26 Mr. Robinson: And so I think if we have a -- if you guys are able to tie in some kind metric to
27 where it includes bedrooms that it starts to go over three, you know every bedroom over four
28 you know needs to have another parking space or something. I think we don't want to take
29 away the three bedroom two bath affordable housing standard. I think once we go forward in
30 the square footage I think that's where we need to have some type of safe guard against people
31 building 2,950 square foot homes and not having the parking onsite. Thank you.

32
33 Ms. McLean: Thank you. Keeping in mind that that the 2,950 square foot home today would
34 only require two stalls.

35
36 Mr. Robinson: Yes. I'm . . . (inaudible) . . . of all these changes you guys are making. I think the
37 code is out of date. I just have slight variances on how we should approve it because you know
38 we don't want to be like Honolulu and try to do things after the fact. Thank you.

39
40 Ms. McLean: Thank you.

41
42 Ms. Duvauchelle: Commissioner Gomes.

43
44 Ms. Gomes: Michele, I'm sorry, what is passive recreation?

45
46 Ms. McLean: That is a, for example, a park that doesn't have active playing fields or facilities.

1
2 Mr. Spence: If you go to a park --

3
4 Ms. Gomes: I'm sorry can you give an example?

5
6 Mr. Spence: Like you go to a park with a picnic table and a grill.

7
8 Ms. McLean: Like Rice Park in Kula for example is a passive park.

9
10 Ms. Duvauchelle: I have, I have a question and I'm sorry I didn't review too much before the
11 meeting. But are any of the office or warehouse spaces parking linked to the number of
12 employees?

13
14 Ms. McLean: We actually grappled with that for a number of different uses of trying to make
15 them employee based, but that's just too difficult to confirm you know if it's new construction
16 coming in and they're going to tell us -- more likely than not they would tell us they're going to
17 have fewer employees than they really will have. Or if their business grows and they need to
18 add employees, but the construction has been completed, the lot has been developed, you
19 know how do we access, oh, you have more employees you have to provide more parking. So
20 typically it's on a square footage basis...for commercial uses.

21
22 Ms. Duvauchelle: Because I don't know if maybe tying their CO to --. I don't know. It's just we
23 were --. What that made me think of it is we were talking at break about the forensic property
24 and jokingly I said I park there, but I really do because the warehouse down the middle, you
25 know, next to it doesn't have really adequate parking. And then in the building next to it, I think
26 it used to be a doctor's office and some sort of a data processing or a medical billing group has
27 moved in there, and I'm going to guess 30 plus employees. But since that new user has moved
28 in there, there is absolutely no parking in Wailuku Industrial on that side where this facility is.
29 And so I was just curious if the parking was ever related to the number of employees.

30
31 Ms. McLean: There are some places that do that, but we thought it would be too difficult to
32 administer and enforce. And then it also could restrict businesses ability to grow if they can't
33 add employees because they can't have more parking.

34
35 Ms. Duvauchelle: Okay, just a thought. All right, any other discussion? Commissioner Kahu
36 Hill?

37
38 Kahu Hill: Just one more. I'm wondering while looking at the hospital and you're looking for one
39 for three beds and one for two beds for major medical center, one for 500 square feet for minor
40 medical within these three that you're looking to propose. And also looking at the hotels, one
41 per two guest rooms, and then one that you would change it to one per guest room. How does
42 that work when there's valet involved? Like Grand Wailea you cannot self-park anymore or at
43 the hospital and our medical center we have a lack of parking let's say as well and that some of
44 that is valet. And so I'm just wondering how you're looking at that or the other places that have
45 valet.

46

1 Ms. McLean: Right now the parking code doesn't account for valet parking at all. That is
2 something that we are proposing to add and so those are two great examples where we're
3 proposing notable increases and it will be difficult for existing developed properties to comply
4 with this if they want to expand in anyway. But we do have the valet and other flexibility options
5 where if they can demonstrate that they would be doing valet parking or other things like that
6 then their parking requirement can be reduced.

7
8 Kahu Hill: So let's say Grand Wailea moved. They used to have self-parking and they stopped
9 that so that they could have that valet and be able to charge for that. What is that as you're
10 moving forward knowing that they do have enough for cars to be able to self-park and not
11 allowing those guests. Will that change in the future?

12
13 Ms. McLean: We wouldn't tell a business how to --. We tell them how many parking spaces
14 they need to have. We don't tell them how to have those spaces filled. So we wouldn't tell
15 them you can or cannot valet, you can or cannot charge, you can or cannot whatever. If they
16 choose to require their guests to valet park then that's a business decision on their part. Our
17 role is to make sure that they have enough parking spaces onsite.

18
19 Kahu Hill: Mahalo.

20
21 Ms. Duvauchelle: Commissioner Robinson.

22
23 Mr. Robinson: I'd like to speak to that. Being a business I think that's a good stance to have. I
24 think businesses are going to choose what's best interest for them. And if they're not going to
25 have parking for their employees, they're going to have to challenge to get employees. If
26 they're not going to have parking for their guests, they might lose guests. So I think the
27 commercial business side of it, I think it will take care of a lot it and that's all --. You know same
28 thing as benefit. That's another benefit and I think that's good that you're standing out.

29
30 I do want --. I am concerned about when we're talking about hotels and talking about doubling
31 the amount of parking, what our landscape is going to look like if we're going to have hotels or
32 we're going to have parking structures. I think we all know that it's needed because employees.
33 You know a really easy part is if you have a 500 bedroom hotel you're going to need at 250
34 employees, seven days a week. There's people doing different facilities. If you have
35 restaurants inside there, if you have activities, if you have pool. And so I know I was focused
36 on the rooms. And you know it's, it's -- the hotel people that I've talked with and the thing is you
37 know it's different things affect parking. When we have a highway that's only going to be two
38 lanes and we're building a new highway that's only going to be two lane, that means people are
39 going to take longer to get to work. Therefore catching a bus, people have to get to a bus stop
40 earlier, they have to take their kids, these are all the things that affect our parking are things like
41 that, and things are always plural when it comes to looking at it. You can't just look at one thing
42 or another. And I think for our resort areas on the, on the west side as well as the south side if
43 we can improve our roads I think more people might catch a ride and they have more time to do
44 this rather than to plan so far ahead to try to get to work. Thank you.

45
46 Ms. Duvauchelle: Thank you. Commissioner Carnicelli

1
2 Mr. Carnicelli: Thank you Chair. So Deputy Director is I understand that is just nothing more
3 than you know us providing comments for you to draft a bill, which the bill will come back to us,
4 and this isn't our kuleana anyways. Ultimately the Council's going to have to adopt this and
5 we're going to have to do this all with County Council.

6
7 So with that being said I'm just going to throw the comments that I had as I called through this.
8 At the bottom, if you go to Exhibit-1, at the bottom of page-1, it says transient vacation rental
9 and the change is to one per guest room. But if you go to page-3 that has another section of
10 short-term rental home and two is required by dwelling whichever is great. So it seems like you
11 know if we have transient vacation rental over here and then we have short-term rental over
12 there. You already got my comments on the square footage part, you know, as far as the
13 residential goes.

14
15 In the part where you addressed offsite parking there is an exception in here, a criteria that says
16 you can have offsite exemptions for a publically owned off street parking lot. I think delete that.
17 I don't want somebody's exemption to be public owned parking. I mean we've got parking -- I
18 immediately the thing I thought of was Paia. For somebody to get an exemption in Paia
19 because there's public parking. You know there's like six public parking stalls. That is just is
20 something that I would not like to see in the code.

21
22 And then the other thing is when we go to landscaping there's now photo voltaic trees. You
23 know there's the trees that have the panels and it looks like a tree, it is, I don't know, throw that
24 in there to say like you know that could be included as an exemption or something that could
25 also be. So those are my comments. Thank you.

26
27 Ms. McLean: Okay, thank you. Just to note the public parking lot exemption is actually in the
28 current code. That's not something new.

29
30 Mr. Carnicelli: Well I want it out.

31
32 Ms. McLean: Okay. Just letting you know.

33
34 Mr. Robinson: And I think that is good. You know this goes back to commercial again, and it
35 goes back to public parking and we need customers to help take care . . . (inaudible) . . . and
36 the guy who has a parking lot can say you know I know these guys need 80 parking stalls, I can
37 hold this as well as some overflow parking for some other things. So this is where I'm not so
38 sure if I want the County to be involved in the commercial enterprises because they're going to
39 make these choices with money and they're going to have to do it that way. And if they don't
40 have the parking stalls, they're not going to have customers, they're not going to have
41 employees. You know we want more parking, we want people to offer more parking and to not
42 be able to use it or limit it that's going to inhibit like in Paia a guy turning it to a parking. He
43 might as put up a structure you know make money doing that. We need parking in Paia. I want
44 to encourage him and to say you know let's do it that way. That's my feelings.

45

1 Ms. Duvauchelle: Commissioner Gomes. We're going to do this last question and then we're
2 going to move on to your next presentation. And Michele will let us email any other input or
3 questions we have.

4
5 Ms. Gomes: Thank you Deputy Director Michele, I just want to ask that on page-2 it states that
6 there were meetings that were held with the Maui Chambers of Commerce for in regards to this.
7 There will be also public hearings offered to the public for Maui, for the community. If we could -
8 - I wasn't aware. I think Planning Commissioners and maybe I missed it my apologizes but I
9 think Planning Commissioners should make presence if anything to be there. Not to answer
10 questions but to be there if possible. If we could have that kind of communication as to if there
11 is meetings you know that the Planning Department is having with the public, again not for us to
12 answer any questions but to just be present and let the community know that we are very
13 involved. You know I sat on other commissions and it was -- I find it pertinent and very
14 important to have presence for the community to understand that the Commission is not just
15 people just sitting back just listening to information. And I hate to say this and this is my words
16 being said can be from you know from the Department. You know I hate to say that in those
17 kinds of words. But I think it's very important that we make our presence known and that they're
18 aware that there are Commissioners that do want to be there and hear it. And again not to say
19 anything, maybe you guys would take the lead, but you know just to know that if we can make it
20 that we could be invited as Commissioners.

21
22 Ms. Duvauchelle: I'll let Corp Counsel address.

23
24 Mr. Galazin: Yes, thank you. And Commissioner Gomes that, that's certainly one thing you can
25 ask of the Department. I would just you know caution that if there's going to be more than --.
26 Yeah, the sunshine law requirement so that it may be you would have notice it as a meeting of
27 the Planning Commission in addition to a meeting of the Department. Not that it's you know . . .
28 (inaudible) . . . impossible, but it's just it's an extra layer in there.

29
30 Ms. Gomes: Or, or that we could just have a selected two. I mean as long as there is you know
31 one or two that is interested in going . . . (Inaudible. Technical difficulties with the audio
32 equipment.) . . . it would be nice. Or at least it would be nice if something is being held
33 because you know looking at this not knowing that it's being held or it's being done I feel that it's
34 a little disservice to the Commissioners knowing that the Planning Department is going out there
35 and yet we are the Commission you know looking for the community. We're the conduit for
36 them as well.

37
38 Ms. Duvauchelle: All right. Thank you.

39
40 Ms. McLean: Thank you.

41
42 Ms. Gomes: Thank you.

43
44 Ms. McLean: And we have requested money in our FY19 budget for a new sound system.

45
46 **The Commissioners provided their comments.**

1
2 **E. Discussion of proposed revisions to Chapter 19.35, Maui County Code, relating to**
3 **accessory dwellings (or “ohanas”) (no action will be taken) (M. McLean and**
4 **D. Raatz)**
5

6 Ms. Duvauchelle: Okay. Thank you. Thank you Carolyn. Shall we move on to the next
7 presentation please? Deputy Director.
8

9 Ms. McLean: Okay. Thank you. Next we have a proposed bill that we’re referring to as the
10 ohana bill and we did send to you the draft bill in its entirety so you can see the language that
11 we’re proposing. As the memo says we’re proposing changes to allow more ohanas that are
12 currently allowed and to make them more livable. There are various versions of this bill that
13 have been out there for a few years. We want to make another push to increase our housing
14 inventory and to make lawful some things that we believe that are going on out there that are
15 currently illegal. We would like to give them a pass for conformance. We would increase the
16 housing inventory. I use the term allowing growing families to stay in their homes because I
17 actually do have good friends who live in a home in Makawao. The lot has actually been CPR
18 and so they own their ohana. It’s 700 square feet and they three young kids and they love their
19 neighborhood, they love their house, they love everything about it, it’s just that much too small.
20 And if they could increase the size of that just a little bit they would stay there forever. And so
21 that’s one of the proposals that you’ll, that you’ll see that we’ll go over.
22

23 Similar to the parking ordinance we will be sending this out for agency review. And then we will
24 be bringing it to the, all three planning commissions for public hearing and recommendation with
25 final adoption also being up to the County Council.
26

27 We just have one slide to go over the bill because it’s pretty straight forward and I’ve said these
28 notes follow the memo and you have the bill as your Exhibit 1. So the first proposal and this is
29 something that came from the Mayor is to prohibit new short-term rental homes and B&B’s in
30 ohanas. So if there are existing permits out there for B&B’s and STHR’s they can continue to
31 operate, they can get renewed, but the new ones would be prohibited just because ohanas are
32 really are you know fundamentally the core of our affordable housing stock.
33

34 We’re also proposing to allow ohanas on any size lot. Right now the lot has to be 7,500 square
35 feet or larger in order to allow for an ohana. So we would say a mini sized lot you can have
36 one. And we would also that you could have two ohanas if you have a larger lot. And as
37 mentioned to make them more livable as you’ll see in the bill most ohanas we’re proposing to
38 increase the size by 100 square feet. We also reduced the components that get included in the
39 calculation of the square footage because right now the code is really strict with that. And then
40 we would, for example I have the examples up there, for walkways that are under a roof
41 overhang. Also if there’s a washer and dryer in the carport we have to count that square
42 footage. It just makes it tighter and tighter and tighter so we want to make these more livable.
43

44 Also there are limits in the code for uncovered decks. We want to increase that as well just to
45 provide more living space.
46

1 Right now the code requires ohanas to -- or only allow ohanas to have a single car carport
2 which has never made sense to me. We're saying that you can have a two car carport or even
3 a two car garage which the code right now doesn't allow. And that's, that's...that's it for the
4 proposed revisions that we want to make.

5
6 Ms. Duvauchelle: Okay at this point we'll open the floor for public testimony on this ohana bill.
7 Those wishing to testimony please come forward, state your name.

8
9 Mr. Tom Croly: Aloha Commission, Tom Croly on behalf of the Maui Vacation Rental
10 Association. The accessory dwellings, this came before you guys two years ago. Some of you
11 were on the Commission, some of you weren't. And it's kind of important to recognize there's
12 about 5,000 accessory dwellings already on in Maui, and I and I think the MVRA in general
13 stands in favor of this bill to allow more of these accessory dwellings to be built. I think it is a
14 short cut to creating affordable housing on Maui. However we do stand against the exception to
15 use any and all accessory dwellings in a bed and breakfast home. And I want to cite the
16 purpose of bed and breakfast ordinance.

17
18 The purpose of this chapter is "to establish a permitting process and appropriate restrictions and
19 standards for bed and breakfast homes to allow small local businesses an opportunity to
20 participate in the benefit of tourism. To provide the visitor experience an accommodation as an
21 alternative to resort and hotel accommodations currently existing in the County and to retain the
22 character of neighborhoods in which any bed and breakfast is located."

23
24 The use of an individual homeowner of their ohana dwelling to use it for bed and breakfast fits
25 that exact. And I don't think it does good to pull that out. But I do want to point that that in the
26 nine years that we've had the bed and breakfast ordinance there's been only 40 accessory
27 dwellings that have been permitted for bed and breakfast use. So there's 5,000 accessory
28 dwellings out there, 40 have been permitted for this use. I hope we get 5,000 more built as a
29 result of this bill. That will be a great thing. But I don't think that limiting maybe another 40 or
30 100 of them in bed and breakfast use is a wise thing at all. Because again it puts the the person
31 who choose not to follow the law in a bigger group. It says you know use it how you want and
32 don't worry about it. No, if they want to use for this use they should get a permit and that's what
33 we're striving for. Thank you.

34
35 Ms. Duvauchelle: Thank you. Any questions? Thank you very much. Anyone else wishing to
36 testify?

37
38 Ms. Katherine Clark: Aloha Commission, members, my name is Katherine Clark and I'm
39 testifying as an individual. In 1988 the Legislative Reference Bureau at the State wrote an
40 excellent report: Ohana Review Zoning, A Five Year Review. If we removed the date you could
41 read it and believe it to be have been written today. The report looked at the impact of the
42 ohana law which had been passed five years previously. Even then the report makes note of
43 Maui's serious housing shortage and it seems that nothing has changed in the almost 30 years
44 that have passed. The shortage existed when there were only a few vacation rentals on the
45 island and still exists today. Although I work in the vacation rental industry I do not own a B&B
46 or an STR and I never intend to. But I do understand the industry and a concern for me is the

1 removal of the option to include an accessory dwelling unit on a B&B permit. As proposed if a
2 local resident owner lives in the cottage he can obtain a B&B permit to rent the main house.
3 That's great for a single person or a couple or perhaps even a very small family. But what about
4 the owner with a larger family that resides in the main house? He has no option to get a permit
5 for the cottage. Is that fair? If you're single you can do it, but if you have a larger family you
6 can't. We would be removing this owner from the option of having a B&B rental, yet in reality
7 the only way that he might be able to afford his mortgage is with the additional vacation rental
8 income. Housing can be affordable in a few ways. A sufficiently great career that provides
9 income that you can simply go out and purchase a home. Or perhaps government becomes
10 involved and partially funds affordable housing with the homes offered to low income buyers.

11
12 Thirdly what about individuals that become creative, perhaps work more than one job or create
13 income in other ways. One of these ways is to live in one dwelling on their property and operate
14 a B&B in the other. Looking at permitted B&B's there are some that provide retirement income,
15 others that are putting kids through college, and others that make a mortgage manageable.
16 These are owners that have taken matters into their own hands and created their own version of
17 affordable housing. Please consider removing the restriction for B&B properties from this
18 potential ordinance. Thank you.

19
20 Ms. Duvauchelle: Thank you. Anybody else wishing to testify? All right, seeing none, we will
21 close public testimony. Discussion, questions from the Commissioners. Commissioner
22 Carnicelli.

23
24 Mr. Carnicelli: Thank you Chair. So Michele, a quick question for you. How do accessory farm
25 dwellings fit into this? Because they're not accessory dwellings, they're accessory farm
26 dwellings. So how, how is the Ag portion going to be affected here?

27
28 Ms. McLean: It's not affected at all. It's not applicable to -- this is not applicable to the Ag
29 District.

30
31 Mr. Carnicelli: Would we want to do that? Would we want to include Ag?

32
33 Ms. McLean: At this time, no. There's, there's a lot that needs to be worked on in the Ag District
34 and --. The farm dwellings, they're actually not accessory farm dwellings even though we call
35 them that, it's very common to talk about the ohana on the Ag lot. The code right now allows
36 two farm dwellings in the Ag District, one cannot exceed 1,000 square feet. That's what's
37 commonly referred to as the accessory farm dwelling, but it's not accessory. It's, it's a farm
38 dwelling because in the Ag District your principal uses are agriculture and those other things are
39 accessory to that. With ohanas your primary use is residential and then you have an accessory
40 dwelling to your main residential use, so it's a different approach. At the moment we're not
41 proposing to add that to the Ag District. If the Commission feels really strongly that we need to
42 add the ability to do another farm dwelling in the Ag District then we can take a look at and bring
43 that back to you. But that's not what we're proposing at this time.

44
45 Mr. Carnicelli: Okay, I mean if my fellow Commissioners felt that that was important as well. I
46 mean I just think it's what we're doing is trying to create more home and add density it seem like

1 the way to go. And Chair if I could just say another thing, so I would have to agree with the two
2 testifiers. I would be to allowing bed and breakfast to be allowed, and I'll put out there short-term
3 rental homes if that short-term rental home provided an off-site Section 8 housing rental unit.
4 So let's say I'm a person that owns a house on Keawekapu and I wanted to build a house and
5 an ohana . . . (Inaudible. Mechanical problems with the audio equipment) . . . by Section 8,
6 maybe I can use that. So I'm just proposing that to throw that out there if you could provide and
7 offsite section 8 housing then you can include the ohana. And that's all that I have Chair.
8 Thank you.

9
10 Ms. Duvauchelle: Thank you. Commissioner Hudson.

11
12 Mr. Larry Hudson: Hi Michele. There's the -- I see the maximum gross covered floor areas. But
13 what about like if somebody has a two bedroom house and the top, the top is like 1,600 square
14 feet, and the bottom is 1,600 square feet, but they constructed it that way. How would that
15 work?

16
17 Ms. McLean: Well to calculate that as an ohana you would count both stories.

18
19 Mr. Hudson: Okay. Please explain for me then slowly what exactly you're saying by maximum
20 gross covered floor area?

21
22 Ms. McLean: The definition is is listed at the -- or not the definition but a description is listed the
23 bottom of page-2 of the bill. So covered floor area is any covered storage, covered decks,
24 covered patios or lanais. It does not include carports, parking spaces or garages. Also
25 excludes covered walkways or landings. But it's any, any floor area that is under roof,
26 downstairs and an upstairs.

27
28 Mr. Hudson: Right I got that. So if the main house is upstairs and the downstairs house is
29 downstairs and that becomes your ohana, but is going to vastly exceed the 1,000 square feet.

30
31 Ms. McLean: We would --. If someone has two story home and they want to convert that two
32 dwellings. Is that what you're suggesting?

33
34 Mr. Hudson: Right, right, if wanted to rent it out to your family downstairs.

35
36 Ms. McLean: Right, then currently that two story home would have one kitchen and we would
37 consider that to be one dwelling. And so the floor area of that dwelling would be the two floors
38 combined. To make it two dwellings you would add a kitchen to whichever floor did not have
39 the kitchen, and then we would separate those as two, two dwellings because the kitchen
40 makes the dwelling. And so if you have the upstairs kitchen and the downstairs kitchen, you
41 have a dwelling upstairs and a dwelling downstairs.

42
43 Mr. Hudson: Okay. And so ohana all have kitchens, full kitchens?

44
45 Ms. McLean: Yes.

46

1 Ms. Duvauchelle: Commissioner Robinson.

2

3 Mr. Robinson: And that's with a separate entrance, right?

4

5 Ms. McLean: Ohana has to have separate entrances. Yes.

6

7 Mr. Robinson: I want to go back to the Department's stance on the new ohanas not being for
8 B&B's. Is there, is there a reason why for that? Could you expand on the thought process on
9 that?

10

11 Ms. McLean: Sure that was a proposal by the Mayor from a couple of years ago that we put
12 forward and we want to put it forward again. Because of the lack of housing and with ohanas
13 being core part of the affordable inventory whether that's affordable under government
14 guidelines or just market affordable that any unit that can be made available should be made
15 available. It's, it's that plain really.

16

17 Mr. Robinson: I have a follow up question. I agree with that statement so why don't we let the
18 permits on the B&B's expire and add 40 more units instead of trying to build 40 more units. I
19 guess that my stance is that we're in this crisis, the Mayor can see the crisis. He understand
20 that he wants to change it, but yet we're still letting all these permits go out for these auxiliary
21 uses you know so that people can get to use it and do the thing. You know ohana units were
22 made for family members. Farm dwellings were made for farmers to live on to compensate for
23 their pay. Vacation rentals are just vacation rentals. And my thought was like Mr. Carnicelli's
24 and the guy who is able to have an apartment ohana and a house and we got to find some
25 special use for this guy so he can hopefully make even more money while people can't even
26 find a house. And I think you know I disagree with that. I hope that the Mayor, this Mayor or the
27 next Mayor, looks at expiring the B&B's. I think B&B's are fantastic for people that have a
28 house and want to rent out their rooms and supplement their income. But they can also
29 supplement their income with a long-term rental because these condos are going for \$1,500 to
30 \$2,000, and I think that should be able to help anybody's mortgage. Thank you.

31

32 Ms. Duvauchelle: Thank you. Any other questions? Commissioner Gomes?

33

34 Ms. Gomes: Deputy Director I did want to clarify. I was always under the impression that
35 ohanas are small units. Am I not correct?

36

37 Ms. McLean: That's correct. There is a size limit. The largest they can be is 1,000 square feet.

38

39 Ms. Gomes: How much? I'm sorry.

40

41 Ms. McLean: 1,000.

42

43 Ms. Gomes: Okay. Yeah, that was what I was thinking at least a 1,000 or less. And, and then I
44 also, I apologize, Commissioner Carnicelli you said something about Section, Section 8. Are
45 you talking about HUD that they, the person that would be applicable to apply for the ohana

1 would have the opportunity -- would be a HUD applicant basically? Is that what you meant, I'm
2 sorry, when you said Section 8?

3
4 Mr. Carnicelli: Yeah it's just an idea that I had. If somebody wanted an STRH Permit then they
5 have to provide offsite Section 8 housing.

6
7 Ms. Gomes: Okay.

8
9 Ms. Duvauchelle: Thank you.

10
11 Ms. Gomes: Thank you.

12
13 Ms. Duvauchelle: Any other discussion? That one was easier.

14
15 Mr. Carnicelli: I have one question.

16
17 Ms. Duvauchelle: Commissioner Carnicelli. I knew it was too good to be true.

18
19 Mr. Carnicelli: My other question is how does, over on Oahu, they have . . . (inaudible) . . .
20 accessory dwelling unit law, and then Kauai copied them. And basically . . . (inaudible) . . .
21 enclosed your garage legally law. How does this help and, or hinder or address that? Again we
22 still had parking, we had the right amount of parking, but we just enclosed our garage legally.
23 How does that fit?

24
25 Ms. McLean: Someone could certainly do that and, and I alluded to that earlier in my
26 presentation where I said this bill could actually serve to legalize things that we believe are
27 going on that would normally wouldn't currently be allowed. For example today if you have a lot
28 that's smaller than 7,500 square feet, certainly there are people who have done just that.
29 They've enclosed their garages to make another unit. And where today they couldn't even
30 permits to do that, with this bill they would be able to do but they would still have to provide
31 parking for both structures somewhere, for both dwellings somewhere on the property.

32
33 Ms. Duvauchelle: Okay thanks. Commissioner Robinson.

34
35 Mr. Robinson: Sorry and that means their garage has to have a kitchen inside of it to make it an
36 ohana, right?

37
38 Ms. McLean: To call it a dwelling, yes. The conversion would have a kitchen, yes.

39
40 Ms. Duvauchelle: All right. Thank you very much. We'll move on to the next presentation.

41
42 **The Commissioners provided their comments.**

43
44

1 **F. Discussion of proposed revisions to Chapter 202, Special Management Area Rules**
2 **of the Maui Planning Commission (no action will be taken) (M. McLean and**
3 **J. Dack)**
4

5
6 Ms. McLean: Great. Thank you. The Special Management Area Rules. This is a much, much
7 bigger undertaking. Before Will and I started with the Department in 2011 there was already a
8 staff team working on proposed changes to the SMA Rules. So this has been going on for a
9 very long time.

10
11 As explained in the memo -- so the SMA Rules we have because of the State Coastal Zone
12 Management law which is HRS 205A. And HRS 205A says that any development within the
13 Special Management Area needs an SMA Permit. And 205A also defines what a development
14 is, and those definitions are provided as attachments, as exhibits to the memo. And any action,
15 205 continues to say, that is not a development is exempted from getting an SMA Permit. So
16 that's an SMA Exemption. Everyone has heard of those. However that long list of exemptions
17 which is also provided in your exhibits ends with a phrase that says: Provided that whenever the
18 authority -- that's you folks and the Planning Department -- finds that any use activity or
19 operation may have a cumulative impact or a significant environmental or ecological effect on
20 the SMA, then it shall be considered a development.

21
22 So you have this list of exemption, but at the end of this list it says you need to asses it for its
23 impacts before it can be exempted. And so what we've been doing for many, many years is any
24 action within the SMA we tell someone you have to do an SMA Assessment application. So we
25 look at what they're proposing and we make a determination is that use going to have an effect?
26 Most of the time it will not and we issue an exemption. We issue between 350 to 500 SMA
27 Exemptions every year for extremely minor actions. Those don't come to you guys. We issue
28 them. You don't need to see them. What we'd like to do in the rules is to really spell out the
29 kind of uses that don't even need to go through that assessment process. So when someone
30 calls up and says I want to replace the mail box post in my front yard, do I need a SMA
31 Assessment? We can tell them, no you do not. Right now we tell them I wish you hadn't call
32 me, but since you did, I have to tell you yes. So we're proposing to create a new section in the
33 rules for what we're calling Exceptions. Not Exemptions, but Exceptions. And those would be
34 defined for us to be able to tell people, no, no need, you do not need to get a permit. So
35 examples of those, like I've said, mailbox posts, interior renovations, putting PV on the roof,
36 emergency sirens. All these things right now we have applicants submit an SMA assessment,
37 we evaluate it and then we issue the exemption. We would like to just be able to tell all these
38 uses, no need.

39
40 So the proposed -- our proposed definitions and examples of those are listed as exhibit -- where
41 are we? -- let's see exhibit 2 in your packet. So these are the things that we feel if anyone falls
42 under these we tell them no need.

43
44 Another proposed change would be to codify a long standing practice in what can be, in what's
45 including in a single-family dwelling. One of the exemptions in State law now is a single family
46 dwelling is 7,500 square feet or less. That can be exempted. Those we'll still continue to do

1 assessments for. What's included in that single-family dwelling, what our long standing practice
2 has been is to include any other things related to that dwelling. So a swimming pool, a garage,
3 a storage shed, a retain wall, and an ohana. All together we would like to codify the long
4 standing practice of all those together have to fall under that 7,500 square feet, and we do an
5 assessment of all of those things together and we're able to issue exemptions for those. That's
6 been the long standing practice. We want to spell it out clearly in the rules.

7
8 We're also proposing some clarifications to the procedure by which we do these. So just very
9 simply. The rules right now are awkward and cumbersome. We're just proposing to list them
10 out step by step to make them more straight forward. So is something an the exemption, one of
11 those no needs. If it is exception is it -- if it's not an exception, is it exempted? If it is exempted,
12 could it have impacts like we're talking about doing the assessments? And then if it could have
13 impacts, does it need a minor permit or a major permit and that's based on evaluation in State
14 law.

15
16 We're also proposing changes to the emergency permit procedures. With the coastal erosion
17 and sea level rise that we've been seeing more and more we have request for SMA Emergency
18 Permits. These are typically shoreline properties and with sea walls getting undermined a lot of
19 properties are getting sinkholes. Right now the rules only allow for verbal approvals for
20 habitable structures, and that's really limiting. So that doesn't allow us to give a verbal approval
21 for infrastructure or other important assets that we'd like to broaden the use of verbal approval.
22 The rules right now also require a written application to be submitted within 10 days. That's
23 pretty restrictive if you have one of these emergency situations. We want to give more time to
24 submit the written application. And then the rules also right now require removal of any
25 temporary improvements within a short amount of time. We want to allow for more flexibility
26 with that to make sure that that structures and improvements are safe, that temporary
27 improvements can stay until it's appropriate to actually remove them.

28
29 We're also looking to streamline the process a bit to allow the Director to approve more things
30 than the Director is currently allowed. This first one might not be too popular with these folks,
31 with you guys, but we wanted to put it out there for your consideration. Right now time-
32 extensions are brought to you for a time periods of up two years and we ask that you waive your
33 review and to allow the Director to approve those. What we're proposing is to give the Director
34 the authority to grant time-extensions for period of five years without doing the waive review
35 process. So it would streamline things quite a bit. Something that is probably not going to be
36 popular with you, but we're putting it out there for discussion.

37
38 It will also --. We're proposing to also allow the Director to approve permit transfers. And also
39 this is a long standing practice where there are non-substantive revisions to a project scope or
40 compliance with conditions. We currently do approve those administratively, but we want to
41 spell that out in the rules to, to codify it.

42
43 And then the last slide on SMA Rules right now the rules are not as clear as we would like them
44 to be on when violations are resolved. We want to spell out that violations would be considered
45 to be resolved when fees are paid and either if the violation is cured or proper permits have
46 been obtained.

1
2 We're also proposing changes -- these all relate to enforcement. Right now we do our Notices
3 of Warning and Notices of Violation by certified mail, but a lot of times people don't pick up their
4 certified mail. So it would give us options to post a notice on the property, post it in the
5 newspaper, other methods to allow us to serve those.

6
7 In terms of settlements, we're proposing that the Director would have the authority to negotiate
8 settlements when total fines don't exceed \$50,000 without having to come to the Commission.
9 So anything with fines over \$50,000 would still come to you. Again with all of these the goal is
10 for us to achieve compliance.

11
12 Then we will also be bringing forward companion changes to the shoreline rules. That's a
13 process that will also come to this Commission but it's separate from the SMA Rules but those
14 also will need to come to you for your consideration. And I think that's it for SMA Rules.

15
16 We still need to host a public meeting for this. This is in much earlier stages than the ohana bill
17 and the parking ordinance. We just wanted to take advantage of having some time with you
18 today. Of course we need to send these out for agency comments. But then changes to the
19 SMA Rules are your authority; you're the final authority on making any changes so we're going
20 to need some more time working on these and doing more outreach and getting more input, but
21 we do hope to bring changes to you maybe in the fall.

22
23 Ms. Duvauchelle: Thank you. At this point we'll ask for anybody wishing to testify on the
24 proposed SMA Rules please come forward. Seeing none, we will close public testimony and
25 we'll have discussion from the Commissioners. Commissioner Robinson.

26
27 Mr. Robinson: I'll just go down the line so that it will be quick. First I think we should change the
28 SMA map. I think it goes too far inland. I think there should be some type committee that
29 should propose that we restrict the line so that way there's less cumbersome for you guys.

30
31 Ms. Duvauchelle: I agree.

32
33 Mr. Robinson: Second I don't, I don't agree with making these exemptions of anything that has
34 to do with a construction of carport or a driveway or anything digging up earth. We talked about
35 mail boxes. Mail boxes are lower than six inches. You know you got to go probably a foot.
36 Some of them have cement in it so I'm not sure I want have people not spend time doing the
37 application. Which comes to the question, is the application online and how cumbersome are
38 they?

39
40 Ms. McLean: Yes, the applications are available online and they're --. Are they cumbersome?
41 You need to submit a site plan drawn to scale. You need to, you know, indicating where the
42 work is going to be conducted, what kind of material is going to be used, either if you're building
43 something or if you're excavating anything, the amount of materials, the types of materials,
44 description of the proposed project, and then a list of the criteria in HRS 205A of potential
45 impacts. You need to address all of those.

46

1 Mr. Robinson: So with that being said I think we might want to look at maybe going toward 12-
2 inches instead of six-inches if you're trying to limit that. If people building a retaining wall that's
3 all, that's all sub foot. I think that having a review every five years is a -- would be a mistake I
4 think since it comes in front of the Commission and our Commissioners rotate yearly. I think
5 maybe a three year might be something if we want to give time considering how long permit
6 takes. I think two is kind of short. I think three is comfortable. You should have at least three to
7 four Commissioners that saw it the first time or come back around and try be some type of
8 resource instead of having a whole group of five people and know nothing about it and having to
9 go through the whole process all over again.

10
11 And for the serving, definitely, definitely find better ways that we can serve. We have a lot out-
12 of-state owners, and you know we should be able to do that and if you know --. That's my
13 thought. Thank you.

14
15 Ms. Duvauchelle: Anybody else any comments, discussion? Commissioner Carnicelli?

16
17 Mr. Carnicelli: Thank you Chair. I would have to agree with Commissioner Robinson on the time
18 line. I thought that his point of having some sort of institutional knowledge. If you go to five
19 years you might have a brand new Commission so I think that you know is to have some sort of
20 institutional knowledge on what was approved originally.

21
22 I actually, I brought this up a couple of times and I'm still trying to wrap my head around
23 development does not include the following. And you know because we have this threshold of if
24 it's \$500,000 then it triggers a major right. And so I come in and do a paper subdivision and it's
25 under 500 and then I get a grading permit it's under 500, and then I get paving and it's 500. I
26 mean there's a way which I can do an entire subdivision and stay under the 500 all the way
27 through and it was a subdivision. So not that I want to get in the way of you know a landowner
28 being able to do what they want to do but it's seems to be that if we're going to do this is just a
29 paper creation than you know it's not \$500,000 so then therefore you know there's no impact,
30 then therefore there's no SMA. So how do we address that? I know that's the five hundred
31 million dollar question but it's just like --.

32
33 Mr. Spence: Part of that --

34
35 Ms. McLean: Please go ahead.

36
37 Mr. Spence: And part of it is at the bottom of that list of things in 205A that are not development,
38 it says unless there's a cumulative impact. Okay, so are drawing imaginary lines on a map does
39 that have an effect on the near shore waters or shoreline access or whatever? Most likely not.
40 When you go in to build all those homes on that, on those imagery lines that you've drawn on
41 that map, will there be a cumulative impact? It's very possible. Where do you start determining
42 that there's a cumulative impact? Is it after the first one, after the first two? That's a hard
43 question and I think that's worth some discussion. But it is like you say we, we definitely see
44 projects, entire projects that go through on, you know, exceptions or minor permits or those
45 kinds of things. So it's totally worth that discussion.

46

1 Ms. McLean: And it does -- a fair amount of the responsibility for that does come to us. We
2 have had staff who you know they're programed, just like the public might think from time to
3 time, they really are programed to try to be helpful and to try to get permits moving along. And
4 they've been faced with applications where, oh, part of this is exempted, so we can exempt that
5 part, and then the remaining part is under \$500,000 so we could do an exemption and a minor
6 together. And we say, no, you have to look at the whole thing which the whole thing together
7 exceeds \$500,000 that has to be a major. And there is a temptation to do that. Applicants are
8 tempted to do it, our staff is tempted to do it to be helpful to applicants, but it comes down to us
9 and looking at that project. You know the scenario that you described, do we look at that and go
10 come on how gullible do you think we are? Of course you're going to be doing this whole thing,
11 you have to submit a major. Or is it really and we've also had someone trying to do a simple
12 subdivision for their, for their own reasons, family reasons whatever, selling those lots, walking
13 away, and then those lots developing individually by different new owners in whatever time, and
14 you know it's not a development. So some of the discretion does come to us in really looking at
15 that situation and seeing do we assess this as a whole or do we allow it to happen piece by
16 pieces? So there is, there is discretion.

17
18 Ms. Duvauchelle: Commissioner Carnicelli?

19
20 Mr. Carnicelli: Thank you Chair. So, you know the other part of that I guess is and I do get that
21 there's you know when is it a cumulative? Is it right at the beginning? Or you say we're drawing
22 lines and we know it's coming. The other part too is I know in the Code somewhere it also talks
23 about the assessment of that \$500,000. You know it could just come from the consultant of the
24 applicant that says oh no that's \$400,000 where you guys have the ability to ask Public Work
25 okay is this really you know. And so like is that something that also needs to be addressed here
26 because I know that it is a may, not a shall, and I'm not saying it needs to be a shall. But at
27 some point in time we're relying on the consultant or the applicant to say that it's under
28 \$500,000 when maybe it's really not.

29
30 Mr. Spence: We --.

31
32 Mr. Carnicelli: Go ahead.

33
34 Mr. Spence: No we regularly --. I can't say regularly. When there is a question on what is the
35 valuation, we don't hesitate to ask Public Works.

36
37 Mr. Carnicelli: Okay.

38
39 Mr. Spence: For instance the Rock and Brews thing the consultant said oh yeah we're under
40 \$500,000 and we're like I don't know. We went and checked with Public Works and they
41 confirmed, it's basically the shell and some of improvements inside would, could come under
42 \$500,000 so we went that.

43
44 Mr. Carnicelli: All right.

45
46 Mr. Spence: It's usually it's where, it's where there's a -- but it's where there's question.

1
2 Mr. Carnicelli: Okay. Okay. On the last page of your report I think this is what Commissioner
3 Robinson was talking about the map filed June 8, 1977. You know I think that we probably
4 need to at some point in time go from the June 8th, 1977 map.

5
6 And then the very first page of Exhibit 1 when it talks about renovations and repairs, I don't
7 know if I'm picking nits right now but it says upgrades to the structure. Do we have to say the
8 legal structure because there are so many illegal structures out there that if somebody wants to
9 come in and you know get an exemption for an SMA to an illegal structure just seems like that's
10 a little counter intuitive.

11
12 And then also in regards to enforcement or reporting. If someone gets an emergency permit
13 and then they have to come back 90 days later. If they don't come back 90 days later, then
14 what? It's kind of like this is okay they have too, but it's like what if they don't? And that's all I
15 have Chair. Thank you.

16
17 Ms. Duvauchelle: Thank you. Director?

18
19 Mr. Spence: Comment on the maps themselves. We, just last month, we completed in almost,
20 gosh, I want to say it's almost a two year process revising the boundaries on Lanai. And I
21 guess this is like the very first time since the Special Management Area maps anywhere in the
22 State have been revised comprehensively. Not a whole lot of shoreline issues on Lanai. There
23 are potentially issues so certainly that was an important thing. But we started out with a
24 methodology okay the SMA boundaries were generally established by the nearest coastal
25 highway or roadway or some other demarcation like that. And so but we looked at all the
26 criteria in 205A this is what the Special Management Area is supposed to protect, you know,
27 coastal hazards, protect people from coastal hazards, cultural resources, protect near shore
28 waters, all these different things. We actually have technology now. We can look at where
29 those things are being --. You know we can locate them on digital maps. You know we can
30 also use a whole lot of common sense and go this makes sense, that doesn't.

31
32 So anyway we took that around to Lanai. It took a long time. It was quite an accomplishment
33 for the Plan Implementation Division to get that, that boundaries reevaluated for Lanai. The idea
34 is is that after each community plan is done -- at least this is the idea. We'll see what the future
35 administrations want to do -- is go through those community plan areas and go okay what does,
36 what makes sense here? What shows up on the data layers? Where are the flood hazard
37 areas? Where are the --? At least --. The SMA is about near shore. It's not about all the way
38 up to the top of the mountain. Let's do an evaluation of this and we can map it, and so we can
39 actually come up with an SMA line that makes sense versus say the nearest coastal highway.

40
41 At Oluwalu the SMA is a foot and half wide you know off the shoulder of the road. That makes
42 no sense. Out in Haiku the SMA is a mile and half wide. That also doesn't make any sense.
43 You're a long ways from the shoreline. You build a house, you build an ohana, you do a three
44 lot subdivision, it's not going to really affect the near shore waters or coastal resources that, you
45 know, that close to the water. So we'll be able to, or future administrations anyway, will be able
46 to take steps in those directions to revise the SMA boundaries. They absolutely they make no

1 sense in a lot of areas and that the nearest coastal highway is certainly arbitrary. So we'll see
2 how that goes. It's going to be a long process and in incremental as we go through community
3 plans. And it will be...and it will be political that's for sure, but we'll just see how that goes.

4
5 Ms. Duvauchelle: Commissioner Robinson.

6
7 Mr. Robinson: I just want to jump on with Commissioner Carnicelli is regarding the special --
8 what was it again? -- the emergency, the emergency. And my term is a little different. It's, it's I
9 think we need to protect the Planning Director. I think if we're going to have a verbal for
10 something in an emergency and they're going to be allowed 30 days you know the Planning
11 Director in the future might be asked to make a decision a week later that somebody didn't tell
12 anybody. In this day in age where everybody has an email on top of their phone and there's a
13 communication. Putting the application in I think that might be something reasonable. But
14 again it's people who are going to something emergency I think 30 days is a lot especially if it's
15 an emergency and it's not supposed to be done somewhere and it wasn't planned. And, and
16 verbal is never good in politics. Verbals are never good in the County department where
17 somebody gets an approval to do something in an SMA area, and so I'm really against verbals
18 being okay. You know maybe for 24 hours, but I would think that somebody in your department
19 if you're not there then you know your deputy will be there, somebody can say they got approval
20 and put it out and send it to them, send them an email within that same day. If I mean they're
21 going to get back hoes I think we can get a phone call and a quick email you know giving an
22 approval. That's all.

23
24 Ms. McLean: We actually. The approval is given verbally because this is usually done over the
25 phone, but then we immediately follow up an email or a day or so later a letter to confirm it. So
26 we don't just leave it as a verbal email; it gets documented. But it may take a day or so to do
27 that, but in the mean time they've gotten the okay to do, to do what they need to do.

28
29 Mr. Robinson: But you're requesting, but you're requesting for a verbal. So if you already do it,
30 why is it a request now? Say you do that already, it's requesting that a verbal would be okay.

31
32 Ms. McLean: Right now the rules allow for verbal approval. But it only allows verbal approval for
33 habitable structures. And what the proposed change that we're putting forward would be to
34 allow verbal approval for --

35
36 Mr. Robinson: With a follow up letter within a week?

37
38 Ms. McLean: With both of them. I mean as it is now we do, we do some sort of documented
39 follow up either email or written.

40
41 Mr. Robinson: With documentation to follow up.

42
43 Ms. McLean: We can add that language. We clarify that. That's an important clarification to
44 make.

45
46 Mr. Spence: And I would say the folks that deal with shoreline issues they're massively good at

1 documenting everything. So there's emails traded and everything, so there's a whole trail that
2 goes on with these kinds of issue. The whole idea behind verbal, it's an emergency now, yeah
3 go ahead, protect what you got to protect.

4
5 Ms. Duvauchelle: Commissioner Kahu Hill.

6
7 Kahu Hill: I just want to say that I am in support of what needed to be done for looking at the
8 rising waters and our sea levels, and the coastal erosion. I mean it just takes something like the
9 seawalls and the sink holes and the next level is to go to inhabitable dwellings. That's what's
10 going to happen, so I think we really need to support that realizing what's happening on our
11 planet and our island to make it more easy for them. And they may also not have the
12 necessarily the equipment on hand or someone available or the materials at that time to do it in
13 a certain amount of days. They might need a little bit longer as well so I think we need to
14 support whatever people need if we can make it easy as well for emergency situations in
15 coastal areas. Mahalo.

16
17 Ms. Duvauchelle: Thank you. Any other discussion? All right seeing none. I'm sorry,
18 Commissioner Gomes.

19
20 Ms. Gomes: Yes, I just have a question, Deputy Director. You know years back when I was you
21 know with Cost of Government we were looking into the permitting process. Did and -- was the
22 KIVA system updated or are you still on KIVA?

23
24 Ms. McLean: We're still on KIVA and it will be unfortunately another year or so before we're
25 moved on to that new system, the MAPPS system.

26
27 Ms. Gomes: Okay, thank you.

28
29 Ms. McLean: And Commissioners, I do want to recognize Jeff Dack who you all know he's one
30 of our senior planners and he heads up the shoreline team. And he and his shoreline folks,
31 Keith Scott is here, have put untold number of hours into these and into shoreline rule changes.
32 They've done an amazing job that, that started before Will and I joined the department so they
33 deserve recognition and credit for where we've gotten so far. We do look forward to bringing
34 this back to you. It's -- it will probably take a couple of meetings to get through all of it, and
35 maybe at that time you might want to decide to appoint a subcommittee to work more directly
36 with staff. You know we'll see how you feel about at the time. But thank you very much for your
37 input. We look forward . . . (inaudible) . . .

38
39 Ms. Duvauchelle: Thank you Deputy Director. Commissioner Carnicelli?

40
41 Mr. Carnicelli: Sorry Deputy Director. Sorry, one other quick thing that I just wanted to have as
42 part of the conversation for the record is transfers of permits not coming to us and just being --.
43 You know I don't know and I think that's something that we should probably discuss here with
44 the Commission, you know my fellow Commissioners before we just sort of say, yeah, we'll just
45 make that a Director decision. That might something that actually would stay with us I think.

1
2 Ms. McLean: Sure, that's your decision.

3
4 Ms. Duvauchelle: Commissioner Robinson.

5
6 Mr. Robinson: Yes, we didn't touch upon a lot of things so hopefully when you go back the ones
7 that we didn't talk about you can maybe not take it as an approval and no problem with. It's just
8 the ones that maybe we did discuss and then kind of highlight the ones were Commission was
9 silent on that maybe we can then look at that the next time it comes around in case we wanted
10 to say something.

11
12 Ms. McLean: Of course.

13
14 Mr. Robinson: Thank you.

15
16 Ms. Duvauchelle: Thank you Deputy Director and staff. Thank you very much.

17
18 **The Commissioners provided their comments.**

19
20
21 **G. DIRECTOR'S REPORT**

22
23 **1. MR. WILLIAM SPENCE, Planning Director, notifying the Maui Planning**
24 **Commission pursuant to Commission's SMA Rules of the following Special**
25 **Management Area (SMA) Emergency Permits**

26
27 **a. GREG MCANALLY, Property Manager of HALE ONO LOA**
28 **CONDOMINIUMS requesting a Special Management Area**
29 **Emergency Permit in order to construct emergency protective**
30 **measures to address a large sinkhole found on the property at 3823**
31 **Lower Honoapiilani Road, TMK: 4-3-006: 044, Lahaina, Island of**
32 **Maui. (SM3 2018/0003) (K. Scott)**

33
34 **The SMA Emergency Permit approval letter is dated February 16,**
35 **2018.**

36
37 Ms. Duvauchelle: All right, Director?

38
39 Mr. Spence: So Commissioners, we're under Director's Report. And speaking Emergency SMA
40 Permits, your first item is we're just notifying you that we granted a SMA Emergency Permit to
41 Mr. Greg McAnally the property manager of Hale Ono Loa Condominiums. If you have any
42 questions we have Mr. Keith Scott here.

43
44 Ms. Duvauchelle: Commissioners, any questions?

45
46 **This is for notification and review purposes.**

- 1
2 **b. ANDY BOHLANDER of SEA ENGINEERING INC. requesting a Special**
3 **Management Area Emergency Permit amendment on behalf of**
4 **RYAN CHURCHILL of SEA & BELIEVE LLC to construct a**
5 **stabilization system for property situated at 569 Hana Highway,**
6 **TMK: 2-6-011: 017, Paia, Island of Maui. (SM3 2017/0007) (K. Scott)**

7
8 **The SMA Emergency Permit amendment approval letter is**
9 **February 23, 2018.**

10
11 Mr. Spence: Okay, Item B is Mr. Andy Bohlander of Sea Engineering Inc. They requested a
12 Special Management Area Permit Amendment on behalf of Ryan Churchill and Sea & Believe
13 LLC for a stabilization system at 569 Hana Highway. Also here is Mr. Keith Scott if you have
14 any questions on that.

15
16 Ms. Duvauchelle: Commissioner Higashi.

17
18 Mr. Higashi: I have a question. When you talk about the stabilization of a seawall does it also
19 affect the neighboring properties as well when we do corrections?

20
21 Mr. Spence: We have --. I'm not directly involved in that. Mr. Scott is the staff planner for that
22 particular permit so he would be able to answer that question for you.

23
24 Mr. Keith Scott: Yeah, Keith Scott with the Planning Department. In this particular instance, sir,
25 there was really no effect to the adjacent property owners, but we do look at that when we look
26 at any shoreline permit.

27
28 Mr. Higashi: Yes, thank you. The question I asked was because occasionally we get specific
29 property owners on shoreline requesting for construction of seawall etcetera, but when we look
30 at the cost for that particular owner versus what's going to happen with the rippling effect of the
31 erosion in the other area becomes a problem. And I think somewhere or another we should
32 have a long range plan to figure out how we're going to correct the situation rather than taking
33 one property at a time. It seems like it becomes a rippling effect.

34
35 Mr. Scott: I'm glad you mentioned that actually. We've been working for the last three or four
36 years with the Kahana Bay Condominiums. There are nine condos there and one individual
37 Hawaiian property owner. And the condos have gotten together and they have funded an
38 Environmental Impact Study (EIS) to look at beach nourishment for the entire Kahana Bay. We
39 anticipate --. Well, they selected a consultant, are negotiating a contract for it now. And in
40 about 18 to 24 months we expect to see an EIS completed and permits put together so that
41 perhaps they can go forward and do a beach nourishment for Kahana Bay. But your point is
42 right on target. We have been partially our shorelines forever and to depth, and it's time we
43 were looking at things on a literal sense.

44
45 Mr. Higashi: Well that's great. Thank you.

46
47 Ms. Duvauchelle: Thank you. Commissioner Kahu Hill?

1
2 Kahu Hill: Since you're here. Aloha. I just wanted to know, and I looked at like say areas like off
3 Halama Street in Kihei and seeing where some of them did get protection or when areas of
4 rocks were brought in like the 70's, but then have on department where they could actually find
5 those records and declare the property, the property size. And some of the grass would grow in
6 certain parts of it thinking if they were going to sell that property or someone else would buy it
7 which it was. So I'm wondering about those coastal areas where we know entire areas are
8 being affected and the individual owners are people that are buying, some of it's now vacation
9 rentals where it's changing. How is that going to look inside the future when you're knowing
10 entire areas are being affected and we have different uses for those areas?

11
12 Mr. Scott: Not an easy issue. But with respect to Halama Street in particular, there are property
13 owners there that are looking at doing a hui, and doing some sort of a beach nourishment
14 program along Halama Street. So it's certainly not out of the question. In fact we're working
15 with some people in Napili as well. They're looking at a beach renourishment program again for
16 the entire . . . (inaudible) . . .

17
18 Kahu Hill: And in those kind of areas is there also support between County and State? I'd just
19 love to learn to understand that between where the water and the high water vegetation.

20
21 Mr. Scott: We're always, we're always in communication with the State. Always.

22
23 Kahu Hill: Okay. Thank you for keeping us informed. There's so much to be aware. Mahalo for
24 your work.

25
26 Ms. Duvauchelle: Thank you. Any other questions? Okay. Okay Director.

27
28 **This is for notification and review purposes.**

29
30
31 **2. SMA Minor Permit Report**

32
33 **3. SMA Exemptions Report**

34
35 **The Commission had no comments or questions.**

36
37
38 **4. Discussion of Future Maui Planning Commission Agendas**

39
40 **a. March 27, 2018 agenda items**

41
42 Mr. Spence: Okay Commissioners we have for you --. What we're going to cover on your --
43 your next meeting is going to be March 27th at which time we're going to --. First thing, the most
44 important thing we're going to do is have a resolution thanking outgoing member Sandra
45 Duvauchelle.

46
47 Ms. Duvauchelle: Thanks guys.

1
2 Mr. Spence: The second thing is we're going to have requesting comments -- a review of an EA,
3 draft EA, requesting comments from the Commission regarding an eight unit apartment project
4 in Lahaina. What triggered the EA review is it's in the National Historic Landmark. And then
5 we're also going to have a workshop on the State Sea Level Rise report from the Department of
6 Land and Natural Resources. Any questions?

7
8 Ms. Gomes: I'm sorry Director. In regards to the --. Director, this that was presented on the
9 table, this we're also going to . . . (inaudible) . . .?

10
11 Mr. Spence: That's what you're going to review for next time.

12
13 Ms. Gomes: Okay, thank you.

14
15 **Mr. Spence went over the items scheduled for the March 27, 2018 meeting.**

16
17
18 **H. NEXT REGULAR MEETING DATE: MARCH 27, 2018**

19
20 **I. ADJOURNMENT**

21
22 Ms. Duvauchelle: Anything else? Questions, conversations? No? All right, thank you guys very
23 much. Planning Commission is now out of session; adjourning.

24
25 The meeting was adjourned at approximately 11:50 a.m.

26
27 Respectfully submitted by,

28
29
30
31 Leilani A. Ramoran-Quemado
32 Secretary to Boards & Commissions II
33

34 **RECORD OF ATTENDANCE**

35
36 **Present**

37 Lawrence Carnicelli
38 Sandy Duvauchelle, Chairperson
39 Tina Gomes
40 Kahu Alalani Hill
41 Richard Higashi, Vice Chairperson
42 Larry Hudson
43 Keaka Robinson
44 Christian Tackett

45
46 **Excused**

47 Steven Castro

1

2 **Others**

3 William Spence, Director, Planning Department (in attendance at 9:07 a.m.)

4 Michele, McLean, Deputy Director, Planning Department

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