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**MAUI PLANNING COMMISSION
REGULAR MINUTES
NOVEMBER 14, 2017**

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A. CALL TO ORDER

The regular meeting of the Maui Planning Commission was called to order by Chairperson Sandra Duvauchelle at approximately 9:07 a.m., Tuesday, November 14, 2017, 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. Sandra Duvauchelle: Good morning. The date is November 14, 2017. The Maui County Planning Commission is – we good? – is now in session. Thank you for your patience. Before we hit the agenda items we're going to make a couple of revisions on public testimony. Public testimony will be taken when the agenda item is read and after the staff's presentation but before the – or after the staff's overview but prior to the applicant's presentation. So we're going to take a little bit different this morning, and we are going to take Agenda Item No. 4 out of order. And we will hear that agenda item after agenda Item C.2. So thank you very much. Director, our first agenda item.

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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.**

D. COMMUNICATIONS

4. Investigative Committee (Commissioners Carnicelli and Hudson's) Report on the following:

MR. WILLIAM SPENCE, Planning Director, notifying the Maui Planning Commission pursuant to Section 12-202-17(e) of the Maui Planning Commission's SMA Rules of his intent to process the following time extension requests administratively:

MR. ALFRED FAIRBANKS requesting a Special Management Area Use Permit two (2)-year time extension to initiate construction of the Alahele Estates Subdivision a 46-lot single family subdivision with related improvements at 0 Alahele Place, TMK: 3-9-017: 034, Kihei, Island of Maui. (SM1 2007/0006) (J. Buika)

The Investigative Committee was created at the October 10, 2017 meeting.

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Mr. Spence: Good morning Commissioners. This is, the Item No. 4 referred to is No. D-4 Communications, if you remember the Commission formed an investigative committee to go on a site visit. There was Commissioners Carnicelli and Hudson and they have report for us on their site visit for Mr. Alfred Fairbanks request for a two-year time extension on their SMA Permit and that property is on Alahele in Kihei.

Chair Duvauchelle: Go ahead and proceed.

1
2 Mr. Carnicelli: Thank you, Chair. A site visit was...we did a site visit so basically because the
3 concerns were about runoff and infrastructure and going out there and taking a look at it
4 personally is I feel that it is more than adequate the drainage capacity 'cause is right now what
5 they're doing is they're actually going to capture on site a one-hour rainfall at the 50-year flood
6 mark and all that drainage is actually coming from Haleakala, you know, coming from Haleakala
7 Ranch. So it's not even like onsite stuff that's going. But I feel like it actually going to make the
8 drainage problem in that neighborhood better. So I think the recommendation that
9 Commissioner Hudson and I have is that the Commission go ahead and waive their right to
10 review that particular application.

11
12 Chair Duvauchelle: Commissioner Hudson.

13
14 Mr. Hudson: I concur. It's a recommendation and the conditions on it are substantial.

15
16 Chair Duvauchelle: Thank you.

17
18 Mr. Spence: So thank you Commissioners. Thanks for your report. And when this...when you
19 have an investigative committee, the committee can report back to the Commission at you know
20 a following commission meeting or Council whatever is forming the committee, but hey cannot
21 take action on whatever they're reporting on at the same meeting where the report is given. So
22 this will be agendized next time and for the Commission's action on it.

23
24 Mr. Robinson: I have a question.

25
26 Chair Duvauchelle: Commissioner Robinson?

27
28 Mr. Robinson: Is this a typo? It says October 10, 2014 was when we initiated the investigation.

29
30 Mr. Spence: I'm not sure.

31
32 Ms. Takayama-Corden: Typo.

33
34 Mr. Robinson: Okay, thank you.

35
36 Chair Duvauchelle: A typo, okay.

37
38
39 **C. PUBLIC HEARINGS** (action to be taken after each public hearing.)

40
41 **1. MR. JAMES D. WALTERS, JR. and MS. NATALIE WALTERS requesting a**
42 **State Land Use Commission Special Permit and Bed and Breakfast Home**
43 **Permit in order to operate the Hale Leialoha B&B, a two (2)-bedroom bed**
44 **and breakfast home located in the State Agricultural District at 1539**
45 **Hogback Road, TMK: 2-7-012:202, Haiku, Island of Maui, Hawaii**
46 **(SUP2 2017/0010) (BBPH T2017/0005) (K. Wollenhaupt for L. Callentine)**

1
2 **The Maui Planning Commission is the approving authority for the Bed and**
3 **Breakfast Home Permit because “an existing bed and breakfast home is**
4 **operating on a lot within a five hundred-foot distance from the lot on which**
5 **the bed and breakfast home is proposed.” §19.64.050(A)3(c), Maui County**
6 **Code.**
7

8 Mr. Spence: Okay Commissioners we're back to --. You have two public hearings this morning.
9 The first one is for Mr. James Walters Jr. and Natalie Walters requesting a Land Use
10 Commission Special Permit for a bed and breakfast home in Haiku, and our staff planner this
11 morning is Mr. Kurt Wollenhaupt for Livit Callentine.
12

13 Mr. Kurt Wollenhaupt: Good morning members of the Maui Planning Commission and
14 members of the audience today. The first item in our public hearing C.1. is as Director Spence
15 has indicated is the request for two permits. It's a request for two permits as is required for a
16 bed and breakfast operation in the State Agricultural District. Therefore the Commission will be
17 looking at the request by Mr. and Mrs. Walters for their two bedroom bed and breakfast as there
18 are other B&B's located within 500 feet of their specific property.
19

20 The second permit that we will dealing with today is the State Land Use Commission Special
21 Permit which is required because the parcel is located in the State Agricultural District. And
22 they will be discussing in their power point presentation the details of this specific application.
23

24 Unfortunately Ms. Livit Callentine, a planner in the Planning Department had an emergency and
25 has to be back in Arkansas and so she was the one that had written the report but I indicated
26 that I could fill in for her especially since I live just around the corner so I'm familiar with this
27 property and have driven passed it. In fact I did so this morning.
28

29 The request by Mr. and Mrs. Walters is as indicated for the operation of a two bedroom cottage.
30 In addition it's also for the State Land Use Commission Special Permit. We'll go into more of
31 the details as to the matters and the requirements that each hold as you, as you request. But
32 as you know the bed and breakfast operation they've submitted a very detailed application. It's
33 cleared through that process. A notice of the application of the B&B was given. There were no
34 opposition letters that were received. Then a notice of this public hearing was put in the
35 newspaper and was also given there were no objection letters received. In fact the
36 Commissioners do have multiple letters of support for this project. And in addition there was a
37 notice of the hearing for the State Land Use Commission Special Permit and no opposition
38 letters were received on that.
39

40 They followed the procedural requirements. So I believe according to the Chairwoman the
41 process is going to be we're going to have the public hearing and then Mr. and Mrs. Walters and
42 Mr. Higa who works for their farming operation will be giving their presentation.
43

44 Ms. Duvauchelle: Correct. Correct. So at this point we will open the floor for public testimony.
45 We have one signed up testifier, Katherine M. Larsen.

1
2 Ms. Katherine Larsen: I'm sorry. That was a mistake. . . (Inaudible. Did not speak into the
3 microphone.) . . .

4
5 Ms. Duvauchelle: Okay. All right, that's fine. Do we have anyone here wanting to testify on this
6 agenda item? Okay, seeing none, we will close public testimony and we will have the
7 applicant's presentation.

8
9 Mr. James Walters, Jr.: Good morning. Thank you for the opportunity to present our opportunity
10 for an application to get the Special Use Permit and the Bed and Breakfast Permit. I'm Dave
11 Walters. My full name is James David Walters, Jr. People call me Dave. And this is my wife
12 Natalie. And this is Nobu Higa. He's the owner of the cows and a good friend. We've been
13 long time residents of Maui for over 40 years, and both of our children were born and raised
14 here. And my wife moved here when she was five and grew up in Pukalani with three other
15 siblings and she was raised by her mom and her step dad, Dennis Nakasone. And in '83 she
16 graduated from St. Anthony High School and she went on to UH Manoa to get her Master's in
17 business. And after college she returned to Maui to work as an accountant and is currently
18 employed at Seabury Hall as their business manager.

19
20 I moved to Maui when I was 22, in 1973, and so for over 44 years ago I guess it has been now.
21 At the time I had worked in a cabinet shop in California and that experience helped me to get
22 my first job with Leonard Gomes, Sr., Gomes Builders. Leonard has since yet passed away;
23 God rest his soul. A good man. And I worked for Leonard for about 10 years. He was a great
24 help to me with house plans and encouraged me build my first home at 25 years old. What a
25 blessing that was for me. This was possible because I was able to get one of those farmer
26 home loans if you folks remember that program which is no longer around I don't think on Maui.
27 At the time you could earn between \$9,000 and \$12,800 to qualify, and I made \$12,500 so I was
28 right in the ballpark there. So I dug the whole footing by hand for that first house and it's a little
29 704 square foot house up in Makawao where it's now the Maui Uplands. And that's how I got
30 my first start on Maui in the building trade and this is how, this is how...I've been able to
31 continue on that track building homes. And we just finished our last home. I think it's my last
32 one, No. 7, for my family. And my wife and I continue to work as I build these homes after work
33 and on weekends she was out there helping me. A great woman.

34
35 The employers I have subcontracted for are Al Kovik who encouraged me to get my contractor's
36 license back in the 80's, 3-D Builders, Trend Builders, Web Development, Cutting Edge
37 Development, and I now subcontract for a man named Bill King.

38
39 This seventh and final property that we bought in 2012 and finished the full development of it in
40 December of 2015 when we moved into our main house. When we purchased the property we
41 continued to cattle grazing that had been there with Harry Cambra as the cattle owner. When
42 he retired we asked him if it was okay to ask Nobu Higa to place his cattle on the property and
43 we now work with Nobu. Nobu and his family have from four to 14 cattle depending on the
44 grass and other factors on the property. And a lot of cows and calves generally. He maintains
45 the cattle and the fencing, and Natalie and I maintaining the grazing area with removal of trees
46 to promote more grass growth. And also removing the fire weed which is not good for the cattle.

1 Things grow really fast in rainy Haiku. So we have great relationship with Nobu and his family
2 and we hope to continue to work together to keep our farm plan implemented and an upcountry
3 lifestyle. And at this point I would to introduce Nobu to you folks and let you hear him.
4

5 Mr. Nobu Higa: I'd just like to thank Dave them for letting me use the pastures for graze all of
6 the cattle yeah. And as far as anything else in there only cattle can go inside there. I no think
7 you can build in there because there's a lot bad what you call it's all in the gulch that's why he
8 ask me to put all cattle yeah. So that's Ag lots yeah. Thank you.
9

10 Mr. Walters: Beside work and building homes we're also members of Waipuna Chapel in Kula
11 and we both serve in our church. I play congas on the worship team and my wife is on the
12 hospitality team. And Maui's our home and we plan on remaining on Maui, Lord willing, for the
13 rest of our days. Our hope with obtaining a bed and breakfast license and a Special Use Permit
14 is to provide a country living environment for our visitors to north shore Maui. A B&B would also
15 allow us to keep the cottage open at different times throughout the year to have our children and
16 their families and our extended family on the mainland visit us. Our son lives on Oahu and our
17 daughter has just moved to Idaho. And we have family in California, Oregon, Texas, Montana,
18 Arizona and Colorado, and they come from time to time to stay with us and it's been really nice
19 to be able to have the cottage available for them as well. And that's all I need to, have to say.
20 Anything you want to add sweetie?
21

22 Ms. Natalie Walters: No, we just thank you for this opportunity.
23

24 Ms. Duvauchelle: Thank you.
25

26 Ms. Walters: So we have our location map here. We're in north shore Haiku.
27

28 Ms. Duvauchelle: Can you state your name please?
29

30 Ms. Walters: I'm sorry, I'm Natalie Walters.
31

32 Ms. Duvauchelle: Thank you.
33

34 Ms. Walters: So we're on the north shore of Haiku on 1539 Hogback Road. There's a street
35 view so our house is that big lot there. Leialoha and Hogback are the corners and so a part of
36 our property is on Leialoha. So hence the Hale Leialoha.
37

38 And there's our site plan. The top half is what we have developed and then 2.9 acres is where
39 all the cattle is kept down below. And that's our implemented farm plan. And that is our cottage
40 that Kurt is pointing to that we would like a bed and breakfast license for. And our main home
41 where we reside.
42

43 And here's just a partial site plan that you can see it a little more closely.
44

1 There's our floor plan of our cottage. We have ample parking. So we have covered carport. It's
2 a two bedroom two bath with a lanai on the left hand side of it. And we also have two other
3 parking spaces in the driveway so there will be no street parking.

4
5 So there's our property, a corner lot view. So we're back in the main house and the cottage in
6 the front.

7
8 And that's the proposed B&B. Just some pictures of the inside.

9
10 There's our implemented farm plan and Nobu's cattle. Thank you.

11
12 Ms. Duvauchelle: Does that end the presentation? All right, thank you very much. At this point
13 we will open the floor up to questions from the Commissioners. There's no testimony.
14 Commissioner Robinson?

15
16 Mr. Keaka Robinson: Aloha guys. I just got a question regarding the cattle. So do you have
17 any bulls on the property?

18
19 Mr. Walters: Only from --. Maybe that's Nobu's --. Maybe Nobu could answer that better than
20 me.

21
22 Ms. Duvauchelle: Excuse me? When you come up to the microphone state your name please
23 so for the minutes later.

24
25 Mr. Higa: Nobu Higa.

26
27 Ms. Duvauchelle: Thank you.

28
29 Mr. Higa: No I don't have the bulls on there. When I take home. I don't leave bulls in that
30 pasture.

31
32 Mr. Robinson: You would take the --

33
34 Mr. Higa: I just leave the steers and heifers on that pasture.

35
36 Mr. Robinson: And you would take the heifers with you when it's time to --? Or would you bring
37 the bull?

38
39 Mr. Higa: No I do the bulls because I don't want to leave them over there because . . .
40 (inaudible) . . .

41
42 Mr. Robinson: Yeah.

43
44 Mr. Higa: I no want anything come out of there.

45
46 Mr. Robinson: And is the fence electric or is it just regular hog wire?

1
2 Mr. Higa: It's hog wire.
3
4 Mr. Robinson: So just hog wire, yeah. And how far do you live away from the property?
5
6 Mr. Higa: Five minutes.
7
8 Mr. Robinson: Five minutes. You had any problems with any of those steers jumping?
9
10 Mr. Higa: No. Just when some time get tree fall on them when get storms. And mostly the trees
11 when they fall on the fences. But my cattle is all tamed.
12
13 Mr. Robinson: Is there any neighbors that have cattle that's adjacent to this property?
14
15 Mr. Higa: Above. Yeah, above his pastures.
16
17 Mr. Robinson: Directly?
18
19 Mr. Higa: A little bit above.
20
21 Mr. Robinson: But not adjoining? Not next to it?
22
23 Mr. Higa: No.
24
25 Mr. Robinson: Okay, thank you.
26
27 Ms. Duvauchelle: Thank you.
28
29 Mr. Higa: I just like say that I get tamed cattle. I've been doing this years so I keep the rough
30 ones at home.
31
32 Mr. Robinson: It's bulls. Bulls are bulls, yeah.
33
34 Mr. Higa: At home.
35
36 Mr. Robinson: So if your neighbors have bulls, and you have heifers in heat the bulls come to
37 your yard. That's my question. So if you're not adjacent to anybody else that have cattles
38 which hopefully --
39
40 Mr. Higa: If you one good rancher you going get tamed bulls. But if you one bad rancher you
41 might have bulls who going jump the fence. Mines they all pretty tamed. But that's why I leave
42 them at home so no problem.
43
44 Mr. Robinson: That's why I was asking about your neighbor. Okay.
45

1 Ms. Duvauchelle: Thank you. Any other questions from the Commissioners? Thank you.
2 Seeing none, can we have the Department's recommendation?

3
4 Mr. Wollenhaupt: I just want to say that Livit Callentine did an excellent job on her review and
5 analysis so it made my job easier to pick up from her. The recommendation is that Mr. and Mrs.
6 Walters have filed an application timely. They have engaged in all the public noticing and public
7 hearing procedures and that the recommendation is for the approval of the Bed and Breakfast
8 and the State Special Use Permit to operate their two-bedroom bed and breakfast home,
9 according to the conditions as outlined in the Department with a validation date until November
10 30th, 2020 on which time they may ask for an extension and be reviewed according to
11 procedures in place.

12
13 Ms. Duvauchelle: Thank you Kurt.

14
15 Mr. Wollenhaupt: Thanks.

16
17 Ms. Duvauchelle: Commissioner Carnicelli.

18
19 Mr. Lawrence Carnicelli: I move to approve both permits as recommended by staff.

20
21 Mr. Richard Higashi: Second.

22
23 Mr. Stephen Castro: Second.

24
25 Ms. Duvauchelle: Moved by Commissioner Carnicelli, seconded by Commissioner Higashi and
26 Commissioner Castro. Any discussion on the motion? Commissioner Robinson.

27
28 Mr. Robinson: After the testimony I wondered if there will be -- there be an added condition that
29 there will be no bulls in the future at that property while you guys are a B&B just for safety
30 reasons.

31
32 Mr. Higa: I don't put bulls in that section. I bulls are only going stay at my place. When I put
33 them in these pastures it's just the steers and the heifers and the calves.

34
35 Mr. Robinson: So the Walters would that condition be okay with your permit?

36
37 Mr. Walters: Yes.

38
39 Ms. Walters: Yes.

40
41 Mr. Robinson: Thank you.

42
43 Mr. Carnicelli: Make an amendment.

44

1 Mr. Robinson: If it's okay with the Commissioners I'd like to see that condition become an
2 amendment to where there is to be no bulls be allowed on the property while they're a B&B
3 operation.

4
5 Mr. Carnicelli: I'll second it.

6
7 Ms. Duvauchelle: Seconded by Commissioner Carnicelli. So all those in favor --? Okay guys.
8 All right, discussion on the amendment, on the motion? Okay hearing none, Director would you
9 repeat the amendment?

10
11 Mr. Spence: The amendment is to add a condition that bulls not be allowed on the property
12 while the bed and breakfast operation is in place. Is that correct? Okay.

13
14 Ms. Duvauchelle: All those in favor?

15
16 Mr. Spence: That's six ayes. You want it on the B&B or the Special Use? It's probably more
17 appropriate on the Special Use.

18
19 Ms. Duvauchelle: Special Use.

20
21 Mr. Robinson: Whatever . . . (inaudible) . . .

22
23 Ms. Duvauchelle: All right back to the initial motion for approval. Director?

24
25 Mr. Spence: The motion is to approve as recommended by staff and with the amendment to the
26 Special Use Permit.

27
28 Ms. Duvauchelle: Thank you. All those is favor?

29
30 Mr. Spence: That's six ayes.

31
32 Ms. Duvauchelle: Motion passes. Congratulations.

33
34 **It was moved by Mr. Carnicelli, seconded by Mr. Higashi, then**

35
36 **VOTED: To Approve the State Land Use Commission Special Permit and Bed**
37 **and Breakfast Home Permit as Recommended by the**
38 **Department as Amended with the Additional Condition that Bulls Not**
39 **Be Allowed On Property When Bed and Breakfast is in Use.**
40 **(Assenting – L. Carnicelli, R. Higashi, L. Hudson, K. Robinson,**
41 **S. Castro, C. Tackett)**
42 **(Excused – T. Gomes)**

43
44 Mr. Walters: Thank you.

45
46

1 **2. MS. KANZA STOTT requesting a State Land Use Commission Special**
2 **Permit in order to operate the Stott B&B, a three (3)-bedroom bed and**
3 **breakfast located in the State Agricultural District at 195 Apuwai Street,**
4 **TMK: 2-7-036: 016, Haiku, Island of Maui. (SUP2 2017/0014) (K. Willenbrink)**
5

6 Ms. Duvauchelle: All right, we'll move on to our next.
7

8 Mr. Spence: Commissioners your second public hearing is Ms. Kanza Stott requesting a Land
9 Use Commission Special Permit in order to operate the Stott B&B, a three bedroom B&B in the
10 Ag District at 195 Apuwai Street also in Haiku. And with us this morning we have a new staff
11 member who Ms. Willenbrink. She is --. We cockroach her from Council Services so she
12 comes with a lot of legislative experience and we are very, very pleased to have her on the
13 Planning Department staff.
14

15 Ms. Duvauchelle: Do you folks need a couple of minutes or are you okay good to go?
16

17 Ms. Kimberly Willenbrink: I think we're good to go. We have a handout coming around now
18 and we're setting up the presentation. I'm good to go.
19

20 Ms. Duvauchelle: So we'll do the same procedure. We'll have your overview as staff and then
21 we'll open the floor for public testimony.
22

23 Ms. Willenbrink: Very well. Thank you.
24

25 Ms. Duvauchelle: Thank you.
26

27 Ms. Willenbrink: Good morning Madame Chair and Members of the Commission. Thank you. I
28 want to publically say thank you for your service to this community as a constituent.
29

30 Ms. Duvauchelle: Thank you. You're welcome.
31

32 Ms. Willenbrink: My name is Kimberly Willenbrink. As Mr. Spence mentioned I'm new to the
33 Department of Planning. However I have worked for the County for 12 years. Some of you may
34 already know me.
35

36 The item before you today is for your review and recommendation because the owner applicant
37 Ms. Kanza Stott is seeking an approval for a State Land Use Commission Special Use Permit in
38 order to operate a B&B in Haiku area. The proposed B&B has an implemented farm plan and is
39 one of only a few working farms in that area. A full listing of crops and animals on the farm
40 begins at the bottom of page-2 of the staff report in front of you. As of September 30th, 2017
41 there were 42 permitted B&B's in the Paia-Haiku Community Plan District. As you know the cap
42 is 88. There were no comments from the State and there were no reports filed by the Police
43 Department. There was one Request for Services from someone wishing to get a copy of the
44 application. There are 15 letters in favor of Ms. Stott and the proposed B&B. You may have
45 more in front of you at this time. There were four letters of opposition received. You may also
46 have one more there.

1
2 Ms. Stott is here today to deliver a power point presentation and to answer any questions that
3 you have. After the presentation I will provide the Department's recommendation. Before I
4 introduce Ms. Stott I would like to point out two typos in the staff report. In the final paragraph
5 on page-10 and on page-12, No. 4, I inadvertently cited the wrong street address. I apologize
6 for that. If there are no objections or questions I will ask Ms. Stott to come to the podium.

7
8 Ms. Duvauchelle: We'll take public testimony prior.

9
10 Ms. Willenbrink: Oh that's correct. Sorry. Thank you.

11
12 Ms. Duvauchelle: Thank you. Okay, thank you. At this point we are going to open the floor for
13 public testimony and you folks are going to have to help me with some of the names. The first
14 signed up testifier is Ms. Sharon Wright. Hi Sharon. Okay, go ahead, please state your name,
15 you'll have three minutes.

16
17 Ms. Sharon Wright: Good morning Commissioners. My name is Sharon Wright. My husband
18 and I reside at 212 and 210 Apuwai Street. Our properties sit approximately 50 feet across the
19 street from the Stott residence. We've lived on Maui for 25 years and own a business here in
20 Wailuku. I'm here today to testify in opposition to the proposed B&B application filed by Kanza
21 Stott. Like Kanza and her parents we are one of the original owners in Haiku Makai and chose
22 this north shore country neighborhood for its rural and quiet lifestyle. At the present time our 24
23 lot subdivision already contains two permitted short-term vacation rentals with one of these
24 TVR's approximately 250 feet from our property. This would make the second at 50 feet so
25 we'd have one at each side. Of the 24 lots, three remain vacant and 19 of the main residents
26 are owner occupied with the exception of the Stott's main residence and one of the two existing
27 TVR's. The majority of owner occupants are working professionals some of which have school
28 aged children and some with grandparents who resides within them.

29
30 The commercial activity in small residential and rural neighborhoods on Maui is getting out of
31 control. Housing is being taken out of inventory for Maui residents and converted to short-term
32 B&B rentals for larger profits. More and more rural and residential neighborhoods on the island
33 are being destroyed with this type of commercial activity at the expense of the locals who
34 resides in these small quiet neighborhoods.

35
36 As outlined in the B&B ordinance one of the primary policy objectives is to strike an appropriate
37 balance between community needs including the protection and enhancement of the quality of
38 life in a residential neighborhood. Increasing the commercial activity in our neighborhood
39 beyond what presently exists and allowing the increase traffic and noise will negatively impact
40 all of the hard working residence and provide no benefit to our subdivision whatsoever. More
41 B&B's and TVR's is not what our neighborhood needs. This application will not protect or
42 enhance the quality of life in our residential neighborhood but rather leave our property
43 sandwiched in by commercial activity on both sides and introduce a variety of negative primary
44 and secondary impacts that we will all be forced to live with. The noise generated from this
45 potential B&B commercial activity will have a direct impact on our property, our long term
46 tenant's life and any others within the subdivision.

1
2 The Stott's main house which is the subject of this application sits upwind of our property. It has
3 a large deck that faces the street and is completely exposed. As it is right now from our home
4 we can hear when the Stott's are conversing on their main house lanai, within their yard, and
5 especially from their cottage. Because of the orientation of the main house there is no
6 absorption or buffering of the noise generated when people are outside, in the front yard or
7 congregating on the lanai. The trade winds often carry the noise outwards. The additional
8 noise that will be generated from the B&B patrons having parties, entertaining on the lanai,
9 playing music, etcetera, will all be for profit and does nothing to preserve the quiet and rural
10 character of our neighborhood.

11
12 Furthermore immediately adjacent to our property and directly across the street from the Stott's
13 property is a neighbor who has eight dogs. When the dogs are out in their yard during the day
14 and well into the evening they are easily disturbed by voices when cars approach or slow down
15 and always when people walk by. The issue is very real for all of us and even caused one of
16 the adjacent neighbors to file a civil lawsuit on this owner for continuous nuisance barking.

17
18 The increase of noise generated from this commercial activity to and from the Stott property will
19 create a secondary impact to all of us and will absolutely agitate these dogs leaving all of us to
20 cope with the additional noise.

21
22 Additional traffic generated from the commercial activity will also negatively impact the safety
23 within the neighborhood.

24
25 Ms. Duvauchelle: Sorry the three minutes has passed. Thank you for your testimony?

26
27 Ms. Wright: Okay. Can I submit this so people can read the rest?

28
29 Ms. Duvauchelle: Yes, give it to the planner.

30
31 Ms. Wright: Thank you.

32
33 Ms. Duvauchelle: Thank you. Okay our next testifier is Gray Ringsby. All right we'll move on.
34 Elan Feingold. Feingold. Thank you. Please state your name and you have three minutes.

35
36 Mr. Elan Feingold: Elan Feingold. Hi, good morning. Thank you for your time. We lived here
37 on island for over 10 years and we were looking for a place to settle down. We found this
38 neighborhood Haiku Makai which is a perfect little place to settle down and raise a family. If I
39 could describe to you briefly it's a dark neighborhood. There are no street lights. There are
40 sidewalks. There are no speed bumps. There are no speed signs. It's very quiet, very rural,
41 that's how we like it. Pretty much at all times of the day you can find children or dogs walking
42 around the neighborhood. Again, it's a beautiful little neighborhood.

43
44 So the --. My understanding from the around this policy is that really it comes to strike an
45 appropriate balance between the commercial desires and the, and the health, overall health of
46 the neighborhood. The three proposed bedrooms of this new development would come close to

1 or actually exceed doubling the existing number of commercial endeavor in this neighborhood.
2 And I would argue at some point this balance has exceeded and it becomes detrimental to the
3 quality of life for the residence. And with the increase in traffic and increase of noise -- our
4 house happens to be located right at the egress ingress point of the neighborhood so essentially
5 all new traffic passes by our place. And so having this you know essentially doubling of
6 transient traffic the three additional bedrooms could be three additional cars leaving, coming
7 back and so we are concerned about the impacts of the quality of life in the neighborhood.
8 Thank you very much.

9
10 Ms. Duvauchelle: Thank you. Any questions for the testifier? Seeing none. And my
11 apologizes, I forgot to ask if anybody had any questions for the previous testifier Ms. Wright.

12
13 Mr. Robinson: I just want clarification from maybe the applicant . . . (Inaudible) . . .

14
15 Ms. Duvauchelle: And so we'll do that later. Okay thank you very much. All right next testifier
16 Colleen, and you'll have to help me with the last name.

17
18 Ms. Colleen Nicholas: Nicholas. I wrote poorly. I'm Colleen Nicholas. I live across the street
19 from the Stott's. And the thing I don't like the most about B&B's is that I feel like it only benefits
20 one person. And it's probably none of my business but they've 15 letters of support and I'm just
21 curious if any of those people live in the neighborhood. Because I don't know anyone in the
22 neighborhood that's in support of it. Kanza said she would enforce noise constraints and I don't
23 really feel like that's realistic. Say a man's turning 50. He wants to celebrate. It's five in the
24 afternoon. You know all you need is a cell phone, put on some music a couple of beers, five
25 people and it's a party. And I can hear it. I live down wind and even when there isn't wind it's
26 even easier to hear when there's no wind. There's a big wedding business on Maui. Throw a
27 bride in the mix. You know say they want to have a limo come pick them up, a makeup artist, a
28 photographer, and enough cars in and out. I know Elan and I walk our dogs a lot. A lot of
29 people do. You know the photographers running late, zipping around the corner. You know
30 there's a lot of blind corners. I feel like it's unsafe. I don't feel like it's fair for the rest of us to
31 listen to noise. I know one of the reasons for doing this was that her mother would have a place
32 to stay. Right now Kanza and her boyfriend from what I understand lives in the cottage and I
33 suggested maybe they move to the main house and then that keeps an open bedroom for family
34 and they can rent out long term the cottage. And then it's not the rest of us that has to make the
35 concession for their financial gain. They're making the concession and the rest of us don't have
36 to listen to noise and wake up in the morning and there's some person you don't know asking
37 directions or they want to get up early and watch the sunrise. I don't know if any of you live next
38 to barking dogs, but I live next to eight of them and a coconut can fall off the tree and it's bark,
39 bark, bark, bark. You know a bride in the yard, someone having a birthday, packing up the car
40 early to go to the sunrise, it's going to create noise, the dogs are going to bark.

41
42 And lastly I own a business in Haiku. It's a restaurant called Colleen's and I have 38 employees.
43 And I would say at any given time about 25% of them are looking for a place to live. They pitch
44 tents on a porch. Yeah, I pitched a tent on someone's porch. They rent a couch. A young girl
45 who works for me, oh where do you live now? I rent a couch. I say oh okay. You know I mean
46 the lengths the people go through just to find a place to live, just to survive. I feel like there's a

1 lot of B&B's already. I understand it's only half of what's allowed, but between the illegal and
2 legal ones I really feel like it's too much. And I appreciate the visitor industry generates money
3 but I think it's gone too far and I think it's affecting regular people, hardworking people. So I'm
4 against the B&B.

5
6 Ms. Duvauchelle: Thank you. Any questions for the testifier? Okay seeing none, thank you Ms.
7 Nicholas.

8
9 Ms. Nicholas: Thank you.

10
11 Ms. Duvauchelle: Next testifier Spencer Engles? Engler? Please state your name and you'll
12 have three minutes.

13
14 Mr. Spencer Engler: My name is Spencer Engler. Good morning Commission Members and
15 Director. Like I said my name is Spencer Engler and I'm Kanza Stott's boyfriend and I've been
16 living on her and family's property now for almost three years. I would like to share that it's not
17 only been a pleasure living and contributing my time to the property but it's also been a great
18 opportunity to be able to be so involved in the workings and processes of a small scale farm in
19 Haiku. I was brought up in a rural farming community and earned a college degree in natural
20 resources management, and I am currently employed as a field biologist for Kaheawa Wind
21 Farm. I've been doing this for about six years now. I'm no stranger to hard physical labor and
22 I'm certainly familiar with the work involved in farm upkeep on a two acre parcel such as this.
23 I'm also aware of the value that our County and State agencies place on sustainability and
24 agriculture as a whole. With that being said I would like to share my sincere support for Kanza's
25 bed and breakfast application because it not only will allow us to keep farming and living a
26 sustainable lifestyle here on Maui but it will also allow us to share this mindset with people who
27 care to visit us. Thank you.

28
29 Ms. Duvauchelle: Any questions for the testifier? Thank you very much. The testifier that signed
30 up for the incorrect agenda item, Katherine Larsen? Not yet. Okay. All right is there anybody
31 else wishing to testify at this time on this current agenda item? Please state your name, you'll
32 have three minutes.

33
34 Ms. Katherine Clark: Aloha Commissioners, my name is Katherine Clark. My daughter grew up
35 with Kanza Stott. I have photos of them on the beach when they were about six months old.
36 Even now they remain very close friends. Kanza left the island to pursue her undergrad degree
37 in architecture. This is a young woman that put herself through college and finished debt free. I
38 can tell you my daughter didn't do that. I don't know many students that are able to do that. It
39 shows hard work and dedication. She returned to live on this property and is now pursuing her
40 Masters in Architecture through online education. Within County government there's always talk
41 about our bright and skilled young adults leaving the island for their education and then being
42 unable to return due to housing and jobs. Isn't this a great use of the B&B legislation? This is
43 one way for Kanza to keep the main house available for her parents or sister to visit, and be
44 able to afford to enhance her agriculture and finish her education. I am impressed with her
45 efforts to live off the land. Kanza has the best and possibly the only farm in this neighborhood.
46 Her partner hunts pigs and deer frequently on my property -- thank goodness. They raise

1 chickens for eggs, goats for milk, trees for fruit, grow a veggie garden and do it all organically.
2 I'm happy to say that I'm a frequent recipient of her fruit and eggs. She takes her Ag element
3 very seriously to the point of having a catchment tank dedicated to farm irrigation. Aren't her
4 agricultural efforts what we're here to talk about today? Is her property as polished as some of
5 the others in the neighborhood? It's better than some, and not as manicured as others. It looks
6 like what it is, a small farm. Within this room we frequently hear about how intense the process
7 is and many applicants hire consultants. Kanza did this on her own. She's a determined bright
8 young woman. Don't let her dainty appearance fool you. She's a very strong individual. She is
9 determined to make her B&B succeed and knowing her as well as I do I have no doubt that she
10 will be able to run this operation smoothly. My husband and I have been in the vacation rental
11 business since 1987 and we're happy to step in and assist if she encounters a situation that
12 she's not sure how to deal with. We live just two minutes away. Being in the business I can
13 also say the vacationers don't create any more traffic or noise than a long term tenant or an
14 owner living in the house. Frequently it's less because there are very strict rules that they need
15 to abide by. They also tend to have fewer cars. In a three bedroom home you could frequently
16 have mom, dad, and high school aged student having three cars. But when a small family visits
17 a three bedroom home you would typically only have one. Thank you so much.

18
19 Ms. Duvauchelle: Thank you. Any questions for the testifier? Thank you. Anyone else wishing
20 to testify please come forward. State your name, you'll have three minutes.

21
22 Mr. Tom Croly: Aloha Chair. My name is Tom Croly. And I'm familiar with Kanza Stott. I'm
23 familiar with her neighborhood, but I'm not involved in this application in any way. However
24 there were a few things that I heard in the testimony that I felt compelled to respond to if not for
25 the Commission's education but for some of the testifiers.

26
27 The B&B ordinance has a provision in it that says that if there's another B&B within 500 feet the
28 B&B application will be reviewed by the Planning Commission. In this case there's not another
29 B&B within 500 feet so the B&B Permit is not before you. What is before you today is the State
30 Special Use Permit and there are some specific criteria that you evaluate in a State Special Use
31 Permit under and it really is to demonstrate is the use that's being asked for here compatible in
32 the Agricultural District and with the agricultural uses that are taken place? I am familiar with
33 Kanza's property to the extent to say there are legitimate agricultural uses taking place on this
34 property. From some of the other properties around her and many properties in the agricultural
35 district it may be highly questionable whether there are actually agricultural uses taking place.

36
37 The testimony that you heard about impacts that people might feel from her use as a B&B, I can
38 state as a 15 year B&B owner I've never honestly seen that type of impact. I have a three room
39 bed and breakfast at my home and I know for a fact that my home generates less noise and
40 less traffic than any of my neighbors. As was just pointed out if you rent a three bedroom home
41 to someone likely there's going to be three cars, and those cars are going out in the day and
42 they're going out in the night. And when you rent a three bedroom home to a short-term rental
43 person there's likely going to be one car and the parties go out together. I also can say without
44 question my guests have never ever, never had a party. There's never been a 50th birthday
45 party with music and noise. But my neighbors have them quite regularly who you know have
46 long term tenants. So the idea that this bed and breakfast is going to bring more impacts to the

1 neighborhood in terms of noise and traffic it just doesn't bare out in reality. But that isn't what's
2 before you today. Again I'll remind you what's before you today is the State Special Use Permit
3 and the agricultural uses, and Kanza will tell you about those. Thank you.

4
5 Ms. Duvauchelle: Are there any questions? Thank you very much. Anyone else wishing to
6 testify at this time on this agenda item? Okay seeing none, we will close public testimony and
7 we will have the applicant's presentation.

8
9 Ms. Kanza Stott: Okay. Good morning Commission Members and Director Spence. Firstly I
10 would just like to thank you for being here.

11
12 Ms. Duvauchelle: Please state your name.

13
14 Ms. Stott: Okay, my name is Kanza Stott and as a brief introduction I am here in hopes of
15 getting my Special Land Use Permit approved for my small scale farm in Haiku as everyone has
16 mentioned. I have lived on Maui almost my entire life and I was raised in Haiku and did attend
17 Haiku School. I now have a Bachelors in Environmental Design with a Major in Architecture. I
18 am currently pursuing my Masters in Architecture online which has allowed me to return back to
19 my home here on Maui. I value the Haiku community highly and I am so very grateful that I've
20 had the opportunity to not only grow up here but also continue living here today. I have
21 submitted the application for a bed and breakfast permit for our home not only to allow for the
22 growth of our farm but also to address the fact that my parents who are currently living in
23 Australia do come here at least two times to three times a year and they want to be able to stay
24 on the property that they did establish with myself.

25
26 I would also like to mention just as a side note for all of our testimonies the dogs that were
27 mentioned are not on my property. I unfortunately have no control over them. Oh yeah, sure.
28 They are not on my property but I do have no control over them. And also we are really a hard
29 working family trying to work on our farm.

30
31 As an introduction the property is located in the Haiku Makai Subdivision which you can see
32 here. It is adjacent to Hana Highway and borders Maliko Gulch. It is an agricultural zoned
33 subdivision and the majority of parcels are larger than two acre lots. My property is 2.033 acres.
34 I have letters of support from three of my abutting neighbors and seven within a 500 foot radius.
35 Also five additional within the Haiku Makai neighborhood. Please note that this image was
36 taken a few years ago so our agriculture is further established from where it is here.

37
38 Here's a satellite image just for further reference. You can see that Hana Highway is here and
39 the Maliko Gulch is here. From this map view it is clear that there are two entrances from our
40 property. You can either enter via Pi'iali'i Street or from Apuwai Street down here. Our property
41 is located here in the middle.

42
43 As a brief introduction to property specifics, again the lot is over two acres. Our site and the
44 proposed bed and breakfast farm dwelling is located right here and it is a three bedroom two
45 and a half bathroom home. The owner's cottage which is where I live with my partner Spencer
46 is here and it is a two bedroom small cottage. There is an additional private garage which

1 would not be for guest's use and then we also have the 20,000 gallon agricultural water
2 catchment tank which is also not for guest use. Both dwellings are on County water. There is a
3 separate goat pasture which is located here and it is fully fenced off and not for guest use
4 unless accompanied by myself or Spencer. The citrus orchard is located at the bottom of the
5 property and then other produce is spread throughout the site. Onsite there is also free range
6 chickens and their coop is located within the goat pasture.

7
8 Regarding the parking there would be never be any on street parking. The property is very
9 large and I do have ample maneuvering space and parking allocation spots. This is an aerial
10 view of the parking just to see the amount of space that we have for cars. Also you can see that
11 we have implemented a photo voltaic system. We were actually the 9th house on Maui to have
12 photo voltaic. And then we also have hot water heater, or solar water heaters on both houses.

13
14 As stated earlier the property can be accessed from the north or the south of Apuwai Street and
15 we do have three fire stand pipes within close proximity to the property. Two of which are
16 pictured by the little squared boxes.

17
18 This is an exterior image of the proposed bed and breakfast when facing towards the south.
19 And then this is an exterior photo of the owner's cottage which I reside in and we also have a
20 tractor garage for storage of all of the farming equipment.

21
22 Also as some additional property information the property's border is established with mature
23 Areca Palms and Glyercidia which we harvest once a year. But upon submitting the application
24 I did receive concerns of privacy and visual farm upkeep from my west facing neighbor. To
25 address these concerns I have planted a secondary hedge and the hedges matching the same
26 that they use as their privacy buffer in an attempt to keep with the character's neighborhood and
27 maybe solve some of these issues.

28
29 All right as briefly mentioned a few times onsite there is our 20,000 gallon water catchment tank.
30 It is gravity feed off of the roof of the main house which is the farm dwelling and the proposed
31 B&B. It is only exclusively for agricultural use and we do actually have irrigation running to
32 almost all of our fruit producing trees onsite. We've had it for 15 years as well so this is nothing
33 new based on the bed and breakfast permit.

34
35 All right since the purchase of our property from today my family has always implemented an
36 approved farm plan. The farm plans have always been approved with more than 50%
37 agricultural use and today the most updated plan which I did within the last year has the
38 following. This is quite a long list so please bear with me. There's citrus including orange,
39 tangerines, lemon, lime and grapefruit. We have Ulu or breadfruit, fig, star fruit, mangoes,
40 Sernium cherries, custard pear, lychee, purple star apple, Glyercidia, tomatoes, kale, chili, a
41 wide variety of herbs, papaya, edible prickly pear cactus, ti, all spice, sour sop, coffee, avocado,
42 taro, aloe vera, coconut, lilikoi, bananas, and actually a whole lot more. We also have the goats
43 which we use for milking and lawn maintenance, and then the free range chickens which of
44 course produce eggs and is our centipede control.

1 A brief history. I just wanted to talk about the initial purchase of our property. My family did
2 purchase the property in 1998 from Chubby Vican. When we purchased from Mr. Vican he did
3 put a really big value on the agricultural uses of the land. Because it was previously pineapple
4 land my family decided to take three years to begin reestablishing the chemical ridden and hard
5 packed soils from this pineapple development. We lent the land to a dear friend of ours who
6 was a dry land taro farmer and she actually utilized the land and began reworking the soil while
7 harvesting dry land taro for the three years.

8
9 Now I'll just flick through some photos of the implemented farm plan. On the left you can see
10 just one of our harvests from when my family was here last. There's mangoes, avocados,
11 oranges, tomatoes and a whole bunch of other things. The Sernium cherries are on the right
12 hand side and they are really high in vitamin C fruit and you can make jams and chutney out of
13 them if you don't like eating them raw.

14
15 This is the Glyercidia which is actually a really amazing plant. As mentioned earlier a large
16 majority of our property line is bordering with this from the east to the west and to the north of
17 the property. In case you're not familiar with the plant, it is a very fast growing and high in
18 nitrogen based hedge. I harvest it usually once a year and use the wood chips to surround all of
19 our fruit producing trees with a nutritional mulch. This is again reestablishing the soil each year
20 and it serves another purpose besides just a hedge. The wood chips have proven to yield a
21 larger harvest of all of our citrus throughout the years that we have used it. The plant is also
22 very high in protein levels and compliments lower quality soils which might be found in our
23 neighborhood eliminating the need for chemical fertilizers which is really nice. Our goats also
24 benefit from it because it does have the high protein levels so it's used as feed for them too.

25
26 And this is just another brief photo of a citrus harvest. You can see our free range eggs on the
27 bottom right hand corner and then orange juice that we've created from our citrus. These are
28 our goats. We do have four of them. The male goats are used as lawn mowers and manure
29 providers for the soil. And then the females produces milk and offspring. We recently did have
30 a new baby in August which was a really great experience to see that happen. Also the female
31 and our new baby is a Nigerian Dwarf goat and they're known to have a much higher milk yield
32 and they're also a little bit more manageable in size for the farm.

33
34 These are the chicken coops. We hand built it my partner and I. I kind of got to use the
35 architectural degree there. And we have a variety of different chicken. Some producing blue
36 eggs, some producing light brown, some producing dark brown. I have some here too if you
37 want to have a look. Here's some bananas and citrus and then also Hayden mangoes which
38 we have three trees. This is our taro. We also have two veggie gardens. The one pictured in
39 the middle is the one closets to the owner's cottage. And then there's some aloe vera. There is
40 star fruit and flowers. We have a range of flowers that we actually have in the past donated to
41 funerals and other community events. Some of the mangoes on the tree and our star fruit tree
42 on the right. This is Ulu or breadfruit which I'm experimenting a lot with now which is kind of fun.
43 And then one of our avocado trees. And you can see the Glyercidia mulching which we actually
44 did three weeks ago so it's kind of interesting to see it go full circle.

45

1 This is one of my favorite slides just because this happened really recently. We have coffee on
2 our property and this is more of a hands on process that we just did complete. There are
3 several coffee trees in the shaded areas on the property and to harvest coffee it's actually quite
4 a drawn out but fascinating process. First you start with the coffee cherries. You then soak
5 them to make it easy to extract the bean. Once the bean is removed you must dry it in the sun
6 and then roast it two different ways and then you can use it traditionally as you would. So I did
7 roast it in the sun on the property and then also in a pan. You can then also then use the used
8 grinds once you're done with your coffee into the veggie garden so we do implement that and it
9 actually creates a more nutrient rich soil as well as the egg shells from our free range eggs.

10
11 Finally I'd like to talk about what we do with all of this produce. Firstly we try and eat as much as
12 we can. If we can't eat it all we do share it with neighbors, friends, the community, anyone that
13 really needs anything. From there if there's ever an abundance of anything like in the picture
14 our car with all of the oranges we have in the past sold to Mana. We also have been trading
15 with local food vendors and restaurants. And then anything else we would either donate to the
16 Maui Food Bank or we have been in the past been donating our breadfruit to John Cadman with
17 . . . (inaudible) . . .

18
19 In the future if granted this bed and breakfast I hope to be able to share all of these farming
20 values and experiences with visitors that want to seek out a different view of Maui. I'd also
21 really like to share the aspect of farm to table living which my boyfriend Spencer and I get to
22 enjoy every day right now. Along with this I'd like to further establish the farm and that would
23 allow me to have more time on the property. We want to get a small collection of bee hives to
24 potentially produce honey and also plant more fruit trees. I've also been trying to attend more
25 farmer's market such as the Kula Farmers Market on Saturday mornings and the wellness one
26 that I've heard about here in Wailuku on Thursdays. And then another side note is we have
27 been discussing with other local farmers about creating a CSA box. CSA standing community
28 supported agriculture, and basically the idea behind that would be pulling together all of the
29 produce that we have cultivated seasonally and sharing those boxes with a wider variety of
30 Maui. That usually happens biweekly or monthly depending on what we have.

31
32 Also we are members of the Hawaii Farmer's Union United and they do run a lot of classes so I
33 have been interested in looking at that and coming up with more ideas to do on the farm. Thank
34 you. Is there any questions? Also please feel free to take a look at any of the produce that we
35 did harvest yesterday.

36
37 Ms. Duvauchelle: Thank you.

38
39 Ms. Stott: Yeah, of course.

40
41 Ms. Duvauchelle: So at this time we will take questions from the Commissioners.
42 Commissioner Robinson?

43
44 Mr. Robinson: Aloha.

45
46 Ms. Stott: Hi.

1
2 Mr. Robinson: We had --. If you can go back to the picture that you have of your lot with your
3 surrounding neighbors.
4
5 Ms. Stott: This one?
6
7 Mr. Robinson: Could you put the aerial one? Yeah right there. So you said that you have
8 support letters from your adjoining neighbors. Can you, can you show me which ones are the
9 ones that are in support?
10
11 Ms. Stott: There is one there, one there, and one there.
12
13 Mr. Robinson: Okay. And by chance do you happen to know the people that were not in
14 support of you that testified?
15
16 Ms. Stott: Yes, so one property is here and one property is here. That's the same property,
17 yeah. And Gray who is not here today.
18
19 Mr. Robinson: Okay thank you so much.
20
21 Ms. Stott: Yeah, of course.
22
23 Ms. Duvauchelle: Any other questions? Okay seeing none, can we have the Department's
24 recommendation?
25
26 Ms. Stott: Thank you.
27
28 Ms. Duvauchelle: Thank you.
29
30 Ms. Willenbrink: Thank you Madame Chair. The Department's full analysis is included in the
31 staff report. The Department has no additional analysis or comments to add. The application
32 complies with applicable standards for a State Special Use Permit and as such the Department
33 recommends approval. Approval is based upon the seven standard conditions for a B&B
34 related SUP2. In consideration of the foregoing the Planning Department recommends that the
35 Maui Planning Commission adopts the Planning Department's report and recommendation
36 prepared for the November 14th, 2017 meeting as its Findings of Fact, Conclusions of Law, and
37 Decision and Order, and to authorize the Planning Director to transmit said written decision and
38 order on behalf of the Planning Commission. Mahalo.
39
40 Ms. Duvauchelle: Thank you. Commissioners? Commissioner Carnicelli?
41
42 Mr. Carnicelli: I move to approve as recommended by staff.
43
44 Ms. Duvauchelle: Thank you.
45
46 Mr. Castro: Second.

1
2 Ms. Duvauchelle: Moved by Commissioner Carnicelli, seconded by Commissioner Castro.
3 Discussion on the motion? Commissioner Robinson?
4

5 Mr. Robinson: I have a question again, Director, with these Special Use Permits and Farm
6 Plans. And some have them and some haven't and I keep on forgetting which way we're going.
7 But I thought they had to, had to be a financial generating farm to follow the farm plan. You
8 can't give things, you have to have a certain dollar amount. Did we walk away from that or is
9 that still in effect?

10
11 Mr. Spence: No, they're --. It's currently not a requirement. Okay what we require for a short-
12 term rental home or a B&B permit in an Ag District is that they have an implemented farm plan.
13 So you know quite honestly this Commission has seen a number of short-term rental homes
14 that have the little stick trees that were planted two weeks before the public hearing. This
15 particular one you know the trees are fairly well established. There is no requirement that they
16 make income from the agriculture as a part of their requesting permission from this
17 Commission.
18

19 Mr. Robinson: Thank you.
20

21 Ms. Duvauchelle: Go ahead Director.
22

23 Mr. Spence: I'm sorry if I'm a little bit out of order. I heard the one testimony about...you know
24 other people, the bride and the photographer and everything, and I understand that sentiment.
25 For short-term rental homes there's as standard condition that only the guests of the short-term
26 rental home be on the property. So you can't have the photographer, you know, all the party
27 come and everything. I mean not that the guests would not want to have the good time but all
28 the extraneous stuffs --. I was trying to find in the bed and breakfast ordinance if the same
29 applied. I could not find it. But if it pleases the Commission we could add a condition that only
30 the guests of the bed and breakfast be onsite not allowing you know the outside parties to come
31 in etcetera.
32

33 Ms. Duvauchelle: Thank you Director. Any other questions?
34

35 Mr. Robinson: I make a comment.
36

37 Ms. Duvauchelle: Commissioner Robinson.
38

39 Mr. Robinson: Applicant that was a great presentation. It looks like you guys are doing a nice
40 job. Congratulations on being debt free especially with, especially with it might not be write off
41 soon. I really heard the testifier. I heard the three testifiers and being in a neighborhood where
42 a neighborhood is sort of split three and three. And you know one doesn't want the
43 neighborhood to change. Another neighbor agrees with their neighbors and wants to be friends,
44 but still wants to go ahead and do something financially you know, and I think that's where we're
45 different. And another testifier who kind of sounded like somebody we hear now or what you
46 heard before another testifier has to respond to because it's fake news. I can say something for

1 a fact you know so that kind of raises my ears saying, okay, I've heard this kind of talk before
2 lately and you know that's where it starts to worrying me where we start getting people saying
3 these outrageous things and saying that one person's opinion is greater than somebody else's.
4 That's why I asked you where the neighbors are. I think you have great support from you know
5 half of your neighbors. But I still want to --. Even if it's just one out of five I think you know in
6 my own residential neighborhood wherever I would live is if my community is changing and,
7 and, and it's to where I went there it wasn't that way and it's changing that's where I'm opposed
8 to it. But the prior one before if you know if you had them all and I know you tried. I saw the
9 texts and tried to work it out and that's what you do with neighbors. But you know it doesn't
10 mean they'll always going to agree. You know the dogs are a nuisance. You know I'm glad I
11 don't live over there. But with that is unfortunately you do not have my support. Thank you.

12
13 Ms. Duvauchelle: Excuse me? Excuse me? I'm sorry, that portion is complete. All right any
14 other discussion? All right, Director would repeat the motion?

15
16 Mr. Spence: The motion is to approve as recommended by staff.

17
18 Ms. Duvauchelle: Thank you. All those in favor please raise your hands.

19
20 Mr. Spence: That's three ayes.

21
22 Ms. Duvauchelle: Opposed?

23
24 Mr. Spence: Two opposed. One is abstaining.

25
26 Ms. Duvauchelle: Which counts as a yes. So where are we?

27
28 Mr. Spence: Yeah which counts as yes vote. They need one.

29
30 Ms. Duvauchelle: I am the one. Okay. Okay I was going to make a statement but go ahead
31 Commissioner Robinson.

32
33 Mr. Robinson: When we would abstain we usually give reason why they're abstaining and now it
34 becomes a pattern to where a whole Commission panel has abstained where nobody votes to
35 where --. I can understand recusing yourself, abstaining for a certain reasons, or not being one
36 or the other but you know this is --. We're already short Commissioners so I think you know as
37 a, as a Chair we got to start pushing us to vote either way. I respect my fellow Commissioners
38 but like I said we cannot have five abstentions to let something pass. We're here to --. We've
39 been put on this Commission to try to vote, and if we want to recuse ourselves because of
40 something I'm fine with that. I've done it myself and I've abstained myself and I realized that
41 abstaining doesn't do anybody any good. If I can have a choice to vote, otherwise I have to say
42 that you know at least I'm going to express why I'm abstaining. Thank you.

43
44 Ms. Duvauchelle: Thank you. Any other discussion? Okay, I think you've done a great job with
45 your farm plan, and also reaching out to your neighbors. But I am not going to support the

1 application and I'm going to ask that you go back and you work with your neighbors that have
2 voiced their concerns and then come back in and possibly reapply. Thank you. So I'm a nay.

3
4 Mr. Spence: Okay with, with a negative vote that's the end of this --. Well it's the end of the
5 motion but the permit is not approved. My question is they're probably going to have to come
6 back and go through the application process again. It's not just the matter of going and working
7 it out with your neighbors and then coming back to this Commission at a few weeks from now.
8 No, she would have to go through the application process again, pay the fees, and the multi-
9 month process etcetera.

10
11 Ms. Duvauchelle: Okay. Yes, Commissioner Carnicelli?

12
13 Mr. Carnicelli: So we don't have an approval but does that mean it's automatically a denial?
14 Because then we would have to vote to deny. If we don't get a deny then we're in limbo again
15 and it just has to come back right until we get, till we get five one way or the other.

16
17 Ms. Duvauchelle: Corp Counsel.

18
19 Mr. David Galazin: Yes, thank you. So if the vote before this body is to approve a permit and if
20 that vote fails then the permit is not approved. You don't have to formally disapprove or
21 disapprove a permit.

22
23 Ms. Duvauchelle: Okay so Director?

24
25 Mr. Spence: So that's five against. Four in favor, three against, so the motion fails.

26
27 **It was moved by Mr. Carnicelli, seconded by Mr. Castro, and**

28
29 **The Motion to Approve the State Land Use Commission Special Permit, FAILED.**
30 **(Assenting – L. Carnicelli, S. Castro, R. Higashi, C. Tackett-**
31 **Abstained)**
32 **(Dissenting – K. Robinson, L. Hudson, S. Duvauchelle)**
33 **(Excused – T. Gomes)**

34
35 Ms. Duvauchelle: Thank you. Okay Commissioners --. Director?

36
37 Mr. Spence: So we could entertain another motion to defer, to --. I mean the motion to approve
38 failed.

39
40 Ms. Duvauchelle: Do we have another motion? Commissioner Carnicelli?

41
42 Mr. Carnicelli: So this question is for Corp Counsel then. So if we move to defer and that
43 actually gets approved then is it a denial? I mean I'm saying rather than her having to start all
44 over again, we if defer it -- although I don't know why we would because we're still at four to
45 three so but is that just the process? Does it actually get deferred and she doesn't have to start
46 over until we have say nine Commissioners here?

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Ms. Duvauchelle: Corp Counsel?

Mr. Galazin: Thank you. The answer would be once it's -- once you've made your vote and you already have voted and approval has been denied then deferral, there is no deferral of anything at that point.

Ms. Duvauchelle: So we cannot entertain another motion then.

Mr. Carnicelli: There's another else, there's nothing else to decide.

Ms. Duvauchelle: Okay. All right, thank you very much. We are going to take a 15 minute break until 10:30. We'll reconvene.

(The Maui Planning Commission recessed at 10:15 a.m. and reconvened at 10:37 a.m.)

Ms. Duvauchelle: Thank you for your patience and our next applicant, thank you for your patience a little bit longer. At this point I'm going to jump back to our Agenda Item C.2. and I'm going to ask the Commissioners for a motion to reconsider based on my vote was really to ask her to go back and work with the opposing neighbors. So what I would be hoping for is a second and your support and then a motion to defer to enable for her to be able do that.

Mr. Carnicelli: I will second your motion.

Ms. Duvauchelle: Thank you. Does anybody want to repeat or Director?

Mr. Spence: So the motion is to open the floor up for a motion for -- she's asking to open the floor up for a motion to reconsider. She's asking the Commission reconsider its decision and then we'll ask for a motion to defer that Special Use Permit decision on the Special Use Permit instead of the outright no.

Ms. Duvauchelle: And we have a support by Commissioner Carnicelli. Do we take a vote on the motion for reconsideration? All those in favor please raise your --. Discussion please.

Mr. Higashi: Yes, I have a question.

Ms. Duvauchelle: Commissioner Higashi?

Mr. Higashi: We originally voted to deny the application. Now we are reconsidering a denial of the application for -- is that correct?

Mr. Spence: No.

Ms. Duvauchelle: Corporation Counsel please.

1 Mr. Galazin: Well, no, the motion was to approve and that motion failed to carry five votes so
2 that motion failed and the motion to approve did not carry. Now somebody who has voted
3 against that, who had a negative vote, is asking for reconsideration which is permissible under,
4 under the rules in which you operate. But first there has to be a motion and a second to
5 consider that as a possibility and so that's what's on the floor before you right now.

6
7 Ms. Duvauchelle: So all those in favor of the motion to reconsider please raise your hands?

8
9 Mr. Spence: That's four ayes.

10
11 Ms. Duvauchelle: Opposed?

12
13 Mr. Spence: Two opposed.

14
15 Ms. Duvauchelle: Yeah I would vote positive to reconsider.

16
17 **After the recess Chair Duvauchelle made a motion for reconsideration which was**
18 **seconded by Mr. Carnicelli:**

19
20 **It was then moved by Ms. Duvauchelle, seconded by Mr. Carnicelli, and**

21
22 **The Motion for Reconsideration was Approved.**

23 **(Assenting – S. Duvauchelle, L. Carnicelli, C. Tackett, S. Castro,**
24 **R. Higashi)**

25 **(Dissenting – K. Robinson, L. Hudson)**

26 **(Excused – T. Gomes)**

27
28 Ms. Spence: So now --

29
30 Ms. Duvauchelle: Director?

31
32 Mr. Spence: So now we have --. If the Commission --. The Commission has opened up the
33 door again to reconsider its previous action. And since there was -- the vote was, the vote
34 wasn't to deny the permit. The vote was --. It was a vote to not approve it. If you can follow the
35 distinction. The motion was to approve the permit, and that was not voted affirmatively so that
36 motion failed. So there's opportunity for another motion. If the Commission would like to vote to
37 defer the item until such time as she works it out their neighbors or the Commission could also
38 affirmatively vote to deny that permit.

39
40 Ms. Duvauchelle: Commissioner Carnicelli?

41
42 Mr. Carnicelli: So Chair is there a timeline with which you would like to --? Because a deferral
43 indefinitely is basically a denial so is --. What is the timeline that you're considering on this?

44
45 Ms. Duvauchelle: 45-days.

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Mr. Carnicelli: Does the Department feel that's doable?

Mr. Spence: If we say 45-days, we will give the applicant 45-days and then we place it on an agenda. I'm not sure exactly what's coming up on the agenda but there's need to be room.

Ms. Duvauchelle: Commissioner Carnicelli?

Mr. Carnicelli: I was going to make a motion so if you'd like to talk more before I make the motion go ahead. So I'll go ahead and make a motion to defer for 45-days at which time it will come back to the Commission after that 45. It will be placed on the agenda after 45-days.

Ms. Duvauchelle: Go ahead Corp Counsel.

Mr. Galazin: Commissioner if I could ask for clarification from you. Are you asking for the deferral of up to 45-days or a deferral of more than, not less than 45-days? Because there is a timeframe within which this body has to act. So I would suggest my recommendation would be to defer for a period, you know, of not to exceed 45-days.

Mr. Carnicelli: Okay. So I will then restate my motion to say I move to defer up to 45-days at which time --. That's the motion, period.

Ms. Duvauchelle: Thank you. So we have a motion on the floor to defer up to 45-days.

Mr. Spence: Let me clarify. After that 45-days the Planning Department will put it on an agenda if, if the applicant wishes to come forward.

Mr. Carnicelli: Correct.

Mr. Spence: Okay.

Ms. Duvauchelle: Do we have second?

Mr. Castro: Second.

Ms. Duvauchelle: Seconded by Commissioner Castro. Discussion? Commissioner Carnicelli?

Mr. Carnicelli: Chair I appreciate you bringing this back up because even as I was having a conversation with Corp Counsel about this and I think that we need to as a body make a decision because we didn't take an action on that item. I mean our action was to not approve, but we didn't deny, we didn't defer, we didn't do anything, and so it was just sort of like it could be argued that you know this was just a non-action, and at 120-days there's an approval. So I appreciate you bringing this back up. Let's bringing back you know and then make a decision up or down at some point in time and let the applicant know okay this is exactly where you stand so thank you Chair.

1
2 Ms. Duvauchelle: Thank you. And I agree I felt like she met all the criteria. My main concern
3 was the negative responses from half of the adjoining neighbors. Commissioner Robinson?
4

5 Mr. Robinson: When we had this item and we were talking about going for deferral we were
6 advised from Corp Counsel that there was no reason for deferral because it wasn't approved
7 and therefore it was dead. So now that we have a reconsideration it's like I'm confused. Corp
8 Counsel it's got to be one way or the other. We're getting like -- we're getting you know going
9 back and forth on what our process was because we were looking for a deferral when the item
10 was on. And we were --. And, and I took it as we were you know lead to believe that you don't
11 need a deferral because there's no deferral because it wasn't approved or dead. So we've
12 always done this, something doesn't get approved, we go to deferral or we deny it, it's part of
13 our process. We've never just stopped at one, at one motion. And so going forward let's hope
14 for that if, if we try to --. We'll ask --. We'll defer and we'll ask if it was proper or not. But yeah
15 because we're just doing what we always do right?
16

17 Ms. Duvauchelle: Yeah, that's correct. Thank you. Okay, Director would you repeat the
18 motion?
19

20 Mr. Spence: Okay the motion is to defer the Special Use Permit for a period of 45-days to let the
21 applicant to work out issues with her neighbors and then we'll place it back on an agenda.
22

23 Ms. Duvauchelle: Okay and, and I again it meets all of the criteria almost except for Item No. 2.
24 So all those in favor please raise your hand to defer the motion...to 45-days. That's four ayes.
25 Opposed?
26

27 Mr. Spence: Two opposed.
28

29 Ms. Duvauchelle: Two opposed. And I will vote to defer.
30

31 Mr. Spence: That's five ayes.
32

33 Ms. Duvauchelle: Okay five ayes. Thank you.
34

35 **After discussion:**
36

37 **It was moved by Mr. Carnicelli, seconded by Mr. Castro, then**
38

39 **VOTED: To Defer the Matter Up to 45 Days for the Applicant to Work with the**
40 **Opposing Neighbors and After the 45 Days to be Brought Back**
41 **Before the Commission.**
42 **(Assenting – L. Carnicelli, S. Castro, C. Tackett, R. Higashi,**
43 **S. Duvauchelle)**
44 **(Dissenting – K. Robinson, L. Hudson)**
45 **(Excused – T. Gomes)**
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1
2 **D. COMMUNICATIONS**

- 3
4 **1. ATC MAKENA HOLDINGS, LLC requesting amendments to the approved**
5 **Special Management Area Use Permit plans for the Makena H-M Project at**
6 **5400 Makena Alanui Road, TMK: 2-1-005: 086 (por.), Makena, Island of Maui.**
7 **(SM1 2013/0013) (A. Cua)**

8 **The proposed amendment is to pursue a lower density development**
9 **alternative including the demolition of the existing 310 room hotel structure**
10 **which was previously planned to be converted into 50 multi-family**
11 **condominium units as well as other related modifications.**

12 **The Commission may take action on this request.**

13
14 Ms. Duvauchelle: All right our next agenda item.

15
16 Mr. Spence: Commissioners, we are on Communication Items No. D.1., ATC Makena Holdings
17 requesting amendments to Special Management Area Permit for Makena HM Project at 5400
18 Makena Alanui Road in Makena, Island of Maui. The staff planner this morning is Ann Cua.

19
20 Ms. Duvauchelle: Good morning.

21
22 Ms. Ann Cua: Good morning Madame Chair and Members of the Commission. Just a few
23 comments the Department wants to make before you open this up for public, public comment.
24 There's two corrections to the report. On page-2, the first paragraph where it says the last
25 sentence "amended project plans are attached as," that should be "attached as Exhibits 5 to 8."
26 And the second thing on page-9 where --

27
28 Mr. Robinson: I'm sorry. I have two. Which one?

29
30 Ms. Cua: I'm sorry it's your November 14th, 2017 report. It's the first document. First document.
31 So I'm sorry. At your November 14th, 2017 report the first comment is again on page-2
32 referencing Exhibits 5 through 8 as the proposed amendment. And then on page-9 in the
33 middle of the page where it says condition no. 5 this amendment seeks to amend the plans that
34 were approved. And the date January 20th, 2014 is scratched out but I forgot to put in the date
35 of the new plans. And the date of the new plans is October 15th, 2017, so if you could just add
36 that date. And the recommendation that we will go over later does reflect the date of the new
37 plans. So that's the first comment. I'm sorry? What did I say? I'm sorry what did I say? I'm
38 reading August, and I said October. It's August 15th. Wow, you got to excuse me today, keep
39 me on point.

40
41 The second thing is in terms of background information if I could call your attention to page-7 to
42 what got us here till today. So back on May 27th, 2014 the Commission granted an SMA Use
43 Permit to ATC Makena Holdings for the proposed Makena Resort HM project subject to 22
44 conditions. Your approval at that time called for the redevelopment of the property into a new

1 resort club community including the renovation and conversion of the hotel units to 46 fee
2 simple apartment units. The SMA Permit also approved the development of a new private
3 beach club as well as construction of five spa hale, nine beach cottages, two three-story six-plex
4 apartment buildings, and a new 76-key hotel and related hotel facilities. And a copy of the SMA,
5 the original SMA Permit approval dated June 16th, 2014 is attached as Exhibit No. 1.

6
7 October 31st, 2014, the Planning Department approved a non-substantive design change for the
8 project and that is attached as Exhibit No. 2. And then on September 24th, 2015 the
9 Department approved a second non-substantive design change and that's attached as Exhibit
10 No. 3. And that was for things like some minor site design refinements, a plan for phasing of the
11 project, some program adjustments, some utilities adjustments, issues relating to emergency
12 access, grading and drainage improvements, and some ADA refinements.

13
14 So today we're here as the applicant is requesting an actual amendment. Something that the
15 Department could not consider as a site plan or a design modification of the project. And so
16 that's why we're here today. So at some point I will introduce the project and they can -- I
17 mean, the applicant and they can take you through the proposed amendment, but I believe that
18 at this point in time is where you will take public testimony.

19
20 Ms. Duvauchelle: Correct. Thank you Ms. Cua. At this point we're going to open the floor for
21 public testimony prior to the applicant's presentation. I have signed up to testify, first one
22 Mr. Sam Garcia. Please state your name and you'll have three minutes for testimony.

23
24 Mr. Sam Garcia, Jr.: Good morning Madame Chair, Commission Members. My name is Sam
25 Garcia, Jr. Aloha. And I live right next to. My brother and I both have homes right next to the
26 resort. In fact we're surround on three sides by the Makena Resort. So whatever is approved
27 and whatever happens to the resort directly impacts our personal lives. The Makena Resort
28 people have been extremely gracious and including us in all of their plans and their
29 conversations and we like especially the newest plan which you're here hopefully to approve
30 today. It encompasses demolishing the hotel which unfortunately I was hired to build and I
31 worked for Seibu Corporation for 15 years and oversaw the hiring and the management of the
32 hotel along with the general manager . . . (inaudible) . . . We hired all local people except for
33 three sushi chefs from Japan that came in so these were all Maui people. When Seibu was
34 very gracious. They were great owners and they sold to Everett Dowling who was also a
35 wonderful owner. In contrast these people here at the present Makena Resort, Discovery
36 Group and their partners are unbelievably open to, to our feelings and to what we are
37 recommending to them. So we're very, very, I guess very grateful that they are the owners and
38 we certainly support their plan including taking down the hotel and I believe not including a new
39 resort which they at one time conceived. So I ask your support to the amendment to their SMA
40 and thank you for your time. Aloha.

41
42 Ms. Duvauchelle: Thank you Mr. Garcia. Any questions for the testifier? Thank you. Next
43 testifier Bernard Rozet. Good morning. Please state your name and you'll have three minutes.

44
45 Mr. Bernard Rozet: Aloha Chair and Members, Board Members. My name is Bernard Rozet. I
46 worked at the Maui Prince for 30 plus years. I am here to support the efforts of the workers of
47 Makena. The hope would be to see this project finally go through with the full swing and with no

1 more delays. Again I support the efforts of the Makena development team and what they are
2 doing and ask you to please do the same. Thank you.

3
4 Ms. Duvauchelle: Thank you. Any questions? Thank you very much. Next testifier, Dugal, and
5 you'll have to help me with the last name.

6
7 Mr. Dugal Milne: Milne.

8
9 Ms. Duvauchelle: Milne. Please state your name. You'll have three minutes sir.

10
11 Mr. Milne: Good morning Chair, Ms. Chair and members of the board. My name is Dugal Milne.
12 I am born and raised here on Maui. Lived in Makena for 53 years. Have seen all the changes
13 through Wailea and Makena, and I'm in support of this amended plan to demolish the hotel and
14 rebuild. It takes their plan which was a good plan, let's call in a B plan to an A-plus. It lowers
15 the height of the hotel or structure. It moves it further back from the Kings Trail. And when you
16 look at it and you'll see it later it's coconut tree level high, no higher. As Sam Garcia said
17 they've listened to us, all our concerns, the whole way though. They've incorporated our
18 concerns into their design. They've been tremendous listeners and they've really done a super
19 job in not only addressing our concerns but the County standards, State standards. So I'm in
20 full support of this supplemental proposal. It really is going to make the development classy.
21 So thank you very much.

22
23 Ms. Duvauchelle: Thank you. Are there any questions? Thank you very much. The next
24 testifier listed Frank Brandt. I'm sorry sir.

25
26 Mr. Frank Brandt: . . . (Inaudible) . . .

27
28 Ms. Duvauchelle: Okay. There will be no later testimony on this agenda item. Thank you.
29 Please state your name, you'll have three minutes.

30
31 Mr. Brandt: My name is Frank Brandt. I was born and raised on Maui. Retired landscape
32 architect land planner, and I've resided as Dugal said as long as he has in Makena. And I had
33 been working with Discovery for many, now a couple of years on everything that they have been
34 doing there. And I have been -- was very involved as Sam Garcia said I was the original
35 landscape architect on the original hotel. So I'm --

36
37 Mr. Higashi: Can you talk into the mic?

38
39 Mr. Brandt: Yes, I'm sorry. So I was the original landscape architect on the hotel and I have
40 been involved. I think to my mind trying to convert that building into condominiums was really
41 going to be very difficult, and I wondered how that was going to be done. I am in total support of
42 taking the building down and doing an appropriate project that starts from the beginning and
43 takes consideration of the total property rather than trying to contrive a building into something
44 that isn't there. So I think what they're doing right now and looking at the amendment to the
45 SMA Use Permit I'm totally in support of that. So any questions? Thank you.

46

1 Ms. Duvauchelle: Any questions? Thank you very much. Next testifier is someone we're all
2 familiar with Max Tsai.

3
4 Mr. Max Tsai: Good morning.

5
6 Ms. Duvauchelle: Morning Max.

7
8 Mr. Larry Hudson: Please speak into the mic.

9
10 Mr. Max Tsai: Yes Commissioner.

11
12 Mr. Spence: And introduce yourself.

13
14 Mr. Tsai: Yes, my name is Max Tsai. I'm here on my own accord, testifying on this Makena
15 ATC project. It's good to be here on this side of the podium. Back on March 14th earlier of this
16 year as the past chair of this body I cast the deciding vote to approve ATC Makena's EA
17 Application. That was their second appearance in front of this Commission. We went through
18 extensive public testimonial, we had really good presentation from the applicant, as well as long
19 line questioning from the Commission members. Although I share the concerns brought up by
20 some of the Commission regarding the public parking building layout I felt those concerns
21 should be and needs to be addressed at the SMA process. I also felt that the applicant has
22 sufficiently addressed the questions from the Commission during the first meeting, so therefore I
23 stand by my positive vote at time and I'm also glad the process worked as it intended and as
24 we're here again. So I want to thank you all for your hard work and dedication. It can be a
25 thankless job. Trust me I know so thank you all again. Questions?

26
27 Ms. Duvauchelle: Any questions for Max? Commissioner Robinson.

28
29 Mr. Robinson: I'm sorry. What's your name again?

30
31 Mr. Tsai: Max Tsai.

32
33 Mr. Robinson: Mr. Tsai you're part of the original Commission that did this SMA and I wasn't
34 around then. Is there any recollection on the first one with this building and any testimony at
35 that time? Because we were here for the majority of the second, the second phase, but the first
36 phase with this building nine, I never had any knowledge of that at all.

37
38 Mr. Tsai: Commissioner Robinson thank you for your question. The SMA application came after
39 I came off the board, Commission, so during our EA meetings some of the SMA issues were
40 never discussed.

41
42 Ms. Duvauchelle: Thank you. Any other questions? Thank you.

43
44 Mr. Tsai: That was it? Okay that was easy. Thank you all.

45
46 Ms. Duvauchelle: Thank you. Anybody else wishing to testify on this agenda item? Please
47 come forward. Please state your name and you'll have three minutes.

1
2 Ms. Lucienne de Naie: Aloha Commissioners. My name is Lucienne de Naie. I am here
3 testifying on behalf of Sierra Club Maui Group. Sierra Club was at the SMA hearing for this
4 project back in 2013, 2014, whenever it was. I think we were the lone member of the public
5 here and we expressed some concerns at that time. Since that time we have entered into some
6 you know legal challenges to the successor to the project, the Makena Landing, and reached a
7 settlement agreement. As part of that settlement agreement we agreed not to oppose that
8 project or this project or any of the future projects in Makena Resort lands. And so I want to
9 make it clear I'm not asking you to oppose the SMA Permit in any way. However I would -- and
10 we really do appreciate that the heights have been lowered and some other design things have
11 been brought into this project. But I would like to say that we and our allies were never shown
12 the plans for this. We were in extensive negotiations in June and part of July, and I guess these
13 plans came out in August so this is at the Urban Design Review Board was the first time that we
14 had actually seen these plans. If we had been shown the changed plans we probably during
15 our settlement discussions would have had a few questions and maybe you guys would have
16 some of the same questions. One of them is how many people will the beach club employ? I
17 mean because there was going to be this boutique hotel to sort of ease the transition for the
18 workers and those were good union jobs. So I think it would be good just to know how the jobs
19 are stacking up with the new design. And then how much area is going to be covered by
20 buildings with this version versus what was covered by buildings with the last version. It may be
21 equal/equal. It just would be good to know. It's kind of hard to tell from the maps what the
22 comparison would be.

23
24 And then I want to bring up that 40 years ago about 16 acres of this 25 acre parcel were actually
25 public land, kingdom lands. They were traded by Ulupalakua Ranch to the State for Polenalena
26 for what we call Chang's Beach. Pardon Mr. Chang. And up until the 1980's this area had a
27 remnant of a large coconut grove that was considered culturally significant by many in the
28 community. So many Hawaiian healers actually still have feeling for this land even though the
29 coconuts are gone, even though all of the archaeological sites that were there at one time had
30 been erased. And so we have this rule now that the public can enter. There's 10 parking
31 spaces but they can't be there at night. So a question I would have asked is if a person wanted
32 to access the former hotel grounds in the evenings for cultural practice would that be allowed at
33 all. It's not made clear. Also I would really like to encourage the conditions of zoning to include
34 the site number of the one feature of one remaining site that's going to represent this whole
35 area. It's state site 6707 and I think it should be included as a condition that that's the site that
36 is going to be preserved. It's not going to be monitored, it's going to be preserved and there's a
37 preservation plan for it.

38
39 Ms. Duvauchelle: Thank you.

40
41 Ms. de Naie: Thank you.

42
43 Ms. Duvauchelle: Any questions for the testifier? Thank you very much. Anyone else wishing to
44 testify please come forward.

45
46 Mr. Edward Chang: My name is Edward Chang. Thank you Commission for letting me speak.
47 I've been here before. I think you know where I've always stood. I stand for the project. I'm a

1 long time resident of Makena and what I have seen in various previous developments had
2 planned and what we've planned and all the turmoil we've gone through we're still coming out
3 with a better project than we've ever imagine three years ago. All the things my fellow residents
4 have said is really true. They work hard. A quality builder. And as much as they can, as much
5 as busy they are they keep us involved. They take our opinion it means something to them. I
6 believe they're correct because among some of our residents we're rather outspoken, we're not
7 afraid to pick up the phone and talk to the various developers just exactly what we think. Again
8 my name is Ed Chang. I agree with the project. I think they are quality builders. I think Makena
9 will be better off with this project than not doing it at all. I've always been concerned that we
10 would become a beach community with no community. It would be a community for transients.
11 Makena was headed in that direction for all a long, long time. Now I see a turn around which I
12 believe is very, very positive, and I hope you vote to approve this project. Thank you very
13 much.

14

15 Ms. Duvauchelle: Thank you Mr. Chang. Any questions? Seeing none. Anyone wishing to
16 testify? Please state your name, you'll have three minutes.

17

18 Mr. Isaac Hall: Good morning Chair and members of the Commission. My name is Isaac Hall.
19 I'm testifying today for Hui Au Nui O Makena, a group of long time largely native Hawaiian
20 residents of Makena. We entered into a settlement agreement with Seibu in 1986 that is still
21 binding on all successive owners. And after hearing the last testimony I've got to clarify that we
22 fought long and hard to keep the road open in its current form to preserve archaeological sites
23 in this area that is largely preserved and to allow pash access which is what is allowed not just
24 general access to these sites.

25

26 Our settlement agreement requires the developer to consult with us about his plans, and
27 Discovery has consulted with us throughout about its plans. And they significantly diminished
28 the impacts of the approved project and therefore we support this application and ask you to
29 approve it. Thank you.

30

31 Ms. Duvauchelle: Thank you Mr. Hall. And other questions? Thank you. Anyone else wishing
32 to testify on this agenda item? Please come forward.

33

34 Mr. Albert Perez: Is this the only time?

35

36 Ms. Duvauchelle: Yes, this is the, this the moment for this agenda item for testimony. Please
37 state your name, you'll have three minutes.

38

39 Mr. Perez: Good morning Commissioners. Albert Perez, I'm with Maui Tomorrow. Just
40 informational I just wanted to -- I'm not sure if you folks have ever seen the details of our
41 settlement, but there is one, one item, paragraph 44 that is relevant to this project. And it just
42 says that with respect to the potential demolition of the existing hotel structure at the HM project
43 one designated representative from each of the three plaintive groups -- that would be Sierra
44 Club Maui Group, Maui Tomorrow, and Ho'o Pono Pono O Makena -- one from each group
45 would be invited to participate in a site walk with ATC and archaeologist Teresa Dunham to the
46 extent that she is available. So once it's taken down we're going to be going out there to see if
47 there were any inadvertent sites that were left so that is a relevant portion of this. And if you

1 folks are interested in any other details of the settlement we'll be happy to make a presentation
2 to that effect any time. Thank you.

3
4 Ms. Duvauchelle: Any questions for Mr. Perez? Thank you. Anybody else wishing to testify at
5 this time please come forward. Good morning. Please state your name, you'll have three
6 minutes.

7
8 Ms. Dana Naone Hall: I won't need three minutes. My name Dana Naone Hall and I'd just like
9 to say that I am in support of this project today. We've been involved with the owners Seibu,
10 and I think that this particular developer has been the most open to our concerns. So I hope
11 that you will take that into consideration when determining whether or not to grant this
12 amendment. Thank you.

13
14 Ms. Duvauchelle: Thank you. Any questions? Thank you very much. Okay, anyone wishing to
15 testify? Seeing none, we're going to close public testimony at this time and we'll move forward.
16 Ms. Cua.

17
18 Ms. Cua: Thank you Madame Chair. A couple of things. I've passed out some documents that
19 we've received after the preparation of our report. So I just want to go over that real quickly. In
20 your report we have comments from the Department of Environmental Management as well as
21 the Department of Health. But we have not received comments from the Department of Public
22 Works so we have since received it and I've given a copy to you. And they're basically their
23 comment is that a permit is required to demolish the hotel.

24
25 In addition to that the applicant's planning consultants commented or presented comments to all
26 the agency, comments that were received, so that's a letter to David Goode from Public Works,
27 a letter to Mike Ratte, Department of Environmental Management, and Patty Kikowski from the
28 Health Department. So those letters are all -- those response letters have all been presented to
29 you.

30
31 Finally we have received three letters, three comment letters with regard to this SMA
32 Amendment. Two letters in support and one concern. Those were also passed out and they
33 also came in after the preparation of our Department report. So with that I think I'm ready to
34 introduce the applicant for them to take you through the amended plans.

35
36 Ms. Duvauchelle: Thank you.

37
38 Mr. Ed Devita: Good morning Commissioners. I'm Ed Devita and I am a partner with Discovery
39 Land Company and we represent ATC Makena. Thank you very much for continuing to
40 consider our projects at Makena. It's much appreciated. We've been here before and we
41 appreciate the focus and your time. We're here today to present an application for an
42 amendment to the SMA Use Permit at Makena Property HM. Several years ago as was
43 mentioned we brought this project to this board and it was approved. Today we're presenting a
44 refined version of the project and the refined version has a reduced height, has an overall
45 reduced density, and it also has an overall reduced impact on a number of measures which we'll
46 get into.

47

1 The project design was prepared by Makena's design and engineering team. This is the same
2 team that's been working together for nearly five years at Makena. Our group of key experts
3 are here with us today so later if you have questions we may call upon the experts to address
4 those.

5
6 Let me start with a brief overview so I'll be introducing a few things here to get started, and then
7 we'll bring up Mark de Reus the project architect. And Mark will be providing a comparison of
8 the approved plan versus the proposed plan. Mark will then go into some of the architectural
9 details and background for why materials are used and how they fit together in the scene. And
10 he'll talk through the details of the project components. I'll come back up and go through the
11 view analysis after that and then summarize the key measures and the comparison between the
12 approved project and the proposed amendment, and then close with some remarks.

13
14 At Makena we've continued to have a commitment to a process that's community base. And
15 through that process we've garnered very valuable feedback from the community that we've
16 integrated into our, into our project. I think it's worthwhile to touch on our sustainability
17 principles because they drive a lot about our project and our design. First off back before we
18 first came to this board and in fact before we started any design at Makena we started by saying
19 that we wanted to have a set of sustainability principles that we could use as a foundation as we
20 brought on team members. These are ideas and foundations that are thought about and talked
21 about whenever conceptualizations are being brought up or alternatives are being considered.

22
23 I'll touch on a couple of examples designed for resilience and climate adaptation. Among those
24 that relate to this particular project are increased setbacks that relate to the potential for ocean
25 level rising and we are above the levels of the recommended rising for the future. We are
26 adapting as you'll see in our proposal by recycling concrete, proposing to recycle concrete from
27 the demolition of the hotel. Designing for beauty, harmony and understanding. One of those
28 that came into play is taking the large massive hotel structure and removing that and replacing it
29 with structures that are more in keeping with the existing structures along Old Makena Road
30 and the neighboring properties. Providing for mobility choice. In particular we have pathways
31 throughout the property where residents can move around to the different parts of the facility
32 and on and off the property by pedestrian access and/or bikes or golf carts and they don't need
33 to use cars to get around. So those are just a few examples.

34
35 I think most are familiar because you've been working on this project for a number of years. But
36 I will state for the record that the project is along Makena Ala Nui in Makena at the site of the
37 former Makena Prince Hotel.

38
39 Let's take a quick look at the site plan and then Mark will come up and go through the
40 components in more detail. First thing I'd like to point out is that there are two classes of
41 components in this plan. There are components that are circled with a blue dashed line. These
42 ones I'm outlining with the highlighter. And then there are others that are circled with a red
43 outline. The components that are circled in blue are conforming to the original approval. These
44 -- that includes eight beach cottages and two six-unit multi-family buildings. Those components
45 have their administrative approvals and building permits, and we've started construction.

46
47 Ms. Duvauchelle: One moment. Commissioner Robinson?

1
2 Mr. Robinson: I apologize, Ed. Is this inside our paperwork because I can't see what the writing
3 is from there? I wonder if I could follow along, along my exhibits.

4
5 Mr. De Vita: Yes it is. Let's give you a pointer.

6
7 Mr. Robinson: Thank you Chair.

8
9 Ms. Cua: It's Exhibits 5 through 8, all the project plans.

10
11 Mr. Robinson: Which one is this? This is five?

12
13 Mr. De Vita: Five, yeah.

14
15 Ms. Cua: Five is a site plan. It's not this exact site plan. I'm still looking if I can find this exact
16 one.

17
18 Mr. De Vita: Okay Commissioners I'm using this plan to provide an overview to characterize
19 what's forthcoming and we will be providing more detailed presentation about the components.

20
21 Mr. Robinson: Okay sorry. Thank you.

22
23 Mr. De Vita: So I think the key point here is that the components that are in this area, eight
24 beach cottages, two six-plex multi-family buildings and the parking lot are fully conforming to the
25 approved SMA that's in place, and they have building permits and we've started construction.

26
27 The components that are in red related to the refinements that we're presenting today that
28 relates to the amendment. And those components have actually been derived from
29 components that were within the approved plan. For example the Molokini units that are in this
30 front area which Mark will detail when he comes up are derived from Molokini units that were a
31 part of the original presentation. Same floor plan, same type of unit, except that they've been
32 setback farther from the shoreline. These beach cottages in this area are derived exactly from
33 the floor plans of these beach cottages and just excited in this new location. And then these six-
34 plex multi-family buildings are derived from the two six-plex multi-family buildings that were also
35 part of the previously approved plan. There's other components that Mark will describe in more
36 detail. One is an eight-plex unit of smaller homes, and the other is the beach club. The original
37 plan had a beach club in this general location. This version is refined.

38
39 I'd like to take a quick look or show you a quick look of the bird's eye view of the property. This
40 is Makena today where you can see the existing former Makena Prince Hotel. In this plan this
41 represents the approved project from 2014 where the existing hotel was converted into a
42 residential condominium building. It had Molokini units with green roofs adjacent to it. The
43 beach cottages here on the right. And you can see the six-plex multi-family units in the back
44 with the beach club in this area and the pool.

45
46 This version is the one that relates to the amendment that we're asking for. In this case the
47 Molokini units are in a similar location but setback further from the shoreline. The tower is no

1 longer there. The beach cottages remain the same. The six-plex units remain the same. And
2 the balance of the units that terrace back towards mauka are seen in the background. In the
3 foreground you can see the beach club and the pool complex.
4

5 So I think this is somewhat of a key point because as you might ask why would we come in and
6 ask for an amendment. So first off there's a number of reasons. During the design detailing
7 and the refinement phase of the project and we were doing cost estimating cost began to
8 escalate substantially. At the same time there were a lot of uncertainties that were brought up
9 by the various engineers, especially the structural engineers wherein meeting the new
10 earthquake codes that have been upgraded since 30 years ago before when the building was
11 built would have to be assessed as the building was broken apart and evaluated and confirmed.
12 So due to the uncertainty and escalating costs it was big concern among the partnership. While
13 those costs were escalating market demand was assessed and what we were finding was that
14 the market was demanding more of a low rise residential scale type of product as opposed to a
15 high rise multi-family type of condominium. Another thing that came into play as we were
16 considering these alternatives we went and discussed the options and the ideas with the
17 neighbors and the local residents in the area and the feedback was pretty unanimous that they
18 preferred more residential scale lower density type of project as opposed to having the large
19 hotel building stay in place.
20

21 And the last one which is somewhat a business consideration is that with the new design the
22 buildings are . . . (inaudible) . . . and decentralized so the project can be built out in accordance
23 with market demand as opposed to all at one time which was what would be necessary doing
24 the large residential building.
25

26 So with that introduction I'd like to turn the podium over to Mark de Reus, architect, for his
27 presentation.
28

29 Mr. Mark de Reus: Thanks Ed. Good morning. My name is Mark de Reus with de Reus
30 Architects based on the Big Island. As Ed outlined this is an amendment to the already
31 approved Makena HM Project and we would like to briefly explain the difference between this
32 amended proposal and the previously approved direction.
33

34 This approved site plan retained the existing nearly 100 foot tall hotel structure of approximately
35 400,000 square feet. Also proposed was a new 75 foot tall boutique hotel and substantial
36 surface parking.
37

38 This new site plan depicts the proposed amended plan we are reviewing today. And reuse of
39 the existing hotel is no longer being proposed as well as the boutique hotel. These components
40 have been replaced by one, two, and four story residential and a club amenity buildings. This
41 has resulted in decreases in density, in square footage, in building massing, and importantly in
42 scale. The total unit count has been reduced from 152 to 65. The overall floor area is reduced
43 from 770,000 square feet to 492,000 square feet. Condition space has been reduced by 35%.
44 And the parking requirement reduces from 448 to 325. Additionally as you may recall the
45 previous plan had a multi-level parking structure close to Makena Alanui Road, and the reduced
46 parking in this amendment is roughly split between the surface parking and underground
47 parking. In terms of bedroom count the approved 428 bedrooms has been reduced to 228. The

1 project setback from the Kings Trail has been increased from 96 feet to 285 feet, and that's
2 shown right down here.

3
4 Reduction in building massing has resulted in a better physical scale and presence. The site
5 sections in this drawing shows the reduction in building mass. The outline of the previously
6 approved building envelopes from the hotel are shown in gray outlined with the red dash line.
7 Please note that the Kings Trail, from the Kings Trails the scale reduction will be greatly
8 improved. Also note that proposed landscape and site lighting designs will continue with the
9 previously approved design direction. Site and buildings are not lighted per se only for way
10 finding and safety. The landscape intent is to create an informal Hawaiian landscape anchored
11 by coconuts and monkey pods, many of which have been salvaged and relocated about the
12 site. Additionally this plan implements low impact developments storm water management
13 techniques.

14
15 The plant palette consists of mostly native coastal drought tolerant plants that maximize use of
16 non-potable water for irrigation.

17
18 Connections with the Hawaiian culture and place based design have been the key objectives for
19 the development team from the start and continue in this amended proposal. Rather than
20 dramatic design statements we prefer the quiet well-crafted buildings that defer to nature and
21 gracefully reside amidst beautiful landscaping.

22
23 In the approved concept architectural design diversity with the various residential and amenity
24 buildings was an important component of fitting this project into the south Maui part of the
25 island. It was a key part of the vision, of the project vision, and this objective is still maintained
26 with this amended proposal. This in the previous slide use reference images of existing
27 buildings in Hawaii both traditional and contemporary to reinforce this goal and the
28 appropriateness of diversity.

29
30 As we segue to this slide we're showing the range of design diversity in our amended proposal
31 today. The contemporary expression of the beach club and the multi-family condominiums, the
32 more traditional character of the beach cottages and the spa and the mauka ranch character of
33 the greeter's hale. Diversity of designs and styles both traditional and contemporary are in
34 keeping with the island neighborhoods. We built a timeless approach and it measures with
35 individual buyer taste. We will review each individually with you. Please note that within this
36 amended proposal a number of the residential types are derived from the previously approved
37 SMA version. These are the Molokini residences, the six-plex villas and the beach cottages.
38 Only the eight-plex Hale Kehau and the club residences and the club itself are new designs.

39
40 This amended proposal includes a mix of single-family and multi-family residences along with
41 the amenity club and spa. Let's start with the Molokini units. The Molokini standalone and the
42 Molokini three-plex units are shown on this site plan highlighted in blue. These two-story units
43 are highlighted -- it is the blue color here. There are two three-plexes with the single Molokini
44 unit in between. So there's the single unit in between and then the three three-plexes. These
45 four bedroom two-story units of approximately 5,000 square feet incorporate a butterfly green
46 roof design. The makai side of this two-story residence shows the large lanais that are
47 structured with cedar posts and roof beams. Large glass doors open to the living and the

1 bedroom space to the views and the pool garden at the lower level which is shown in the foreground. The Molokini three-plex resembles a standalone unit in architect character also with the butterfly roofs. There are three of these three-plexes approximately 4,600 square feet in size. Deep lanais are great for shade and livability but they also function well for glare control from the coastline and from the inside of the units.

6
7 Situated along the mauka side of the property is a multi-family eight-plex Hale Kehau highlighted here in red. These are approximately 2,000 square foot two-bedroom units are designated -- or designed, excuse me, to fit the need for a smaller residential product. The mauka side of this four-story building is depicted in this illustration and it shows extensive breezeways. Looking at the makai side of this building, it's contemporary in design character and it has a considerable lanai which will result in a well shaded mauka makai exteriors.

13
14 This key plan shows the 10 beach cottages that I highlighted earlier and they're shown in bright yellow here on the plan. Please note the previous approved site plan included nine of these units and we have added one more to this category. Eight of these beach cottages are arrayed along the southern edge of the property next to the golf course and are already under construction. Two more along the second tier of the residences adjacent to the beach club. The 3,400 square foot beach cottage was designed as a side by side hip roof structures to reduce the bulk of the exterior massing. This rendering depicts the makai side of a typical cottage and depicts the kama'aina inspired character of these two-story residences.

22
23 The multi-family Kula Villa condominiums are highlighted in orange on this key plan. There are five of these six-plex villas planned for the project. And please note there were two of them in the previously approved site plan. With the contemporary design these four-story stacked flat buildings reside on the mauka side of the property with one against the north property line at the second tier. Each six-plex is a mix of single-story and two-story units ranging in size from 3,200 square feet to 4,300 square feet. All units have extensive lanais allowing the interiors and exteriors to flow . . . (inaudible) . . .

30
31 This brief review of the residential components of the amendment the last to review is the club central amenity. The beach club and spa is located here in blue. This is the beach club and the spa is right above that in this central location. The flat roof --. Excuse me a minute. From the arrival court one enters the club through a courtyard that has an array of palm trees sitting in rays reflecting pools. At the end of the courtyard is the restaurant lanai that opens to the event lawn and the ocean beyond. Covered lanais wrap around this courtyard and provides circulation to access various areas of the lower level, but to also access the seven residential units located on the second story. The architectural character is contemporary and with its extensive views of open lanai breezeway and architectural wood screening is conceived as a soft garden inspired building. This elevator view looks makai over the arrival auto court shown on the foreground, and the entry court is shown beyond. The bale wood screens on the second level provides shade and privacy control for the second story residences. The flat roof of the beach club provides a low profile massing to help the building blend in with the landscape and the hillside. This design has resulted and significantly lessening the visual impact from the previously approved approach of reusing the hotel structure. Sorry this is pretty dark, but this night time illustration of the restaurant looking mauka from the event lawn shows the warm glow of wood finishes of the interior as well as the residential lanais above.

1
2 The spa is located just mauka of the club and it's arranged with the sensibilities of a small
3 village of haies. This illustration shows a view over the lap pool and the spa reception. This is a
4 view of the women's locker room garden with landscaping surrounded by privacy basalt walls
5 and landscaping.

6
7 The greeter's hale is the first building encountered on arrival to the property. It sits just off of
8 Makena Alanui Road, this location and it's shown in blue. Multiple golf cart parking structures
9 are located also on the property and these are shown in red. Design in a mauka kama'aina
10 character of the greeter hale is unpretentious as well as inviting. This brief is necessarily only
11 touched on the highlights of the project components and as you know we have furnished
12 booklets to you with more complete information and we'd be glad to address any questions. So
13 this concludes the project component piece of the presentation and I'll turn the podium back to
14 Ed. Thank you.

15
16 Ms. Duvauchelle: Thank you.

17
18 Mr. De Vita: Thank you Mark. Now we'd like to present some visual representation using
19 renderings showing comparison of the approved project and the proposed amendment. So
20 viewpoints were identified around the site. Seven viewpoints labeled A through D were located.
21 And from each viewpoint a rendering was prepared showing what was, what was original before
22 any proposed development, what was approved back in 2014, and what we're proposing today.

23
24 This first viewpoint is taken from area (A) looking makai. Existing view is shown on the lower
25 level, and the approved view is this version. The key point here was that there was a sales
26 office here at the entry at the left, and that sales office has been eliminated from the plan. So
27 now the proposed view has more of a landscape nature and the sales office has been
28 eliminated.

29
30 Moving over to point B which about mid property on Makena Alanui looking makai. In the
31 existing view you could see the hotel building but the hotel building from here obscured any
32 ocean views. In the approved view we had added landscape buffering. In the, in the proposed
33 view the buildings are more distributed and we've loosened up the landscaping so that the
34 landscape has a little bit more transparency and there's a little glimpse of ocean between the
35 buildings.

36
37 This is view No. C is from Makena Alanui looking across the former golf hole towards the makai.
38 In the existing view you can see the hotel building. In this approved view the renovated hotel
39 building of residences is here in the background. The beach cottages are nestled over towards
40 the left and this is the former golf hole in the foreground. In the proposed view the taller building
41 has been removed from this area and much of the density has been moved back towards
42 mauka opening up some better ocean views from this perspective. The beach cottages are still
43 on the left.

44
45 This view is from E which is from the ocean looking directly back at the property. In the existing
46 view the former Makena Prince Hotel is shown. In the approved it's the renovated hotel
47 building. And then the proposed has a different façade which in here you can see in the

1 foreground are the Molokini units here lower. And then it tiers back to the multi-family units that
2 are further back on the property. Here on the right on the front is the area of the beach club.

3
4 This view here is from the makai area looking mauka back towards the hotel. And in the
5 existing view you can see the hotel building. In the approved view you see the renovated
6 residences. And then in the proposed view you can see that the density has been lowered and
7 it's been setback farther from the coastline. Here's the bird's eye view. We glimpsed at this one
8 earlier in the lower left the existing hotel, the approved version. And then this shows how in the
9 proposal the density is moved back away from the shoreline and lowered.

10
11 This view is from the public comfort stations at the beach park. You're looking in the foreground
12 is the Kings Trail, and then you have the beach cottages here in the foreground on the right.
13 And then the renovated residences in the existing hotel building shown here on the left. And
14 then the proposed version mauka views are opened up. We still have the Kings Trail. The
15 beach cottages are unchanged, but the large residential tower has been eliminated.

16
17 Okay next I'd like to step through some of the key measures identifying some of the differences
18 between the two plans. So we'll be touching on water and drainage and recycled materials as
19 well as traffic, jobs and public parking and access. Water first off the landscape plan that we're
20 using utilizes drought tolerant coastal and native plants, and our primary source of irrigation
21 water is now the existing Makena non-potable system. So there's actually a substantial
22 difference. In this slide on the left in blue the columns represent potable water use. On the right
23 in green the columns represent non-potable water use. The three columns represents starting
24 from the left the former resort which is how it operated when it was a hotel. In the middle the
25 approved plan. And in the right the proposed plan. So what you can see is when it was
26 operating as a hotel the project was utilizing 284,000 gallons per day of potable water. And our
27 proposal back in 2014 have reduced that to 160,000 gallons per day. In the plans that we're
28 showing you today that is further reduced to just 85,000 gallons per day of potable water.

29
30 On the right shows a representation of the use of non-potable water. When the hotel was in
31 operation on HM they were not utilizing non-potable water. In the middle is the plan that we
32 brought in 2014 and we had proposed to integrate 41,000 gallons per day of non-potable water
33 from the existing Makena non-potable water system for irrigation. In our plan today we've
34 increased the amount of non-potable water that's being used irrigation and reduced the amount
35 of potable water. So another way to look at that is we've -- what we want to do is try to bring the
36 use of potable and non-potable water into a closer balance. So the proposal we have for you
37 today utilizes 45% of the water that will be used will be from Makena's non-potable system, and
38 55% would be from the County's system that's been serving the property for 30 years.

39
40 So the next point is that the project utilizes low impact design, LID, concepts throughout. So
41 most of you probably recall that we brought the LID concepts to Makena in the prior application
42 for the M5, M6 project. And that was inspired by challenges that came in from community
43 members to try to do more than what they County standard required and we had Dr. Amanda
44 Cording join our team. So when we came back to look at an alternative approach on this project
45 we integrated low impact design in it as well.

1 This diagram on the left shows the overall illustrative plan. And on the right are the grading and
2 the LID features. And what our engineers have done is they've integrated the LID features into
3 the landscape plan in order to reduce and slow down the storm water, and also to purify and
4 clean the water. Let's look at it in a little more detail. So specifically in the gray areas we're
5 directing storm water that normally lands on the parking lot or the roads towards bio-retention
6 systems know as green streets where it can permeate back into the ground water and also the
7 nutrients can be up taken by the plants.

8
9 In the light blue are green roofs on the Molokini units that Mark described in the architecture.
10 And the green roofs serves a couple of purposes. No. 1 they're much prettier to look at from
11 mauka looking makai because it has a more landscaped feel than a gable roof. And they also
12 absorb the rain water and nutrients from the water.

13
14 The darker blue pathways are where we've integrated porous materials into the pavement. So
15 these porous materials allow the rain water and storm water to soak in, and the contaminants
16 such as oils and dirt are also captured in that matrix. And then there's also detention basins in
17 gray. The detention basin let's see shown here is on the golf course area and also relates to
18 this area here and also offsite. And the detention basins slow down and reduce the drainage
19 flow during storm events. So let's see.

20
21 One of the key points is by integrating the LID features onsite, the flows for the 50 year event
22 decreased by 20% from the existing conditions. And the mauka retention an offsite flow
23 reduction was 58% from the existing conditions.

24
25 Ms. Duvauchelle: Excuse me, Ed, how much longer is your presentation? We have two
26 Commissioners that were going to try power through this. They won't be returning after lunch.
27 I'm just curious.

28
29 Mr. De Vita: Okay, about five minutes.

30
31 Ms. Duvauchelle: Okay, great. Thank you.

32
33 Mr. De Vita: Okay. Recycled materials is another area. So by reducing the air-condition space
34 by 160,000 square feet there's a 35% reduction in energy usage on the project. And also the
35 concrete from the hotel will be recycled as part of the demolition and reused as structural and
36 non-structural fill for the project. So that will reduce the amount off hauling of waste, and it also
37 reduces the amount of on hauling of fill material.

38
39 The project is in complete compliance with the State Historic Preservation Review process. It's
40 quite mature at this point. The AIS was accepted in 2014. The preservation plan was accepted
41 in 2015. And the monitoring plan was accepted in 2015. And the parts of the project that are
42 under construction have a fulltime ongoing archaeological monitoring.

43
44 We've talked about the community guide and sense of place and hopefully you see how we
45 integrated that into the process. A quick touch on traffic. So there's three groups of columns
46 here, left to right. Again left is former resort, the middle is the approved, the right is the
47 amendment we're bringing today. Blue and orange represents blue is P.M. peak hour totals.

1 Orange is A.M. peak hour totals. And the bottom line is that the project that we're proposing
2 generates less peak hour traffic. In the former resort there were 127 cars per hour in the P.M.
3 and it's down to 93 in the proposed plan.
4

5 Supporting families is something that we're working hard to continue especially as it relates to
6 jobs. On the left hand side is a bar that show 257 fulltime equivalent employees which was
7 when the hotel was in operation. Our approved plan had 287 employees. And on the right is
8 the proposed. And while this lower density, lower scale project only expects to have 210
9 fulltime equivalent employees at Makena as in addition we have a 100 current employees on
10 the workforce maintaining the golf course and the grounds and taking care of the operations.
11 And we also have 145 fulltime employees proposed for the M5, M6, S7, B2 project which you've
12 previously approved. In addition to the fulltime long term employment there's substantial
13 construction employment which is outlined in the application in excess of 400 construction
14 workers during the construction period for this project.
15

16 We continue to offer 10 public beach stalls. The beach stalls are shown up in the upper area of
17 the project and there is a pathway that comes down to the cul-de-sac and allows entry to the
18 Malawaka Beach Park, and we provide a shuttle during daylight hours to help people if they
19 don't want to walk. The shuttle will be operating and we provide signage for the public that
20 would know where the access is at.
21

22 So to summary, there's a dramatic reduction in height, density, and visual impacts. The project
23 is a better match with market conditions. We're able to recycle 25,000 yards of concrete.
24 There's a major reduction in floor area resulting in a major reduction of energy usage. We've
25 implemented the low impact development features to improve the water quality. And we've
26 integrated greater use of non-potable and a reduced use of potable water. So the project is in
27 conformance with the SMA objectives and policies. It's consistent with the SMA guidelines.
28 And I thought I would add a couple of photos of the construction that's underway at Makena
29 now which includes the beach cottages. You can see the existing hotel building and the beach
30 cottage operation and the site work for the six-plex multi-family units are underway. So we look
31 forward to your comments and humbly request your consideration of our request for the
32 amendment.
33

34 Ms. Duvauchelle: Thank you. Thank you Ed.

35
36 Mr. De Vita: Thank you.

37
38 Ms. Duvauchelle: At this time, yeah, Ann could you give us a brief overview of the amendments
39 that are being requested? Condition No. 4 and No. 5?
40

41 Ms. Cua: You mean going through the recommendation?
42

43 Ms. Duvauchelle: Please.
44

45 Ms. Cua: Recommendations?
46

47 Ms. Duvauchelle: And then we'll take questions. Hope everybody understands.

1
2 Ms. Cua: Okay, first of all before we do that I forgot to mention that we sent this project to the
3 Urban Design Review Board as we do normally with an SMA Permit application. Even though
4 this was an amendment, an amendment we felt that we should get their recommendation. So
5 we took it to them on October 3rd and they unanimously recommended approval of the project
6 plans to the Commission and their letter is attached as Exhibit 7.

7
8 So basically you know what the applicant is requesting is to amend Condition No. 4 and 5.
9 Condition No. 4 talks about you know the date of the plans and so we're introducing a new set
10 of plans with new dates so we want to make sure the condition captures that as well as
11 Condition No. 5. So you know the Department has reviewed this. We've analyzed it. We feel
12 as you have heard the impacts are less than what has been previously approved. The whole
13 concept of being able to incorporate low impact design to this project which was not part of the
14 project when you originally had approved it we feel is a plus. The whole view analysis which
15 you have seen, you know, the project being setback further in areas from the property, the
16 ocean side, and just the overall reduction in height, density, so and so forth we feel are all
17 benefits that allow us to support this project.

18
19 So -- sorry, let me get my recommendation -- so you have any questions or you want me to go
20 into the recommendation?

21
22 Ms. Duvauchelle: Let's take some questions from the Commissioners real quick. Commissioner
23 Carnicelli. And I'm sorry I don't mean to be quick. You can ask as many as you guys want.

24
25 Mr. Carnicelli: I'll be as expeditious as I can. And this is the reason why I'm going to ask this
26 question. So just so I don't get lost in down a rabbit hole which I can do. Right now we have an
27 approved SMA Permit which we, the applicant is asking to change Condition 4 and 5.

28
29 Ms. Cua: Correct.

30
31 Mr. Carnicelli: As part of this process can we change other conditions or can we add conditions
32 at this time? And I don't want to --. I mean going to be real specific. It's just they're asking for
33 these two and that's it. We either thumbs up or thumbs down. We don't get lost down the rabbit
34 hole as far as saying okay we want to change this condition as well.

35
36 Ms. Duvauchelle: Director?

37
38 Mr. Spence: Thank you Madame Chair. This --. They are already under construction with an
39 approved SMA Permit.

40
41 Mr. Carnicelli: Correct.

42
43 Mr. Spence: They are requesting certain changes. I mean changes in the building, etcetera,
44 etcetera. Any conditions -- this does not --. This request for an amendment does not open up
45 the SMA Permit to just any new conditions at all. Any conditions have to be related to the
46 amendment. So if you found that there was a -- I'm just pulling something out of the air here --

1
2 Mr. Carnicelli: Yeah, I'll pull something out of the air.
3
4 Mr. Spence: I'm sorry?
5
6 Mr. Carnicelli: I'll pull something out of the air.
7
8 Mr. Spence: Okay, let's say just for a second there was a dramatic increase in runoff as a result
9 of building these different buildings rather than what was approved. You could change the
10 condition related to runoff. That's not the case in here but you know somehow the conditions
11 have to be related to the amendments.
12
13 Mr. Carnicelli: To the amendments.
14
15 Mr. Spence: Not just --
16
17 Mr. Carnicelli: Okay so I'm just, as an example, I'm just looking at Condition 7 which has to do
18 with, of the original permit, has to do with workforce housing ordinance right. So since it's a
19 reduction of number of units then we're going to get less workforce housing units. We can't
20 touch that one. That's off the table because it has nothing to do with what's currently being
21 asked.
22
23 Mr. Spence: That condition just says to comply with applicable requirements. It doesn't give a
24 specific number.
25
26 Mr. Carnicelli: Well I mean the number is --. But the number was . . . (inaudible. Multiple
27 speakers) . . .
28
29 Mr. Spence: . . . (Inaudible. Multiple speakers.) . . .
30
31 Mr. Carnicelli: The number was 50% when this was --. I believe it was 50% when this was,
32 when this SMA Permit was approved. It's now 25%, so we're losing a number of affordable
33 houses. Which if we can't touch it, we can't touch it, and I understand that because it's a
34 condition. But that's I say before I get lost too far down this rabbit hole I'm trying to pull myself
35 back and say if this is something that we can't touch, then please let me know.
36
37 Mr. Spence: Okay if it's related to the amendment, this, this amendment does not change this
38 condition. It says to comply with workforce housing law which they are still required to do.
39
40 Mr. Carnicelli: Correct.
41
42 Mr. Spence: So that's not going to change.
43
44 Mr. Carnicelli: Okay.
45
46 Ms. Cua: I can give a quick example of one thing that we're adding to a condition because of a
47 direct change to this project. And if you look at Condition 21 which talks about the 10 beach

1 parking stalls and public beach access through the property during daylight hours. Because of
2 the removal of the hotel that they were going to do there, the boutique hotel, there would be less
3 public coming to the site because of that. And so just so that that public beach stalls and public
4 beach access could be better clearly identified we're adding that the applicant shall provide
5 signage so the public can easily locate the beach parking and access. So that was kind of
6 directly related to an amendment that they're requesting to the project. But other than that the
7 only two conditions that we've amended are Conditions 4 and 5 to reflect the updated plans
8 dated August, August 15th, 2017.

9
10 Mr. Carnicelli: Thank you.

11
12 Ms. Duvauchelle: Commissioner Robinson?

13
14 Mr. Robinson: Director, I'm not sure I agree with you in saying that things don't open up. In
15 Condition 4 it's...when I read this it states that the reason why they had approval is because of
16 all of the representations that were made at that meeting. And so now we're asking for our
17 representations to change. To say -- if representations are changing, if work housing is
18 changing, if beach park is changing, that affects the approval on what it was contingent on. It
19 was also contingent on the amount of tax dollars that were going to be supposedly benefited
20 from. And I'm not saying I want to go down that route, but I'm not saying that we're not able to
21 do that. And I don't read that the same way you read it because this is a very vague, vague,
22 bold No. 4 statement. And then No. 5 it say these new plans are encompass of everything and
23 we're changing the dates of these new plans. So, again, not that I want to go down this road
24 but I'm don't see it as we can only talk about a couple of specific things as it pertains to
25 drainage.

26
27 Mr. Spence: First off I see Corporation Counsel leaning towards his microphone. But also I
28 want to say you mentioned Condition No. 4 specifically. Your first six conditions are standard
29 conditions that apply to all SMA Permit, SMA Major Permits that are granted or denied by this --
30 or granted by this body. So again those are standard conditions no matter what the size of the
31 SMA Major project.

32
33 Ms. Duvauchelle: Corp Counsel?

34
35 Mr. Galazin: Yes thank you. And Commissioner just to address your question if the amendment
36 was not brought or the request for the amendment was not brought before this body, this body
37 would not have any authority to make any changes to the existing SMA Permit. The fact that
38 these certain amendments are being requested you can as a body either approve that request
39 or deny a request. If there is something as the Director stated directly related to that item then
40 we can discuss that I can help define those parameters if you're having some trouble seeing if
41 you're going farther off the line. But it does not open up everything within this permit. It does
42 not change any of the other obligations that they already have. For example workforce housing
43 which has already been mentioned. It's the same condition that they had before. You know you
44 don't have the authority to change that at this point.

45
46 Ms. Duvauchelle: Thank you.

47

1 Mr. Robinson: That's your opinion.

2

3 Mr. Galazin: Yes sir.

4

5 Ms. Duvauchelle: Thank you. Any other --? Do we have any questions for staff or the
6 applicant? Commissioner Robinson?

7

8 Mr. Robinson: Yes, Ed, please? Having said all that, Ed can you, can you say this would affect
9 the workforce housing?

10

11 Mr. De Vita: What I can say is that we complied with the workforce housing requirement by
12 entering into an agreement with the workforce housing agency quite some time back based on
13 the prior project so it's already in place.

14

15 Mr. Robinson: Okay great. Is I want to bring up the --. Because the new buildings we can't
16 touched that was pre-approved -- I mean the old ones -- but the new one is we worked together
17 I remember last year on the design. I remember we looked at the original design. It was very
18 boxy and it was sort of in fashion five to maybe seven years ago. But we went back to the
19 traditional because tradition never goes out of style. And I know you guys worked really hard on
20 that but then I see, I see on these plans is kind of part of those old plans but we're still going
21 back to the villas with the flat roofs and the boxy look again and I'm curious to why you guys
22 moved back from the designs that we worked to improve on.

23

24 Mr. De Vita: Yeah so it's a good comment. We, you know, we had started --. I think that the
25 beach cottages the have the more you know residential character and a little more traditional.
26 And what we did was when we had comments from the Urban Design Review Board about
27 softening the architecture we did work to integrate some of the woods and stuff into the façade
28 as well as some more color of the colors that were -- like the greens and blue. The blue relating
29 to the ocean, the green relating to the landscape and so we tried to include those in it. But we
30 still --. The architecture certainly still has a contemporary sensibility to it. And part of the reason
31 for that is when we're reusing the six-plex multi-family units, those units have -- some of those
32 have been sold already. The ones that were previously approved and that we under
33 construction. And so we're working hard to have the overall project tie together cohesively. I'd
34 also be happy to have the architect come up and give you a bit more explanation if you'd like.

35

36 Mr. Robinson: I think the architecture itself you know the -- there aren't too many flaws in the
37 architecture. I just think the design from where we were last year it looks like we're
38 incorporating the new buildings back to the old ones instead of trying to incorporate with the
39 new ones that we thought looked better. So I, I understand trying to tie back because you sold
40 some old ones. But I don't know why we can't tie to the new ones instead of tying into the --.
41 You know what I mean?

42

43 Mr. De Vita: Yes, I do.

44

45 Mr. Robinson: Unless it's financial things because you don't want to make the people that
46 already purchased feel like they got a shorter end of the stick.

1
2 Mr. De Vita: No, it's not so much as a financial. I think what we tried to do was meet
3 somewhere in the middle. So we worked on a refinement to try to have it be not as
4 contemporary as the ones that you originally saw, but it's not quite as traditional as the ones
5 that will come into play as we evolve towards the M5 project.

6
7 Ms. Duvauchelle: Commissioner Higashi?

8
9 Mr. Higashi: Yes, I have several questions. One is a clarification. I think originally we were
10 talking about public parking and it ended up with 10 parking space you originally started. And
11 then we proposed 19 and in this plan I think you're back to 10 again. And I was wondering was
12 there some place that we missed out on?

13
14 Mr. De Vita: I may be able to clarify that. So there are two projects that we brought to this
15 board. So this is the HM project. This was the first one we brought. And then we brought the
16 M5, M6, S7, B2 project. In the M5, M6, S7, B2 project we originally proposed 10 parking stalls.
17 And then you recommended additional stalls which we did provide. And in fact I think we went
18 up to 30. Let me double check that with our expert. We'll double check that, but that was a
19 different application. But the point is that you had originally --. We had proposed 10, you had
20 suggested more, and we substantially increased them. I'll get the statistic on that.

21
22 Now for this project, the HM project, we originally had no beach parking in our original proposal.
23 This was back in 2014. And then there was a recommendation to provide 10. The
24 recommendation came during the meeting, the public meeting and we agreed to it and we're
25 continuing to conform to that.

26
27 Mr. Higashi: So the original still stands.

28
29 Mr. De Vita: Yes, the original still stand despite that it's lower density, despite that it's fewer
30 units, despite that it's a lower floor area, we're still providing the 10 that was agreed upon from
31 the prior project and holding to that commitment.

32
33 Ms. Duvauchelle: Commissioner Higashi?

34
35 Mr. Higashi: Yeah one more. Looking at your overall architectural plan of the hotel I think that
36 it's great that the lower and the receding of the development itself. But as I look at the
37 architectural plan I noticed that the Kula Villa seemed to be kind of out of place. Looking at the
38 design of the overall plan itself I think it has that Hawaiian atmosphere except when I look at
39 Kula Villa it looks more modern for some reason for me it stood out, and I don't know.

40
41 Mr. De Vita: Yeah I think that's a fair critique and we observed that as well, and I think
42 Commissioner Robinson had a similar comment. We did present the design to the Urban
43 Design Review Board and we showed that to them and how the project's related and what the
44 details were and they recommended approval of the architecture.

45
46 Mr. Higashi: Of that particular one?

1
2 Mr. De Vita: Yes, that's correct.

3
4 Mr. Higashi: Thank you.

5
6 Ms. Duvauchelle: Thank you. Commissioner Robinson?

7
8 Mr. Robinson: The Urban Review Board also recommended it the first time that we switched. In
9 fact I don't think we ever got anything on our table that they haven't approved that we've
10 changed after.

11
12 Ms. Duvauchelle: Any other questions? Commissioner Carnicelli?

13
14 Mr. Carnicelli: Hi Ed. So my question is going to be -- we can't condition it -- but just as a nice
15 thing to do for the community could you go from 10 public parking stalls to 20 just as, as a nice
16 thing to do?

17
18 Mr. De Vita: I'd like to -- if I could take a moment and I'll confer with my colleagues about that,
19 and respond back.

20
21 Mr. Carnicelli: And while you're conferring then also because the condition also says that's it's
22 only during day time hours. And I get that this is going to be a very nice high end resort that you
23 don't want people just you know wandering through at all hours. But the condition does say 10
24 and only during day light hours. So while you're conferring see if you might consider amending
25 that as well.

26
27 Mr. De Vita: Okay, so the idea --. We're open to the question about the time of day, but I idea of
28 the day light hours was one of practical considerations of you know whether people would be
29 accessing you know the beach at night, right, you know from a practical perspective and also
30 staffing. So that was why we stayed with that proposal.

31
32 Mr. Carnicelli: Okay.

33
34 Mr. De Vita: Allow me to take a moment.

35
36 Mr. Carnicelli: Okay.

37
38 Ms. Duvauchelle: Excuse me, I think at this point we will call a five minute recess.

39
40 Mr. De Vita: Just five minutes.

41
42 Ms. Duvauchelle: Yes, we'll reconvene at 12:20 p.m.

43
44 Mr. De Vita: Thank you. I understand that. I think the five minute is good.

45
46 Ms. Duvauchelle: So we're going to go ahead and do a five minute recess.

47

1 *(The Maui Planning Commission recessed at 12:15 p.m. and reconvened at 12:21 p.m.)*

2
3 Ms. Duvauchelle: Back in session. Mr. De Vita?

4
5 Mr. De Vita: Thank you. I did have an opportunity to assess the request with my colleagues as
6 well as quickly get some feedback from the community members that are present in the room,
7 the neighbors. And so regarding the additional parking, we're prepared to provide five
8 additional spaces in addition to the 10 so that would be a total of 15 spaces on the HM project
9 that would be served by the shuttle. And with regards to the time table for the shuttle we do
10 believe that operating it during day light hours is best. It's more easily managed, it's safer and
11 something that we feel we can control better. And that sentiment is shared among everybody
12 that I checked with in the short-time. I will say that there were some community members that
13 feel that at some point when if we provide too much parking it can be impactful on its own
14 behalf, but there was a range of sentiment about it. And then I think that's it.

15
16 Ms. Duvauchelle: Thank you. Commissioner Carnicelli?

17
18 Mr. Carnicelli: Thank you very much Ed. I appreciate you guys you know giving that. At least
19 50% more is better. And so the only other thing and again this is -- I'm not going there -- it's just
20 when you guys are doing your landscaping you can plant out of view. Like we see sit there and
21 see the renderings of the buildings, but you can plant out of view. So I'm just going to
22 encourage you guys to not do that and that's all.

23
24 Mr. De Vita: We agree.

25
26 Mr. Carnicelli: That's my last thing.

27
28 Mr. De Vita: Okay.

29
30 Ms. Duvauchelle: Any other questions? Okay none. Can I have the Department's
31 recommendation?

32
33 Ms. Cua: Yes Chair. Very briefly. The Department recommends approval of the SMA Use
34 Permit amendment subject to a number of conditions. The standard conditions remain the
35 same except for Conditions No. 4 and 5. Condition No. 4 that to the satisfaction of the
36 Commission or the Department the applicant shall develop the property in substantial
37 compliance with the representations made to the Commission in obtaining the SMA Use Permit.
38 And then addition is as well as with plans dated August 15th, 2017 and representations made to
39 the Commission in obtaining the SMA Use Permit amendment. Condition No. 5 just adds the
40 date of the new plans, August 15th, 2017.

41
42 And then for project specific conditions, conditions 7 through 22 remains the same except for
43 Condition No. 21 which relates to public beach parking and access. This condition now
44 proposes to read the applicant shall provide 15 public beach parking stalls and public beach
45 access through the property during day light hours. And then the addition, the applicant -- the
46 other addition -- the applicant shall provide signage so that the public can easily locate the
47 beach parking and access.

1
2 Ms. Duvauchelle: Thank you. Commissioners, do we have --? One moment. So just to clarify
3 it's not currently in the recommendation but will be added based on the meeting, the 15.
4

5 Ms. Cua: So based on what has just transpired I guess the Department is amending its
6 recommendation to reflect the agreed to 15. So five additional beach parking stalls which brings
7 the total of beach parking stalls onsite to 15.
8

9 Ms. Duvauchelle: Thank you. All right --
10

11 Mr. Spence: Madame Chair?
12

13 Ms. Duvauchelle: Yes Director?
14

15 Mr. Spence: I just want to make sure that it's clear on the record this additional parking, beach
16 parking, while I applaud the applicant this was made as a result of a comment by a
17 Commissioner. It is not related or required as a result of some impact by the modification of the
18 plan. So I mean I think thank you Discovery for doing this. This is not -- this is a voluntary thing
19 and it's unrelated to the actual changes in the plan.
20

21 Ms. Duvauchelle: Okay thank you. Commissioners, motion, discussion? Commissioner
22 Robinson?
23

24 Mr. Robinson: I like the, I like the reduction of the hotel. I like what they're trying to do with the
25 area. I don't like the architecture. I don't like the new buildings. I don't like that it looks different
26 than what's going to be built and I do disagree that tearing down a building I think it does trigger
27 a different SMA. I think having to require a demolition permit might switch it. I don't want to go
28 back and get a whole new SMA. But I am not in favor of how the new buildings look and the
29 site views look of it. Thank you.
30

31 Ms. Duvauchelle: Can we have a motion? Commissioner Hudson?
32

33 Mr. Hudson: Move to approve as amended.
34

35 Mr. Christian Tackett: I second.
36

37 Ms. Duvauchelle: Moved by Commissioner Hudson and seconded by Commissioner Tackett.
38 Discussion on the motion. Commissioner Hudson?
39

40 Mr. Hudson: I have --.
41

42 Ms. Duvauchelle: . . . (inaudible) . . .
43

44 Mr. Hudson: I've never been a real proponent of development in Makena, from the beginning I
45 haven't. I made the motion and I'm going to support the motion for two reasons. One, the
46 conclude support of the long time residence that live down there. I'm familiar with Chang's
47 Beach and I've been down to Makena many times. And in fact that you guys support that

1 means an awful lot. And the second reason is is that the developer has shown a lot of integrity
2 through this process. So even though personally I don't want to see anything down in Makena, I
3 understand where this is going and I will support it. Thank you.

4
5 Ms. Duvauchelle: Thank you. Any other discussion? Commissioner Castro.

6
7 Mr. Castro: I too like my colleague over here I'm going to support this as well. For the developer
8 to reach out to the community constantly and listening to their concerns and also improving on
9 them I commend them for that and I will support.

10
11 Ms. Duvauchelle: Thank you. Any further discussion? Commissioner Carnicelli?

12
13 Mr. Carnicelli: I'm going to reluctantly you know support the motion. And why I say reluctantly is
14 solely because I mean I think that this is an improvement by far by from what it was going to be.
15 But the reluctancy is like Commissioner Robinson if this was actually before us I think this
16 particular body you know in these particular -- I guess it's only eight people now or nine. I don't
17 know if we have nine or eight. But I think we would condition this a little bit differently from the
18 start and we would actually condition it differently now. But we're not, and so this is an
19 improvement. So that's why I'm going to support it. I appreciate you know Discovery and
20 everything you guys do. I really appreciate the old school kama'aina coming out and them you
21 know supporting them. But we're also here to represent the people that don't live there. You
22 know the people that you like we approved the other one, I talked about you know my daughter
23 and I go down there, like, you know, what it's going to be for her 15 years from now; she doesn't
24 live there. So the beach access. I don't think that there can be too much beach access for the
25 rest of the population so I appreciate the extra five. Thank you.

26
27 View planes are going to be a big thing for me and but that's nothing we can do about it so I just
28 again encourage you guys to not plant this out. And everything else that you guys have done
29 has been great so I'm going to support it. I think this is an improvement you know, and, dot, dot,
30 dot.

31
32 Ms. Duvauchelle: Thank you. Any further discussion? Okay Director would you please repeat
33 the motion?

34
35 Mr. Spence: The motion is to approve as recommended by staff and as amended for the
36 additional parking and signage.

37
38 Ms. Duvauchelle: Thank you. All those in favor please raise your hands.

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

41
42 Ms. Duvauchelle: Opposed?

43
44 Mr. Spence: One opposed.

45
46 **It was then moved by Mr. Hudson, seconded by Mr. Tackett, then**
47

1 **VOTED: To approve as recommended by staff and as amended for the**
2 **additional parking and signage.**
3 **(Assenting - L. Carnicelli, S. Castro, L. Hudson, C. Tackett,**
4 **R. Higashi)**
5 **(Dissenting – K. Robinson)**
6 **(Excused – T. Gomes)**

7
8 Ms. Duvauchelle: The motion --

9
10 Mr. Spence: Motion carries.

11
12 Ms. Duvauchelle: The motion carries. Thank you very much. We will break for lunch. Thank all
13 of you for your extra patience. We'll reconvene at 1:30 p.m.

14
15 *(The Maui Planning Commission recessed at 12:30 p.m. and reconvened at 1:30 p.m.)*

16
17
18 **2. SUZIE L. LAURICIO requesting a ten (10)-year Special Management Area**
19 **Use Permit time extension to initiate construction and a 30-year time**
20 **extension on the County Special Use Permit for the Iglesia Ni Cristo Church**
21 **at TMK: 4-5-014: 009, Lahaina, Island of Maui. (SM1 2008/0025) (CUP**
22 **2008/0006) (P. Fasi)**

23 Ms. Duvauchelle: . . . session. Director? Deputy Director Clayton please read our next agenda
24 item.

25
26 Mr. Clayton Yoshida: Yes, Clayton Yoshida, Planning Program Administrator. We're on item
27 D.2. which is a request from Suzie L. Lauricio for a 10-year Special Management Area Use
28 Permit time extension to initiate construction and a 30-year time-extension on the County
29 Special Use Permit for the Iglesia Ni Cristo Church at TMK: 4-5-014 parcel 009 in Lahaina. SM1
30 2008/0025 and CUP 2008/0006. The staff planner is Paul Fasi.

31
32 Mr. Paul Fasi: Thank you Clayton.

33
34 Ms. Duvauchelle: What we were going to continue what we did this morning is that after your
35 overview then we'll hold public testimony.

36
37 Mr. Fasi: I really don't have an overview.

38
39 Ms. Duvauchelle: Whatever you're going to say.

40
41 Mr. Fasi: Well this has been a long time coming. Paul Fasi, staff planner. Hello Commissioners.
42 We're here to review the request for a two-year time-extension on the initiation of construction
43 period. And I'm sorry we're going to make that a 10-year time-extension to initiate construction
44 and a 30-year request on the use of the site as a church. So 10-years on the SM1 and 30-years
45 on the County Special Use Permit.

1
2 Ms. Duvauchelle: Okay.

3
4 Mr. Fasi: The Department feels that this is a reasonable request. The approval by the Planning
5 Commission was in 2012, and churches are very lowly funded and they take a long time to get
6 wrapped up and get funded properly so we need to give them that amount of time in order to get
7 their funds together. The project has been approved, the design, all of the engineering etcetera
8 has been before this body and it was approved in 2012. And so we just want to give them a
9 window to initiate their construction period.

10
11 And then we want to look at the use. Of course churches are there basically forever. It's a low
12 intensity use, low impact. 30-years is not unreasonable. We consider that a reasonable time
13 frame. I wanted 50 but Clayton shot it down to 30 which is still acceptable. We did 50 years on
14 the Veteran's Cemetery in Makawao, but that's not going anywhere, right? So 50 years isn't
15 unreasonable. So 30-year is not out of the question.

16
17 Ms. Duvauchelle: Okay thank you. At this time we'll open up the floor for public testimony on
18 this agenda item. If anyone would like to testify please come forward. Okay seeing none I will
19 open the floor to questions from the Commissioners. Seeing no questions, can I have the
20 Department's recommendation?

21
22 Mr. Fasi: The Department recommends that the applicant be approved for a 10-year time-
23 extension on initiation to construct the church, and a 30-year time-extension for the Special Use
24 Permit.

25
26 Ms. Duvauchelle: Thank you. Motion from the Commissioners? Mr. Richard Higashi?

27
28 Mr. Higashi: Move to accept the recommendation of the Planning Department.

29
30 Mr. Castro: Second.

31
32 Ms. Duvauchelle: Thank you. Moved by Commissioner Higashi, seconded by Commissioner
33 Castro. Deputy Director would you like to repeat the motion?

34
35 Mr. Yoshida: The motion is to approve the request as recommended by the Department.

36
37 Ms. Duvauchelle: Thank you. All those in favor please raise your hands. That's four ayes.
38 Opposed? That's one opposed. Motion fails.

39
40 **It was moved by Mr. Higashi, seconded by Mr. Castro, and**

41
42 **The Motion to Approve the 10-Year Special Management Area Use Permit Time**
43 **Extension and 30-Year County Special Use Permit Time Extension, FAILED.**
44 **(Assenting – R. Higashi, S. Castro, C. Tackett, S. Duvauchelle)**
45 **(Dissenting – K. Robinson)**
46 **(Excused – T. Gomes, L. Hudson, L. Carnicelli)**

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Ms. Duvauchelle: All right, discussion? The motion failed right.

Mr. Galazin: Right so there's no motion.

Ms. Duvauchelle: Right so now we can go back to discussion or entertain other motions. We'll entertain other motions then.

Mr. Robinson: I'd like to make a motion to adjust the time frame of the two permits. I'm open to five-years and I'm open to -- of the construction -- and I'm open to 10-years of the usage because we're not even constructed yet and I would hate to give a permit for 30-years for something that is not even built yet. And it's in Lahaina. It's in an area that could be redeveloped. I'm not against. It's probably going to get passed anyway as long as keeps on using. But to do a 10 and 30 I just think it's, it's usually people have funding and then they go to permits and then the go to building. I'm not used to having somebody not having any funding and go through all the architecture and all the other process and then go for permits and say I need 10-years.

Ms. Duvauchelle: Mr. Fasi?

Mr. Fasi: Yeah the reason I do 10 years is five-years can go by so quick and these churches traditionally of this nature, projects of this nature take a long time to get wrapped up and funded. What I don't want to happen is to come back before this body over and over and over for time extension renewals. On the agenda today for example there's a time-extension. We're on our six time extension on a project coming up, and I don't want to see this project come before you six times. It's a waste of the Department's time, it's a waste of your time, and it's a waste of the applicant's time. So to give it 10-years the Department feels it's reasonable. 30-years on the use is good because the clock doesn't start ticking until the project is finished and completed, and then the 30-year starts.

Ms. Duvauchelle: Commissioner Robinson, are you making that as a motion? Do you have to amend? Do you have any other discussion?

Mr. Robinson: No, that's all.

Ms. Duvauchelle: Okay so we will open to the floor to entertain another motion. Okay do --. Since we --.

Mr. Robinson: I'll make a motion.

Ms. Duvauchelle: Okay Commissioner Robinson?

Mr. Robinson: I'll make a motion for five-years for construction and 10-years for use.

Ms. Duvauchelle: We have a motion to amend the time frame. Do we have a second?

1
2 Mr. Galazin: Excuse me Chair?
3
4 Ms. Duvauchelle: Corp Counsel.
5
6 Mr. Galazin: If may clarify. So Commissioner your motion is to recommend approval of the
7 extension but with those time frames that you stated? Okay.
8
9 Ms. Duvauchelle: Do we have a second? No? Motion fails.
10
11 Mr. Galazin: No, dies.
12
13 Ms. Duvauchelle: Dies. Sorry. Okay, motion dies.
14
15 **It was then moved by Mr. Robinson to Approve with a 5-Year Time Extension for the**
16 **Special Management Area Use Permit and 10-Year Time Extension for the County Special**
17 **Use Permit, and motion died due to a lack of a second.**
18
19 Ms. Duvauchelle: Do we have any other motions on the table at this time? Commissioner
20 Higashi?
21
22 Mr. Higashi: I would like to recommend a Condition Use Permit for 25-years and Special
23 Management for 10.
24
25 Ms. Duvauchelle: Okay we have a motion to approve with the amended time frame. Is that
26 correct? Of Special Use Permit for 10-years and -- wait I'm confused now -- 10-year on the
27 Special SMA Area Use and 25-years on the County Special Use Permit. Do we have a
28 second? Seconded by Commissioner Tackett. Discussion? Yeah, discussion on the motion.
29 Commissioner Higashi?
30
31 Mr. Higashi: I basically amended the motion based upon the fact that the planner is
32 recommending that we increase the request from the permit applicant, and since the original
33 recommendation died from Commissioner Hudson I'm increasing it to see whether that might be
34 something that might be reasonable.
35
36 Ms. Duvauchelle: Thank you. Any further discussion on the motion?
37
38 Mr. Robinson: Yes.
39
40 Ms. Duvauchelle: Commissioner Robinson?
41
42 Mr. Robinson: On page-5 of the Special Management Area Use Permit I see where failure to
43 comply within a five-year period will automatically terminate this SMA Use Permit.
44
45 Ms. Duvauchelle: Under standard Condition No. 1?

1
2 Mr. Robinson: Yeah, so this doesn't go with the recommendation of the Planning Department is
3 saying for the 10. So this condition is already doesn't match. Am I reading something wrong?

4
5 Mr. Fasi: What that condition implies is if they didn't come with a request to increase the time
6 limit then it would fail. Their request for a time extension was timely so that particular condition
7 is not applicable at this time.

8
9 Mr. Robinson: No but Mr. Fasi --

10
11 Mr. Fasi: Because we have been extending it. It's like the next one that's coming up we're on
12 our six time-extension.

13
14 Mr. Robinson: You act like it's the Planning Commission's fault that these people are --

15
16 Mr. Fasi: No, no. I'm not saying that either. I'm just saying let's give them a reasonable
17 amount of time to get their job done.

18
19 Mr. Robinson: And two years --

20
21 Mr. Fasi: And two-years is too short of a time period. We'll be back before you in no time. But
22 I'm agreeable if the applicant's agreeable to the 10 and 25 as Commissioner Higashi proposed.
23 That's perfectly acceptable too.

24
25 Mr. Robinson: I'm not going to agree to that. 25-years for something that hasn't even started
26 yet. That's 35-years. It starts after the construction is done. It's a 35-year, right, Clayton? Am I
27 reading this correctly? It starts when they're done. So if they build in the ninth year then they
28 get 25 after that so it's a 34 year permit we're trying to grant here?

29
30 Mr. Yoshida: Well I guess we're dealing with two permits. One is the period to initiate
31 construction on the Special Management Area Use Permit which is to construct the facility. And
32 then there's the County Special Use Permit because the church is not an outright permitted use
33 in the residential district to extend the time to operate the church in a residential district. So one
34 is more a use permit and the other is more construction of the improvements.

35
36 Mr. Robinson: I guess our question is does the time frame of the use permit start at when the
37 construction is completed or does it run concurrently? Is it 25-years of today or 25-years when
38 their completion of construction?

39
40 Mr. Yoshida: Yeah, it would run concurrently from whenever the Commission grants the permit
41 for whatever time frame for the SMA Permit to initiation construction pursuant to Condition No.
42 1, and whatever time frame Commission approves for the County Special Use Permit from
43 today.

44
45 Ms. Duvauchelle: Okay we have a motion on the floor. A motion on the floor to approve the Use
46 Permits for the 10 and 25 year time frame. Did we have a second?

1
2 Mr. Tackett: Yes, I seconded.

3
4 Ms. Duvauchelle: Yeah, Commissioner Tackett seconded. Any further discussion? Okay let's
5 go ahead and --. Do you want to repeat the motion?

6
7 Mr. Yoshida: The motion is to amend the time frame for initiation of construction as pursuant for
8 the Special Management Area Permit for 10-years, and to provide a 25-year time-extension on
9 the County Special Use Permit.

10
11 Ms. Duvauchelle: Thank you. All those in favor please raise your hands? Three. Opposed?
12 Motion fails.

13
14 **It was then moved by Mr. Higashi, seconded by Mr. Tackett, and**

15
16 **The Motion to Approve the 10-Year Special Management Area Use Permit Time**
17 **Extension and 25-Year County Special Use Permit Time Extension, FAILED.**
18 **(Assenting - R. Higashi, C. Tackett, S. Castro, S. Duvauchelle)**
19 **(Dissenting - K. Robinson)**
20 **(Excused - T. Gomes, L. Hudson, L. Carnicelli)**

21
22 Ms. Duvauchelle: So do we have maybe a motion to defer until we have more of a quorum?
23 Commissioner Higashi?

24
25 Mr. Higashi: I move to defer.

26
27 Ms. Duvauchelle: Thank you.

28
29 Mr. Tackett: Second.

30
31 Ms. Duvauchelle: Moved by Commissioner Higashi, seconded by Commissioner Tackett to
32 defer until we have more quorum available. We're not done yet. Shall we have discussion on
33 the motion?

34
35 Mr. Robinson: I'll discuss.

36
37 Ms. Duvauchelle: Thank you. Commissioner Robinson?

38
39 Mr. Robinson: Commissioners I apologize in this location in 25-30 years it's just long. I'm sure
40 most of your guys are comfortable with that. I'm not questioning that. Just where the location of
41 where it's at, where's it's going, the area that it's at, and that place is not built yet. If this doesn't
42 get built five, 10-years they might have another place to move or somewhere else you know so
43 until it's built, like if they were going to build, and they had all the funding and they were going to
44 spend all that money I could see that definitely that's the point but I don't think we're at that time
45 yet and that's the only reason why I'm questioning this. But I feel that you know I'm sure

1 another Commission on deferral they might feel differently but I just don't feel comfortable going
2 25-years on something that's not built yet.

3
4 Ms. Duvauchelle: Thank you.

5
6 Mr. Robinson: Is, is --? How long is their current application to be able to use right now? I
7 mean how long are they able to be on this property currently?

8
9 Ms. Duvauchelle: Mr. Fasi?

10
11 Mr. Fasi: Commissioner Robinson if your concern is when they're going to start building and so
12 you can adjust your time frame accordingly maybe perhaps the applicant can answer that
13 question as to what their time frame is to start building. It's not 10 years out, but just let's
14 maybe we'll get some idea of when it will start.

15
16 Mr. Robinson: Paul I also have another question is their current Special Use Permit how long,
17 how long is it valid for right now?

18
19 Mr. Fasi: Till April of 2017. Of 2018. November --. It expires at the end of this month.

20
21 Mr. Robinson: So we got to --. So yeah we can't defer. We got to do something.

22
23 Ms. Duvauchelle: Yeah I would like to hear from the applicant please. And please state your
24 name for us ma'am.

25
26 Ms. Suzie Lauricio: Hello Commissioners, good afternoon to all of you. My name is Suzie
27 Lauricio and I am the contact person of the Iglesia Ni Cristo. We have here the applicant
28 Brother Renee . . . (inaudible) . . . and our resident minister, Brother Ed . . . (inaudible) . . . will
29 be helping me out answer whatever questions you may have. We really have the intention to
30 build this, start building this chapel this month but we have set backs with the architects and the
31 engineers. Engineer Otomo we've been trying to finish our contract with him, but he has,
32 suddenly he has a major project that's due in December so he said I cannot do it right now until
33 probably next year. But we're trying to hire another civil engineer so we can just move on but
34 we're still waiting for their proposals. In the meantime while we were waiting through all this we
35 had already shut down the cesspool that's connected to the old building and because we are
36 intending to put up a septic tank. And also we have cut down all the trees within the property for
37 more parking lot which is required by the plan by the, by the County Planning. And also we
38 have submitted the subdivision application which is one the conditions in our CUP and SMA for
39 the road widening. It's with the DSA right now pending review. And we're still awaiting as I
40 mentioned earlier, awaiting for proposals for alternate civil engineers to prepare the grading
41 permits and the construction plans because we've already completed all the plans before but we
42 also need to update them because of the International Building Code adoption by the Maui
43 County. So there's a lot of things going on right now. And the architect originally that we had
44 moved to the mainland so that's why we're having all these delays. Thank you for your time.

45
46 Ms. Duvauchelle: Thank you. Wait, one moment. Commissioner Higashi, you have a question?

1
2 Mr. Higashi: Yes I have a question. Although I do agree with Commissioner Hudson on the idea
3 that it is a long period of time that . . . (inaudible) . . . I would like to ask you -- not Hudson,
4 Robinson -- I would like to ask you as the coordinator for this particular church and project, what
5 is something that would be realistic in your sense of accumulating enough funds to be able to
6 initiate and complete this project?

7
8 Ms. Lauricio: Actually we have the funds already.

9
10 Mr. Higashi: You do have it.

11
12 Ms. Lauricio: It's just the contractors that were supposed to help us to finish up what we need to
13 submit to the building permits division, the grading permits, the demolition permits, that's where
14 we are at right now. We need to push our grading permit and demolition permit but we're
15 waiting for a civil engineer to complete it.

16
17 Mr. Higashi: So if you were to get 10-years do you think that --

18
19 Ms. Lauricio: That's more than enough.

20
21 Mr. Higashi: Do you think that would be reasonable --

22
23 Ms. Lauricio: Yes sir.

24
25 Mr. Higashi: -- and completed rather than 25 years?

26
27 Ms. Lauricio: Yes sir.

28
29 Mr. Higashi: Thank you.

30
31 Ms. Duvauchelle: Commissioner Robinson?

32
33 Mr. Robinson: They're asking for 10-years, they're not asking for the construction. 25 is for the
34 use.

35
36 Ms. Lauricio: Yes 25 is the County Special Use Permit sir because we've been using this since
37 1986 the area the property for as a church. That's why we're asking for more longer time
38 because every two-years we keep on applying for extension. We keep paying too for the fees.

39
40 Mr. Robinson: I'd like to make a motion please?

41
42 Ms. Duvauchelle: Commissioner Robinson.

43
44 Mr. Robinson: I'd like to make a motion for six-years for a construction SMA Permit, and 20-
45 years for a Special Use Permit.

46

1 Ms. Duvauchelle: Okay we have a motion on the table. Do we have a second?

2

3 Mr. Higashi: I'll second.

4

5 Ms. Duvauchelle: Okay motion by Commissioner Robinson, seconded by Commissioner
6 Higashi. Any further discussion on the motion? Commissioner Tackett?

7

8 Mr. Tackett: I'll be favor of the motion just because it's seem like the only way to help you guys.
9 My other half is from Lahaina. They, they --. I have family that goes to that church. It's, it's a
10 bummer to see you guys be put in that kind of position so I'm going to go ahead with whatever
11 is on the table at this point.

12

13 Ms. Duvauchelle: Corp Counsel, David?

14

15 Mr. Galazin: Yes and I'd just like to clarify Commissioner the time frames you're suggesting are
16 you fine with the other changes that are proposed as recommended by staff because there's a
17 couple of other provisions like in Section 5 pertaining to hard copies and digital copies and other
18 --? Like in Condition 10 there's also that. So you're not proposing to object to any of those,
19 you're just talking about the time frame?

20

21 Mr. Robinson: That is correct.

22

23 Ms. Duvauchelle: Thank you. Okay so we have a motion by Commissioner Robinson,
24 seconded by Commissioner Higashi. Any further discussion? Clayton, would you like to repeat
25 the motion? Six and 20.

26

27 Mr. Yoshida: Motion is for -- is it five years?

28

29 Ms. Duvauchelle: Six years.

30

31 Mr. Yoshida: Six years --

32

33 Ms. Duvauchelle: For the SMA.

34

35 Mr. Yoshida: -- on the SMA permit.

36

37 Ms. Duvauchelle: And 20.

38

39 Mr. Yoshida: And 20-year time-extension County Special Use Permit.

40

41 Ms. Duvauchelle: And other changes as recommended by staff.

42

43 Mr. Yoshida: Correct. Yeah.

44

45 Ms. Duvauchelle: Thank you. All right. No further discussion? Can we --? All those in favor
46 raise your hand? Motion carries.

1
2 **It was then moved by Mr. Robinson, seconded by Mr. Higashi, then**

3
4 **VOTED: To Approve with a 6-Year Special Management Area Use Permit Time**
5 **Extension and 20-Year County Special Use Permit Time Extension**
6 **and Other Changes as Recommended by Staff.**
7 **(Assenting – K. Robinson, R. Higashi, C. Tackett, S. Castro,**
8 **S. Duvauchelle)**
9 **(Excused – T. Gomes, L. Hudson, L. Carnicelli)**

10
11 Mr. Fasi: Thank you.

12
13 Ms. Duvauchelle: Thank you.

14
15 Mr. Fasi: We'll take whatever we can get.

16
17
18 **3. MAUI BEACH RESORT LIMITED PARTNERS submitting an annual report**
19 **regarding the disbursement of funds in the Settlement Agreement for the**
20 **Special Management Area Use Permit and the Step 2 Planned Development**
21 **Approval for the proposed Honua Kai Resort, North Beach Park, and**
22 **related improvements at TMK: 4-4-014: 006 and 008 and 4-4-001: 010,**
23 **Kaanapali, Island of Maui. (SM1 2004/0017) (PD2 2004/0005)**
24 **(C. Thackerson)**

25
26 **Condition No. 32 of the SMA approval (SM1 2004/0017) states:**

27
28 **That an annual report shall be filed with the Maui Planning**
29 **Commission on the disbursement of the funds in the**
30 **Settlement Agreements for their information.**

31
32 Ms. Duvauchelle: Okay. All right, Clayton, next agenda item please.

33
34 Mr. Yoshida: Okay, thank you. Thank you Madame Chair. We are on item B.3. Maui Beach
35 Resort Limited Partners submitting an annual report regarding the disbursement of funds as
36 provided in the settlement agreement for the Special Management Area Use Permit and Step 2
37 Planned Development Approval for the Honua Kai Resort, North Beach Park and related
38 improvements at TMK: 4-4-014 parcel 006 and 008, and 4-4-001 parcel 10, Kaanapali, Island of
39 Maui. The staff planner is Candace Thackerson.

40
41 Ms. Candace Thackerson: Good afternoon Commissioners. So this is your annual report just
42 for your review and comment. It was a condition of the SMA approval permit, the SM1
43 2004/0017 which stated that an annual report shall be filed with the Maui Planning Commission
44 on the disbursement of the funds in the settlement agreement for their information. The --
45 Colleen Suyama is here to represent the --. No you're not? Who's representing it? Mark?

1 Mark is here. Okay I couldn't see you. If you have guys have any specific questions it's more
2 an informational document.

3
4 Ms. Duvauchelle: Okay Commissioners do we have any questions regarding the settlement
5 arrangements or agreement?
6

7 Ms. Thackerson: If none, then you know you'll just get your annual approval letter, well not
8 approval. It's that you guys have acknowledged it and accepted it and then I'll be back here
9 next year again with the, with the annual report.

10
11 Ms. Duvauchelle: Okay. I guess we are all good. No questions. Okay.
12

13 Ms. Thackerson: Okay. Thank you so much. No, there is.
14

15 Ms. Duvauchelle: Commissioner Tackett? Okay, one moment please.
16

17 Ms. Thackerson: Of course.
18

19 Ms. Duvauchelle: I have a quick question actually. On the annual report on Item D it says
20 ongoing funding to charitable non-profit organization from resells of any residential units at the
21 close of escrow during the transfer of title. Is that still ongoing?
22

23 Ms. Thackerson: Yes. The applicant is acknowledging yes.
24

25 Ms. Duvauchelle: And what non-profit are they funding?
26

27 Mr. Thackerson: If you want to come up to the microphone and then introduce yourself on the
28 record and then go ahead and answer the Commissioner's question.
29

30 Mr. Steve Sewell: My name is Steve Sewell and I'm representing Maui Beach Resort Limited
31 Partnership. The fund actually there's the -- the intervener was the West Maui Preservation
32 Association was the intervener that intervened on the project but they have an entity that is the
33 Honua Kai West Maui Community Fund that actually takes all of the funds that were actually
34 given to them and they actually are the body that actually distributes the funds to the
35 community.
36

37 Ms. Duvauchelle: Okay and that those funds were earmarked for affordable housing?
38

39 Mr. Sewell: No we actually made a separate contribution towards affordable housing so it's
40 really for any community based need within the kind of the Lahaina area.
41

42 Ms. Duvauchelle: And who provides the oversight for them?
43

44 Mr. Sewell: It's a board made up of basically a couple of people that intervened as well as
45 community members. But it's that board of that group that vets any request and then distributed
46 the funds.

1
2 Ms. Duvauchelle: And so if memory serves me right this Commission has asked several times
3 for one of those board members to come and inform us on how the funds are being dispersed or
4 spent or just to give us kind of an overview of what's been accomplished with those funds.

5
6 Mr. Sewell: Yeah.

7
8 Ms. Duvauchelle: Candace?

9
10 Ms. Thackerson: Staff planner Candace Thackerson. Yes, that's correct. Every year, I'm pretty
11 sure, not every year but the past I believe four years you guys have requested that someone
12 come. I write a letter and they don't answer. I usually follow up with a call and I leave a
13 message, and I don't get an answer. That's all the best that we can do. We can't really
14 subpoena them or anything. That's not that -- we don't have that authority so all I can do is
15 again this year if you'd like me to I can draft a strongly worded request for presence at next
16 year's report that they come and discuss this.

17
18 Ms. Duvauchelle: I'm sorry, one more question. And yes I would like, if everybody agrees for
19 you to do that.

20
21 Ms. Thackerson: Okay.

22
23 Ms. Duvauchelle: But what I would like to know and maybe this tells me and I'm just not getting
24 it is how much of the funds have been submitted to them to date? Which number is it on here?

25
26 Ms. Thackerson: Do you mean overall?

27
28 Ms. Duvauchelle: Overall.

29
30 Ms. Thackerson: I think it's broken down. I mean you see on the top one where the (a) is
31 \$325,000 and it says dispersed all \$325,000.

32
33 Ms. Duvauchelle: Okay.

34
35 Ms. Thackerson: Right so each one lists the amount and then how much of it to date and the
36 remaining balance.

37
38 Ms. Duvauchelle: Right, so all the funds run through this particular organization.

39
40 Ms. Thackerson: Do all the funds run through that particular organization as they were the
41 intervener? Yes. Yes.

42
43 Ms. Duvauchelle: Yeah, but then I would love to know before I leave here in March.

44
45 Ms. Thackerson: Oh before March?

46

1 Ms. Duvauchelle: Yeah.

2

3 Ms. Thackerson: You mean you would like them here or the total amount?

4

5 Ms. Duvauchelle: Yeah, I would like to have a report from them of where and how the funds
6 have been dispersed.

7

8 Ms. Thackerson: Okay so not in time for their annual next year.

9

10 Ms. Duvauchelle: Okay I would like --. I mean I would love it. I mean we've heard this every
11 year that I've been here and it's always been a concern and it's always been a question of the
12 Commission and there's never been any response.

13

14 Ms. Thackerson: Yes. I mean I can do my best to write a letter and call and then at least that's
15 the best that we can do on our end.

16

17 Ms. Duvauchelle: All right. Thank you.

18

19 Mr. Sewell: I would like to clarify the funds. Steve Sewell again. The funds that are listed there
20 those funds actually do not go to that organization. The transfer fee plus some of the additional
21 funding that we gave to them that group that I mentioned actually disperses that. The funds that
22 are in this report are actually traffic mitigation funds and those are actually dispersed directly
23 from us to bodies or contractors or whatever for traffic mitigation. It does not go through the
24 interveners or that group as a vetting.

25

26 Ms. Duvauchelle: So do we know how much they have been approximately?

27

28 Mr. Sewell: Well they both intervened on Starwood's project next door to us as well as ours.

29

30 Ms. Duvauchelle: Right.

31

32 Mr. Sewell: So I can't tell you how much but it's millions.

33

34 Ms. Duvauchelle: So I have a question for Corp Counsel. I'm not really sure what our role is
35 here as far as if we keep saying okay, okay, okay, and I tried, and I tried, and I tried, are we
36 allowing something to continue that we have the power to stop without any sort of
37 accountability?

38

39 Mr. Galazin: Madame Chair, I would have to go back and look through the entire SMA Approval
40 I mean back from...how long ago? Was it 2000 and like --?

41

42 Ms. Thackerson: Staff Planner Candace Thackerson. It was 2004 and usually we'll go back to
43 the exact wording of the condition, right, because now we're much better at crafting them with
44 the who, what, where, when, why and then accountability. And then at the time the condition
45 just states an annual report shall be filed with the Maui Planning Commission on the
46 disbursement of funds for their information. It's not for review and approval so it's just for your

1 informational purposes. And I don't know, I mean I don't know what the teeth lie in that. That
2 could be something that obviously Corp Counsel could maybe look into the teeth of the matter.

3
4 Ms. Duvauchelle: Actually would you do that please?

5
6 Mr. Galazin: Yes Chair, I can follow up on that.

7
8 Ms. Duvauchelle: I would hate to just keep passing it on and something is a missed and we
9 should have caught it. Commissioner Tackett?

10
11 Mr. Tackett: So I guess for Corp Counsel. Is this a legitimate account of where the millions of
12 dollars went you know or should that be more transparent?

13
14 Mr. Galazin: Well, and again I would need to go back and review the original document you
15 know which obviously preceded even my first tenure here and certainly my second tenure. So I
16 can look into that and report back. I would just say my understanding of it from the review I
17 have there's very little this body could do to change any of those things. But if there are
18 provisions that should be enforced or that this body could make use of that they currently is not
19 that's something I can look into for you.

20
21 Mr. Tackett: But do you believe it should be disclosed I guess what I'm saying. Like I know that
22 there's no teeth really from what I hear, but are they supposed to let everybody know where the
23 millions of dollars that was supposed to be used for Lahaina town is actually being used you
24 know.

25
26 Mr. Galazin: And so again my answer would be without looking at that document I wouldn't be
27 able to answer that right now.

28
29 Mr. Tackett: Thank you.

30
31 Mr. Robinson: Well the condition says that the annual report shall be filed with the Maui
32 Planning Commission on the disbursement of the funds in the settlement agreement of the
33 information. So that was just one of the SMA conditions. So I don't think --

34
35 Ms. Thackerson: And also --.

36
37 Mr. Robinson: Right? Right?

38
39 Ms. Thackerson: Staff planner Candace Thackerson. The --. Also it's for the disbursement
40 between the developer and West Maui Preservation Association. So that's kind of what you
41 see. It's not really how West Maui Preservation Association then disburses it from that point.
42 That not -- it wasn't the settlement agreement. It was between the intervener party and the
43 developer. It wasn't then how is the intervener spending those funds or how the funds are
44 disbursed. But I understand completely where you're coming from and I can include that inside
45 the letter as well that that's what the curiosity is that we would like them to be here to account
46 for these funds.

1
2 Ms. Duvauchelle: Right and why was the Planning Commission asked to review an annual
3 report. What was expected of the Commission?
4
5 Mr. Tackett: And there's nothing in the annual report that says really where it goes and where it
6 went you know.
7
8 Ms. Duvauchelle: Okay, so yes Candace if you would --
9
10 Ms. Thackerson: Draft that letter.
11
12 Ms. Duvauchelle: -- draft letter.
13
14 Ms. Thackerson: Okay, all right we'll do that.
15
16 Ms. Duvauchelle: And the Corp Counsel if you could do a little research for us.
17
18 Ms. Thackerson: Okay thank you.
19
20 Ms. Duvauchelle: Any other discussion? All right. Commissioner Higashi?
21
22 Mr. Higashi: I have a question. Why is that this particular report is coming to the Commission
23 when basically on it, it just says for information? They're not asking for any action. So where
24 are we as far as the position of what action we take as Commission on this particular issue is
25 my question.
26
27 Ms. Duvauchelle: And that's what they're going to do some research on. Corp Counsel is going
28 to research and Candace is going to again reach out to that non-profit and ask for either an
29 overview or for them to come to a meeting.
30
31 Ms. Thackerson: Commissioner Higashi, can I maybe clarify that? So I believe that the reason
32 this condition was placed at that time that was a condition that Commission which I was new on
33 this board from 2004 felt that they wanted to see that information. I don't think they thought
34 long-term about it that 10-years down the line, 13-years down the line that a new body would be
35 looking at it and say why is this -- I mean what does this purpose does this information serve?
36 So yes I believe that now as we get down the line people are going why and how and where is
37 this being done because they weren't the body that was there during the SMA discussion and
38 the intervening process. So a very valid question. It might just be something that's
39 informational, but if the information looks flimsy and we would like to see some more I can draft
40 that in the letter as well and just --. All I can really do is strongly encourage the applicant to
41 come. That's the best I can do.
42
43 Mr. Robinson: Chair?
44
45 Ms. Duvauchelle: Thank you. Commissioner Robinson?

1
2 Mr. Robinson: Even, even send us something in writing. We don't actually have to talk to them.
3 But if they could just maybe answer the questions.

4
5 Ms. Thackerson: Yeah.

6
7 Mr. Robinson: That would be great.

8
9 Ms. Thackerson: Okay thank you.

10
11 Ms. Duvauchelle: Thank you.

12
13 **The Commission asked that a letter be written to West Maui Preservation Association**
14 **requesting that they respond to the questions brought forth by the Commission, and/or**
15 **be present at the next annual review to respond to inquiries asked by the Commission.**

16
17
18 **E. UNFINISHED BUSINESS**

- 19
20 1. **Mr. Alan Berman requesting a State Land Use Commission Special Permit**
21 **in order to use two farm dwellings with a total of five (5) bedrooms to**
22 **operate a Short-Term Rental Home (STRH) in the State Agricultural District**
23 **on approximately 2.058 acres of land located at 680 Kai Hele Ku Street,**
24 **TMK: 4-7-010:063 (0001) and (0002), Lahaina, Island of Maui,**
25 **(SUP2 2017/0007) (K. Wollenhaupt) (Public hearing was conducted on**
26 **August 8, 2017.)**

27
28 **The 120-day deadline for the Commission to make a decision is**
29 **December 6, 2017**

30
31 **The Commission may take action on this request.**

32
33 Ms. Duvauchelle: Okay, Director, our next agenda item. We're ready to move on?

34
35 Mr. Yoshida: The Commission has already dealt with Item D.4., so moving to Item E.1.,
36 Mr. Alan Berman requesting a State Land Use Commission Special Permit in order to use two
37 farm dwellings with a total of five bedrooms to operate a short-term rental home in a State
38 Agricultural District on approximately 2.05 acres of land located at 680 Kai Hele Ku Street, TMK:
39 4-7-010:063:0001 and 0002, Lahaina, Island of Maui. The staff planner is Kurt Wollenhaupt.
40 The public hearing was conducted on August 8th, 2017. The 120-day deadline for the
41 Commission to make its decision is December 6th, 2017.

42
43 Mr. Kurt Wollenhaupt: Good afternoon Commissioners and good afternoon to the audience.
44 Indeed today is a continuation of the hearing that was started on August 8th, 2017. This is for a
45 short-term home rental and for a State Land Use Commission Special Permit. And the location
46 is as indicated 680 Kai Hele Ku in Lahaina, Maui, Hawaii.

47

1 At the meeting on August 8th, 2017 the Maui Planning Commission did conduct its public
2 hearing on those above referenced applications for the Special Permit and for the Short-Term
3 Rental Home in the Ag District in Launiupoko. After due deliberation the Commission voted to
4 defer this matter to a future date as the decision on that August date could not be rendered as
5 there was discussion but there were differences of opinion among the Commissioners.

6
7 Just by way of history it's important to note that this is an application for a Short-Term Home
8 Rental and for a State Special Permit. The applicant meets all of the requirements for the
9 Short-Term Home Rental to be approved administratively as there were not triggers involved in
10 requiring a public hearing on the Short-Term Home Rental. The applicant did properly notify
11 and went through the process of the extensive application for the Short-Term Home Rental,
12 passed through that process but then needed to come to this Commission for the Special Permit
13 for the short-term rental on the Ag land. So what we're in today concerned about is just the
14 Special Permit on the Ag Land.

15
16 The applicant after hearing some of the discussion, and the debate, and the concern by the
17 public and the Commissioners did present a modified application. And there is one correction.
18 The cottage which is a two-bedroom cottage, not a one-bedroom cottage. So the original
19 application was for a total of five-bedrooms; three bedrooms in the main house, two-bedroom in
20 the cottage. So the current application is only for the main house for three-bedrooms. And the
21 applicant has provided a lease, a long-term lease that they executed and also provided
22 information on some of their agricultural products are going to specifically to Feed My Sheep.
23 So this application has been reduced in intensity. Now only for the main farm dwelling, three-
24 bedrooms.

25
26 *(Due to technical difficulties with the podium microphone, portions of Mr. Kurt Wollenhaupt's project overview, and*
27 *portions of the testimonies from Ms. Allyson Harney, Mr. Hayden Pogni, Ms. Katherine Larsen, Mr. Scott Hopkins,*
28 *and Ms. Suzanne Alberts were inaudible and are noted in the transcriptions. Pages 69 to 74.)*
29

30 As the Commissioners are aware the criteria with regards to the State Land Use Commission
31 Special Permit are in the -- were reviewed in the original report. The five criteria by which
32 they're all quite familiar with at this point in time. The applicant does have an implemented farm
33 plan with a mature farm . . . (inaudible) . . . This Commission has granted in fact in the area
34 other short-term permits, one within 500 feet, but others outside of that, indeed for the cottage
35 and for the main house. . . . (inaudible) . . . this applicant so we did basically in looking at the
36 farm plan going out there that they actually do have an operation going on that does produce
37 fruit at that this time. . . . (inaudible) . . .

38
39 With that being the case I believe the process today is that we're going to have these testifiers
40 to testify and then the applicant, Mr. and Mrs. Berman along with their consultant Tom Croly will
41 be updating the Commission as they requested and then I'll be back to answer any questions
42 that you might have.

43
44 Ms. Duvauchelle: Okay. Perfect Kurt. Thank you. At this time we will -- I don't know if there's a
45 sign up -- we will open the floor to public testimony. I gave them back to Carolyn already.
46 Okay, so anyone wishing to testify please come forward, state your name, you'll have three
47 minutes.

1
2 Ms. Allyson Harney: Okay name is Allyson Harney. Thank you for doing your job. I am within
3 the designated 500 feet from the property. And I originally when we got the letter I just sent the
4 letter in the mail . . . (inaudible) . . . Somehow you didn't need received it so I emailed and that's
5 why I think there wasn't a first hearing. I will cover my very basic issue that I'm against this
6 short-term rental, noise. At our last meeting I stated there was an illegal rental going up in this
7 general area coming right down to our house only to find out this was the property with the
8 illegal rental at the time. So we have seven days with lots on noise and seven days of lots of
9 noise. So that last thing I found out. And then also we have . . . (inaudible) . . . the people that
10 were on the lease . . . (inaudible) . . . house and there would be no parties. So that would take .
11 . . (inaudible) . . . to do something like that.

12
13 Second minor issue for me is traffic. I walk my walk my dog every morning. Obviously . . .
14 (inaudible) . . . like the neighbors. People going to work, people going to school . . . (inaudible) .
15 . . are very pleasant. In season walking the dog, there are rental cars moving up and down.
16 When we first moved to Hawaii we really were going to be here for eight months so we thought
17 the short-term rental. We bought a short-term community although we knew eventually we
18 wanted to live in Launiupoko in a few years. I do not want to burden my future neighbors with
19 short-term rentals when I can buy in Kapalua and be in a short-term rental situation.

20
21 So recently on Next Door website -- I'm sure you're familiar with that website -- someone wrote
22 they wanted to do a short-term rental and to get reactions. Here is 32 entries of people
23 negatively saying they didn't want short-term rentals in Launiupoko and it's highlighted . . .
24 (inaudible) . . .

25
26 The last meeting, Mrs. Berman, they're wonderful people. Nothing against them . . . (inaudible)
27 . . . is I want to protect our people. That's the most important issue, not the noise, not the traffic.
28 And so what happen is when I first moved here I would see in Kapalua I would see these
29 numbers people who couldn't rent here. . . . (inaudible) . . . and I flipped the page. And then I
30 moved to Launiupoko and got a cottage to rent and was inundated. And that number became
31 reality to me. I mean reality. They're a really nice family that had no place to rent. That number
32 became faces and people. And they're the people who keep the magic in Lahaina. And I had
33 so many applicants that wanted to rent my main house because they couldn't find nothing. And
34 we did end up with a really good renter. I mean it's a really nice situation to have a nice family in
35 our cottage. So that's my real thing is I think reality really hit me. We were just inundated.

36
37 So what I'm going to ask you to do and I know . . . (inaudible) . . . is not to focus who lives on
38 the mainland and have options to rent to buy a short-term rental . . . (inaudible) . . . like we did
39 and our protect people. I'm mean we're the ones that . . . (inaudible) . . . magic of our island,
40 the hard working people that you deal with every day. Please vote . . . (inaudible) . . . make
41 their lives more pleasant and . . . (inaudible) . . .

42
43 Ms. Duvauchelle: Thank you. Any questions for the testifier? Commissioners? Commissioner
44 Higashi?

45
46 Mr. Higashi: Do you, do you have an association?

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Ms. Harney: Correct.

Mr. Higashi: Do you have a CC&R?

Ms. Harney: Correct.

Mr. Higashi: What does it say in the CC&R about short-term rentals?

Ms. Harney: Okay there's nothing in our short-term rental situation, there's nothing in our CC&R, and we looked into changing that on the board. And it would take a 65% return, not necessarily positive, just a return, and the board has told me that for many, many years it just won't happen. . . . (inaudible) . . . 65% will not return their ballots and I'm wasting my time.

Mr. Higashi: So basically your association don't have any enforcement over short-term rentals?

Ms. Harney: . . . (inaudible) . . .

Ms. Duvauchelle: Any other questions?

Mr. Robinson: I have a comment.

Ms. Duvauchelle: Commissioner Robinson?

Mr. Robinson: I encourage you to try anyway. I think you may be surprised if you do mailings to the owners. They might actually, you might, you might actually get a reply.

Ms. Harney: You know I will take you up on that.

Mr. Robinson: Why not, right?

Ms. Duvauchelle: Thank you. Thank you. Kurt would you make sure the applicant gets a copy of the handout when they're done with it? Okay anybody else wishing to testify please come forward. State your name.

Mr. Hayden Pogni: Aloha, my name is Hayden Pogni. Aloha. So my wife and I live directly next door to the Berman's and would be most affected by this permit. And we're going to testify in favor it of Alan and Sandy Berman's short-term permit. I've lived next to them for 13 years, and during this time they have been great neighbors . . . (inaudible) . . . They farm their property. They keep it in impeccable order and I'm for this permit and I live directly next door to them. I'm not sure about the noise that you're referring to but we live there full time. So but I do want to comment that Launiupoko has been receiving regarding short-term rentals. My wife and I have lived here for 24 years, and we've lived in Launiupoko for 14 years. I'm the first people up there. And I'm kind of dismayed with negative banter that's been going on with neighbors and neighbors. So this is what I've noted to be true and I know this . . . (inaudible) . . . And rental homes like Launiupoko provides a service for families that does not want a resort experience. Short-term rentals is great source of revenue for Hawaii. Now traffic is a concern, okay. It is.

1 Well according to the recent bureau of transportation survey the average single family resident
2 owns . . . (inaudible) . . . cars . . . (inaudible) . . . Well the average vacation renter has one car.
3 So therefore vacation renters create less traffic, okay.

4
5 So long term rental I agree it's a big problem. It is and own rental . . . (inaudible) . . . but I agree
6 large main homes like the Berman's are not an example where . . . (inaudible) . . . Large main
7 homes would either cost \$5,000 to \$8,000 per month to cover the cost. Therefore we need
8 more affordable housing areas like Lahaina where developers can purchase smaller lots for
9 public works.

10
11 So we talk about noise. Okay noise is a concern. But in 14 years I've never ever heard
12 excessive noise coming from any permitted vacation rentals in Launiupoko and our house sits in
13 between the valley and my wife and I sit out there at night and we don't hear anything. In fact
14 our dear friends live right next to Helen Hunt's approved vacation rental and the one next door
15 and I've never ever heard excessive noise coming from those properties. On the other hand
16 though a group of us long term Launiupoko residents will get together a few times a year and
17 have a huge parties and we create lots, and lots, and lots of noise. So it actually could be said
18 that vacation rentals . . . (inaudible) . . .

19
20 And I'm not saying whatsoever that Launiupoko become a thriving vacation destination. I'm not.
21 That's not what I want. However the facts are . . . (inaudible) . . . never heard of that you're not
22 going to hear the foot traffic. You're going to hear less traffic. They're contributing income to
23 Hawaii. The guests shop in our shops. They frequent our restaurants and they visit our grocery
24 stores. So therefore if the Berman's meets the requirements set forth by the County they should
25 be approved their permit.

26
27 Ms. Duvauchelle: Thank you. Any questions for the testifier? Thank you very much. Anybody
28 else wishing to testify? Please state your name you'll have three minutes.

29
30 Ms. Katherine Larsen: My name is Katherine Larsen. I have bronchitis but I've made it here
31 today because it's a really important issue for me. I live within 500 feet of the property that is
32 going for a permit for a short-term rental. I have been --. I don't understand where this other
33 neighbor that lives in the same area because I'm bothered by noise from the current short-term
34 rentals in my area. And there is one near this one. And there are some that are illegal. But
35 they make a lot more noise having parties outside, pool area, lanai, and they bother my peace
36 very much. The way Launiupoko was built was meant to be a certain kind of neighborhood; a
37 quiet, residential neighborhood, farm land. Everyone has a farm plan. It wasn't meant to have
38 even scattered short-term rentals when it was originally formed, and I really like that kind of
39 neighborhood and that's why I bought there. It's quiet. You get to know your neighbor. And in
40 my experience when I'm still on vacation and I like I have three siblings and we all come to the
41 same place we all rent or have our own car, so I don't understand where he's coming from
42 where you have one car for a three bedroom house. In my experience that's not the way it
43 happens. And we're very limited with parking.

44
45 Noise is very high in short term rentals. I hear weddings going on. It's just a really a neat
46 environment and I don't think it's going in the right direction to approve another one, and I am a

1 direct neighbor. And all the neighbors I know in my area do not want this short-term rental at all.
2 Thank you.

3
4 Ms. Duvauchelle: Any questions? Commissioner Higashi?

5
6 Mr. Higashi: Did you say you're within the 500 feet area? And did you say that you have people
7 near you that are renting without a permit? Is that what I heard?

8
9 Ms. Larsen: Yes, I hear them. I hear them having vacation rentals parties in the evenings but I
10 haven't reported them.

11
12 Mr. Higashi: And you, and you know that for a fact that these are rentals.

13
14 Ms. Larsen: . . . (inaudible) . . . I do know that.

15
16 Mr. Higashi: They're not owners.

17
18 Ms. Larsen: No. There's . . . (inaudible) . . . weddings. Our house is two . . . (inaudible) . . .
19 from them.

20
21 Mr. Higashi: Okay. Thank you.

22
23 Ms. Larsen: And others as well.

24
25 Mr. Higashi: Yeah, thank you.

26
27 Ms. Duvauchelle: Thank you. Any other questions? Okay, anybody else wishing to testify
28 please come forward. Please state your name sir you'll have three minutes.

29
30 Mr. Scott Hopkins: My name is Scott Hopkins. I'm the operation director for Feed My Sheep and
31 I am here today on behalf the Berman's just to verify some information. . . . (inaudible) . . . So
32 as Feed My Sheep is a non-profit. It supports people in need throughout Maui. We have five
33 regular distribution and we serve around 200 families in need every week. In August of this
34 year I was contacted by Mr. Berman asking what we need to be able to do. We recently begun
35 over the last few years have been ramping up efforts to harvest directly from people's homes if
36 they have fruit trees that would otherwise be going to waste and he informed me that there was
37 quite a bit of fruit trees on his property. And so I arranged to come to his property on
38 September 1st. And . . . (inaudible) . . . several dozen trees all arranged in what I would consider
39 a production ready agricultural environment. They were all good heights. It was clearly meant
40 to be harvested. And in the time since then it's about 10 or 11 weeks I've been able to visit
41 eight times and have acquired over 616 pounds of fruits, bananas . . . (inaudible) . . . So I'm just
42 here to verify what has been said that . . . (inaudible) . . . is a property that is set up for
43 agriculture as well as . . . (inaudible) . . . But what I witness is that this is something that . . .
44 (inaudible) . . .

45
46 Ms. Duvauchelle: Thank you. Any questions? Thank you very much. Anybody else wishing to
47 testify? Hi, please state your name and you'll have three minutes.

1
2 Ms. Suzanne Alberts: Hi, my name is Suzanne Alberts and my husband and I reside in
3 Launiupoko . . . (*Inaudible. Technical difficulties with the audio equipment.*) . . . and the last
4 thing on their minds. The last thing on their minds is trying to keep the noise down. They are
5 there to have a good time which usually includes a pool, Jacuzzi, yelling, alcohol and loud
6 music. And I'd like to point out that these homes, like three or four bedroom homes rent for
7 maybe \$1,000 to \$2,000 a night, and people pool their money like six or eight people come
8 together to help pay for it and they're there to have a good time. And to add to the suffering of
9 the neighbors a new group comes in the next week and it happens all over again. Who would
10 want to live near that? Everyone we know in our neighborhood is against short-term rentals
11 because over the years the number of them has increased. Some illegal and some legal. We
12 know several that have been shut down because of the many complaints. We hope our voices
13 are heard and that this disturbing trend will stop. Mahalo and thank you for your consideration.
14

15 Ms. Duvauchelle: Thank you. Any questions? Thank you very much. Any other testimony?
16

17 Mr. Lee Hollingsworth: Aloha Commission. My name is Lee Hollingsworth. Thank you for the
18 opportunity to speak a different perspective here, my point of view. I've been lucky enough to
19 live and raise my family in Launiupoko for the past 12 years. And with that being said I even
20 feel Launiupoko is an ideal subdivision for short-term rentals; large lots, private water, private
21 roads, private sewers. I also feel short-term rentals provide opportunity and sustainability for
22 many people from the property owner, to the cleaners, to the property managers, to the guest
23 services, to guests. I have witnessed several hard working motivated people start their
24 businesses that's directly related to short-term rentals. I think that's a good thing for the
25 community and the economy. What's wrong with wanting to share your home with people when
26 it's vacant? These are multi-million dollar homes we're talking about. They aren't homes most
27 people could afford to long-term rent. We have lived next to short-term rentals and long-term
28 rentals in Launiupoko.
29

30 Long-term rentals in our area to us have been more of a nuisance. People renting out rooms,
31 barns, sheds, you name it. Many more cars coming and going, louder. Not ideal to live next to.
32 Vacationers in our experience come and go and they're generally happy and courteous. You
33 know I know the Berman's have had their house for 13 years. They want to share their home,
34 protect their investment, and stay in it at their leisure. I feel they will be responsible, courteous
35 short-term rental owners. I mean if they've meet their requirement they should be granted a
36 permit. It's not in our CC&R's and you know they should be allowed to do it up there. Thank
37 you.
38

39 Ms. Duvauchelle: Any questions? Thank you. Other testifiers?
40

41 Mr. Paul Klein: Good afternoon Commissioners. I'm Paul Klein. I'm going to be the long-term
42 renter at Alan's place. I appreciate him giving the opportunity do that. I've lived in Maui for 11
43 years, and lived in Lahaina for 11 years and would like to stay on west side. I don't have to
44 drive back and forth to go over the pali if I can find an affordable place to live here so I'm
45 thankful for Alan and Sandy as well.

1
2 Ms. Duvauchelle: Thank you. Any questions? Thank you very much. Any other testimony?
3 Please state your name.

4
5 Ms. Sandy Berman: I'm Sandy Berman, and I --.

6
7 Ms. Duvauchelle: Move your microphone down just a little so we can hear you. There you go.

8
9 Ms. Berman: He's much taller. I too have some things that I wanted to show or talk about from
10 our Next Door neighborhood site. I know Ali highlighted some of the things that she wanted you
11 to see. Recently there's someone that announced on the site that he wanted to get a short-term
12 rental. He just purchased the home and then there was a huge backlash. Well some of the
13 other comments that I'm sure you probably didn't get a chance to see also say that you know --.
14 Let me just hold this up here for a second. And I didn't bring my glasses. You have to excuse
15 me for one moment.

16
17 Okay let me go back to the other thing. Okay, Allyson Harney also commented about how
18 important it was for her to be able to have affordable housing for the people for her cottage, for
19 the people that she met and the families that she met. I would like to state that on her ad that
20 she put on the Next Door site she's offered it for \$3,500 which I don't consider affordable
21 housing for the people, the local workers that really need a place to live. I think affordable
22 housing needs to happen in an area where in a larger area, in a different area.

23
24 She also said on here we are just having our cute cottage painted and there will be all new
25 furniture, linens, etcetera, good ocean views, very private, two bedroom and bath, parking, nice
26 yard. We want to rent it in December and January for three to five months which is under the
27 six month full term minimum. Needless to say we will sign the six month lease and then figure
28 out the months that the guest will be staying. We will not break any rules. We are not sure of
29 rent. Any ideas? I'm hearing realtors say \$4,000 to \$5,000 for the high season. It seems like a
30 bargain at a \$150 a night for a full house. Mahalo.

31
32 So I just want to say some times the people that speak the loudest, you know that saying people
33 that live in glass houses shouldn't throw stones. I've come across a lot of that within this Next
34 Door neighborhood site. We do care. We do not allow parties. We --. As you can hear from
35 our next door neighbor we are not those people. She said she heard noise coming from our
36 house. If you're in our neighborhood you could see how that almost be impossible. And our
37 next door neighbors on three sides support us because we are not those people that would
38 allow that. Thank you.

39
40 Ms. Duvauchelle: Thank you. Any questions? Thank you very much. Any other public
41 testimony? Okay, seeing none we will close testimony on this agenda item, and we will have
42 the owner's or the applicant's presentation.

43
44 Mr. Tom Croly: Aloha Commissioners, I'm Tom Croly on behalf of the applicant. And as Kurt
45 pointed out we're back here because we had the hearing back in August and we deferred action
46 hoping there would be more Commissioners and kind of in the same boat as we were at that

1 time with bare quorum unfortunately. But with the Chair's permission I'd like to do my
2 presentation for Commissioner Higashi who was not here at that time. Would that okay Chair?

3
4 Ms. Duvauchelle: Yes.

5
6 Mr. Croly: Okay, thank you. But I do want to point out that the applicant really took to heart the
7 testimony that was given and the comments that were made at the first hearing. And in case
8 we're not clear, No. 1, he has removed the cottage from consideration for the short-term rental
9 permit and has put the cottage into long-term rental use. So we're only considering the three
10 bedroom main house which the applicant and his wife use on a regular basis themselves. So
11 lacking this short-term rental permit there's not an option for that to go into long-term rental
12 because it would take away their ability to use it as a part-time resident.

13
14 As Kurt also pointed out what is before you is not the short-term rental permit but the State
15 Special Use Permit because we're in the agricultural district. And again as I pointed out the first
16 time Launiupoko is an agricultural subdivision and as an agricultural subdivision it is required
17 that every owner of a property have agriculture as their primary use. The County of Maui
18 determines this by a farm plan that says 50% of your land is being used for agriculture. I've
19 been around Launiupoko a lot of I've looked around and a whole lot of people are not doing
20 their, you know, following through with their farm plans. But I'm going to show you that the
21 Berman's really are.

22
23 The permit criteria for the STRH has been approved as Kurt has pointed out and we're going to
24 go over the STRH or the SUP criteria next. But I do want to point out that some comments were
25 made about using the property for weddings and so forth, and that's not something that a short-
26 term rental home is allowed to do. Each dwelling must be rented to a single party. In this case
27 there's one dwelling, it's going to be one party. And in this case the maximum occupancy of the
28 property is going to be six guests. It's a three bedroom house, two people per bedroom, six
29 bedrooms -- six guests is the maximum. And there is a rule that there are no parties, only
30 registered guests are allowed onsite.

31
32 Now the question came up, how do you enforce that, okay? Well, if the guy's permit is in
33 jeopardy of being lost if he breaks these rules I think he'll self-enforce. But we also have a
34 resident that's going to be living on the property so this more resembles a bed and breakfast
35 where you have a resident living on the property as well as the short-term rental.

36
37 Comments were made about parking. This property has plenty of parking onsite. Again
38 whether the guests have one car or two cars for them it's not going to be a large you know
39 group and we certainly have that parking covered.

40
41 There is a requirement for quiet hours from 9:00 p.m. to 8:00 a.m. at which time no noise, zero
42 noise is allowed to be escaping the bounds of the property. There's also a requirement that I
43 haven't put here that during the day no amplified sound should be able to be heard on any of
44 the properties. So it's not just a matter of you need to be quiet at night you can't have amplified
45 sound taking place even during the day.

1 I do want to point out also that there would be a change in tax classification should this permit
2 be granted. The County Council is currently wrestling with exactly what that rate would be, but it
3 would be at least a 30% increase and it looks like it's probably going to be a 60% increase is
4 where they're going to end up with that. And of course the permit is not transferrable.

5
6 The criteria for the State Special Use Permit that's before you has five things that you're
7 evaluating. First that the proposed use is not contrary to the objectives of HRS 205. And HRS
8 205 is our Agricultural, the State Agricultural oversight in the agricultural district. And we are in
9 compliance with that because we have this one acre fruit orchard. And the permit that you
10 would be granting here says you have to keep that. You have to keep doing that. Other people
11 will be in compliance when they get their building permit and then stop because they --
12 nothing's, nothing's in place to guarantee that they continue their agricultural uses.

13
14 This is a picture of the property from above and each of those labels are a label of a different
15 fruit tree that's on the property. You just heard from Scott from Feed My Sheep and he testified
16 I think that he's collected as much as 600 pounds just in the last two months of fruit from this
17 orchard, so indeed this is a productive fruit orchard here. There's a listing there of the 87 fruit
18 bearing plants that are on this property. Here's a view pictures of those fruit trees and such.

19
20 Initially before Scott was brought in from Feed My Sheep, Alan had been donating his fruit to
21 Aloha Blue Charters that was using that fruit for their guests on the charter boat. Sad to say
22 Alan's friend Tim Collins died last summer, and Alan looked for a different place that he could
23 make use of the fruit, and considering the testimony that was given I think he found a very
24 worthy cause to donate his fruit to. And just because I wasn't sure that Scott was going to be
25 here I just put this letter up here from Feed My Sheep affirming that these donations are taking
26 place. And I had documented 237 pounds of fruit with the receipts that had been forwarded to
27 me, but apparently there have been more business to the property and we're up to whatever it
28 was 500 or 600 pounds of fruit in a couple of months.

29
30 The second criteria is that the proposed use would not adversely affect surrounding properties.
31 And again it's really important to understand that the, the conditions that go along with the
32 Short-Term Rental Permit they do dial it back to a residential use. They say you can't be
33 creating any more impact than a residential home would be creating here. And you heard from
34 one of the immediate neighbors who lives right next door and they were two other immediate
35 neighbors on either side that also provided letters of support for this application. And this little
36 map shows the area, and right here is the applicant's property. The neighbor you just heard
37 from lives right here. And then these two neighbors that live on this side also gave you letters of
38 support that are in the packet of information that you have there. And this neighbor up here
39 while I don't have a letter of support from them their concern was that they wanted to make sure
40 the property was rented to just one party at a time which is the case here. They said we want
41 to make sure if they're going to get a short-term rental permit there's not parties going on here and
42 that is a condition already of this permit. There's two other stars on here and those are the
43 locations of I think one of the other testifiers who came here spoke out today and letters of
44 support.

45
46 This neighborhood, this Launiupoko neighborhood is 160 lots. That's how many properties
47 there are in there. Most of them have a house and a cottage. They're not fully built out, but you

1 have about 320 individual dwellings up there. And of that this would be the fourth short-term
2 rental permit that would be granted should it be granted. So again the preponderance, we're
3 talking about four out of 320 potential dwellings up there being used for short-term rental use.

4
5 The next criteria that you're evaluating is that the proposed use would not unreasonable burden
6 public agencies to provide roads, streets, water, drainage, school improvements, police and fire.
7 And again we've had enough of these to recognize that the short-term rentals aren't creating
8 any greater impacts. And of course there are times when the short-term is vacant and they're
9 really having no impact whatsoever.

10
11 The next criteria is that unusual trends and needs have arisen since the district boundaries were
12 established. And Maui County recognized that the travel trends of people have changed and
13 that's why they passed the short-term rental ordinance. Why is it before you? Because the
14 State still maintains oversight in the agricultural district. The State hasn't come forward and
15 changed their allowances of these uses in the agricultural district. However they actually did
16 come up with something a couple of years ago that was geared towards Maui County. And it
17 said that if Maui County a county with three islands and no other county has three islands would
18 pass an agricultural tourism ordinance then short-term rental would be allowed under certain
19 conditions. But the county hasn't passed that agricultural tourism ordinance at this point so
20 we're still here before you asking for this permit in that case.

21
22 And then finally the last criteria is if the land is unsuited for the permitted use in the district. This
23 would be in the case of let's say a steeped sloped property where you wouldn't be able to plant
24 something on it. A person can say I have another use for this property. We're not claiming that
25 this land is unsuited for agricultural uses. The applicant is making agricultural uses as you've
26 already heard attested to. And again a condition of the State Special Use Permit is the
27 continuation of those agricultural uses.

28
29 I'll zoomed through this kind of quickly here for you. Notice of application was provided to the
30 36 property owners within 500 feet, and during the 45-day notice period no objections were
31 noted at that time. We have since had some folks come forward and register objections and
32 they are duly noted here. A notice sign was posted on the front of the property at the time of the
33 notice of application, and the applicant invited his neighbors to an open house at his place on
34 June 25th. And if I understand correctly about dozen of neighbors did come by. They talked
35 about what they wanted to do. They heard out their neighbors and I just think that's the right
36 thing to do to let your neighbors know you're going to do this. Maybe not everyone will agree
37 but at least you're being neighborly in that way. And then of course notice of the original public
38 hearing was sent out on July 3rd and was also published in The Maui News. And I guess we
39 should add to this, this hearing was published in The Maui News as a notification of this agenda
40 item.

41
42 As I've said before there are three other short-term rental homes with State Special Use Permit
43 that are similar to this one that have been granted up in Launiupoko. And as kind of has been
44 testified to or maybe Kurt talked about the one that you granted to Helen Hunt was most similar
45 to this application except that now the Helen Hunt application is a greater impact because they
46 were granted both the house and the cottage. And what's before you here is only the house
47 with the cottage being left in long-term.

1
2 We respectfully ask that the Commission would grant approval of this State Special Use Permit
3 to enable the short-term rental permit that has already met the criteria. Thank you Chair.

4
5 Ms. Duvauchelle: Thank you Tom. Okay -- sorry -- at this time we'll open the floor to questions
6 from the Commissioners.

7
8 Mr. Robinson: Is there a County planner on this or is just Mr. Croly? Kurt, are you the planner?

9
10 Mr. Wollenhaupt: Yes I'm the man.

11
12 Mr. Robinson: Kurt I have a question regarding the --. I only got this three page one. I don't
13 know because we're supposed to hold on to the one we had a while ago, but as far as short-
14 term rentals, I know there was one that was just approved a few weeks ago. I don't know if
15 that's in this area of Launiupoko that was done the last meeting. But besides that are there also
16 B&B's that are approved in this area that you have a map of?

17
18 Mr. Wollenhaupt: If you go to the original staff report.

19
20 Mr. Robinson: Yeah, which we don't have.

21
22 Mr. Wollenhaupt: And that was hyperlinked so that was given out at the previous meeting that
23 hyperlinks into it. According to the map here we have the Pau'ole Short-Term Rental, Makena
24 Aloha which is Ms. Helen Hunt's, and then the one within 500 feet which is Kalapana. And I
25 believe what you're referring to is there will be one B&B, that's by the Wisthoff's. They have a
26 B&B that they were granted quite a number of years ago, Ho'olio House, and they also got a
27 Conditional Permit to actually legally have weddings there for guests that are there. So at the
28 current time this neighborhood we see there are three short-term rentals and one B&B.

29
30 Mr. Robinson: Dragon Fruit Farms.

31
32 Mr. Wollenhaupt: That's really --

33
34 Mr. Robinson: That's a Special Use?

35
36 Mr. Wollenhaupt: That's -- that would be so far away, on a massive lot. It's kind of a different
37 neighborhood.

38
39 Mr. Robinson: It's not Launiupoko?

40
41 Mr. Wollenhaupt: No, it's all in Launiupoko, but there was a question that was asked regarding
42 their homeowner's association and we have a letter here, Exhibit 13, the Mahanalua Nui
43 Subdivision at Launiupoko. And these people, Ms. Hunt's, the others referred to, they're within
44 that. But when you get to the larger lots you're working in a different -- an area.

45
46 And to comment on the HOA, in terms of the topic of short-term rentals and Mahanalua Nui
47 Subdivision, the Mahanalua Nui CC&R's are silent on the topic. In light of this the Board of

1 Directors has decided to remain neutral with the understanding that homeowners must receive
2 proper permitting from Maui County. So there are other short-term rentals within the huge
3 development called Launiupoko covering this specific almost rural lot in some cases.

4
5 Mr. Robinson: Well, well, is there's -- Mr. Croly testified there's 332 units and there's only three
6 short-term rentals, and so I'm trying to get facts.

7
8 Mr. Wollenhaupt: And I think that would be in --. I don't know how many there are within the
9 Mahanalua Nui Subdivision. That one we would have to --

10
11 Mr. Robinson: Do we have more than three?

12
13 Mr. Wollenhaupt: Not within that subdivision.

14
15 Mr. Robinson: Just three.

16
17 Mr. Wollenhaupt: Within that subdivision. But the 300, the 300 --

18
19 Mr. Robinson: Mrs. Hunt is two by herself.

20
21 Mr. Wollenhaupt: Well that's actually one permit. She has --

22
23 Mr. Robinson: But it's not 332 structures -- 332 lots either. That's the structures, right. They
24 use the structure number not the amount of lots.

25
26 Mr. Wollenhaupt: Well with regards to the County we use the number of permits. A permit can
27 be for a maximum of two dwellings on a property. So Ms. Hunt's approval chops up the 88 by
28 one. It doesn't account for two. Now with regards to the number of units that Mr. Croly was
29 referring to, the 300-plus, I'm not sure where that number how that's built up. If that's referring
30 to the number of lots or if that's the number of actual dwellings. I would think it would be lots,
31 but I'm not going to say because I don't have an answer on that one.

32
33 Ms. Duvauchelle: Excuse me, I'm going to request of the Commissioners that we go into an
34 executive session and concur with our Corporation Counsel. If you all agree. A motion? Yes.
35 Okay, so the Commission is going to into executive session. Thank you very much.

36
37 *(The Maui Planning Commission recessed the regular meeting session at 2:55 p.m., and entered into*
38 *Executive Session from 2:55 p.m. to 3:10 p.m. The Commission reconvened the regular session at 3:12*
39 *p.m.)*

40
41 Ms. Duvauchelle: It is 3:12 p.m., Maui Planning Commission is now back in session, regular
42 session, and we're entertaining or we're having conversation, discussion from the
43 Commissioners. Any other questions? No other questions. Do we have the Department's
44 recommendation?

45
46 Mr. Wollenhaupt: In light of the review of this application, by way of history back on the original
47 review back on August 8th, 2017 in which in the application of Mr. Berman they were requesting

1 two dwellings with five bedrooms to operate a short-term rental. The Department had
2 recommended approval of the State Special Permit as being in accordance with the applicable
3 standards which the applicant did go through detail especially in light of their implemented farm
4 plan which the Department reviewed, and in light of the application as it was presented. With
5 the applicant's reduction to only the main farm dwelling the Department continues to support
6 this application which is to recommend to the Planning Commission approval of the Land Use
7 Commission's Special Permit subject to the seven conditions. Of course probably the most
8 applicable one which would be that the farm plan will remain implemented throughout the
9 duration of the Special Permit. So we continue to recommend approval of this, that they have
10 met the criteria for a Special Permit as outlined in the Department's staff report and also as
11 directed by Chapters 205 and 205A of Hawaii Revised Statutes.

12
13 Ms. Duvauchelle: Thank you Kurt. Commissioners, we'll entertain a motion. Commissioner
14 Castro?

15
16 Mr. Castro: I make a motion to recommend -- the Commission's recommendation.

17
18 Ms. Duvauchelle: Do I have a second?

19
20 Mr. Higashi: Second.

21
22 Ms. Duvauchelle: Seconded by Commissioner Higashi. Discussion on the motion please. No
23 discussion on the motion? Okay, Director, Deputy Director would you like to repeat the motion?

24
25 Mr. Yoshida: The motion is to approve the permit subject, as recommended by the Department.

26
27 Ms. Duvauchelle: Thank you. All those in favor please raise your hands? Opposed? And I
28 would vote with approval so we have four yeses, and one no. Motion fails. Do we have another
29 motion on the table?

30
31 **It was moved by Mr. Castro, seconded by Mr. Higashi, and**

32
33 **The Motion to Approve the State Land Use Commission Special Permit as**
34 **recommended by the Department, FAILED.**

35 **(Assenting – R. Higashi, C. Tackett, S. Castro, S. Duvauchelle)**

36 **(Dissenting -- K. Robinson,**

37 **(Excused – T. Gomes, L. Hudson, L. Carnicelli)**

38
39 Mr. Robinson: I motion to deny.

40
41 Ms. Duvauchelle: Motion to deny by Commissioner Robinson. Any second? No second?

42
43 Mr. Galazin: Just so someone is aware a motion can be seconded solely for the purposes of
44 discussion if the Commission wants to discuss anything about it.

45
46 Ms. Duvauchelle: Commissioner Higashi?

1
2 Mr. Higashi: I move to defer this particular application until we have enough members present in
3 the Commission.

4
5 Ms. Duvauchelle: Okay we have already have a motion on the table to deny. One moment.
6 Commissioner Robinson made a motion to deny.

7
8 Mr. Higashi: Sorry.

9
10 Ms. Duvauchelle: So we need to deal with this one first.

11
12 Mr. Higashi: Second. I will second it based on discussion.

13
14 Ms. Duvauchelle: Okay. Discussion on the motion.

15
16 Mr. Robinson: I'd like to speak to the motion Chair.

17
18 Ms. Duvauchelle: Commissioner Robinson?

19
20 Mr. Robinson: I motioned to deny based on facts that we have a lots up in Launiupoko and it
21 seems that the short-terms are condensed that small area even though it's a very sparse
22 dispersed area. And I think it is getting condensed and one it's . . . (inaudible) . . . even more.
23 Besides the illegal ones there that's just the illegals that we're going to know of. I think the
24 applicant is very gracious in donating all that fruit. I think that's good plan and that's -- I don't
25 think the farm plan is an issue I have here, but I think that they also showed the need for rentals.
26 You know they have one of their units is a long-term rental. And I'm not sure if it was a one
27 bedroom or two bedroom. I didn't see that on top of the lease. Two bedroom. So when you
28 have a two bedroom home going for \$2,800 you know it shows you there's a need and that
29 people --. People will rent. People I always say nobody's going to rent to Launiupoko. It's too
30 expensive. It's --. There's all these reasons to say it, but that's not true. People need rentals.
31 There are people -- people who -- people need to work in the stores that people are going to
32 buy stuffs from. People need to work in areas that the tourists are going to come. So people
33 need to work in the rent-a-cars when they come to pick up their single one rent-a-car for the
34 home. You know people need to work for the airlines when they're flying over here. We have
35 Planning Department that plans areas for vacation areas. There was tourism, a flourishing
36 tourism market before Launiupoko was here. To think that we need Launiupoko for tourism to
37 flourish on Maui is a, is just not a true statement. It's, it's --. If Launiupoko and their residents
38 the majority of them want to have vacation rentals then maybe they could go the opposite way
39 with the CC&R's and convince them to allow short-term rentals instead of being neutral. You
40 know it's what is the voice stronger in that way? So my reason again for denying it is it's, it's
41 another unit in too close an area which is one of the five criteria that we have for denial. Thank
42 you.

43
44 Ms. Duvauchelle: Thank you. Commissioner Higashi?

45
46 Mr. Higashi: I respect Commissioner Robinson's opinion about where this particular application
47 comes from. I second the motion based upon the fact that for discussion sake I think for me

1 anyway I look at the Berman's as an applicant that has contributed to the community as well as I
2 think the association themselves if they were truly in disagreement of any kind of short-term
3 rental they should put it in their CC&R which apparently is hasn't been organized or anything.
4 And as such I think until such time we should permit the applicant.

5
6 Ms. Duvauchelle: Okay. So we have motion. We need to deal the motion on the floor to deny
7 and we have second. All those in favor of the motion to deny please raise your hand.
8 Opposed? Motion fails. Are they saying yes or no? Abstaining isn't that a yes? So three
9 yeses.

10
11 Mr. Galazin: So three abstentions, so three yeses. You're the final vote.

12
13 Ms. Duvauchelle: And I would vote yes. So we have four yeses and one no.

14
15 Mr. Galazin: Wait, hang on Chair.

16
17 Ms. Duvauchelle: Okay, you do it.

18
19 Mr. Galazin: So Chair I believe the motion was to deny the permit. That was seconded. And
20 then a call for the motion. There was one in favor and three abstentions which are considered
21 affirmative votes on that motion to deny. So you are voting --. You would be the fifth vote to
22 either agree to deny the permit, or you can vote no.

23
24 Ms. Duvauchelle: Sorry, I would vote no. You got me turned around.

25
26 Mr. Galazin: That's okay.

27
28 Ms. Duvauchelle: Okay, all right, so motion fails. Okay do we entertain a new motion?
29 Commissioner Higashi

30
31 **It was moved by Mr. Robinson, seconded by Mr. Higashi, and**

32
33 **The motion to deny the State Land Use Commission Special Permit as**
34 **recommended by the Department, FAILED.**

35 **(Assenting – K. Robinson, R. Higashi - Abstained, C. Tackett -**
36 **Abstained, S. Castro - Abstained)**

37 **(Dissenting -- S. Duvauchelle)**

38 **(Excused – T. Gomes, L. Hudson, L. Carnicelli)**

39
40 Mr. Higashi: I move to defer this applicant's application until we have enough Commissioners
41 based upon the fact that we would be able to get some kind of a positive decision.

42
43 Ms. Duvauchelle: Yeah we can defer but the deadline is December 6th, 2016. So, so, yeah.

44
45 Mr. Galazin: 2017.

46

1 Ms. Duvauchelle: 2017. So it would not be back before this Commission again. So a deferral
2 means that the applicant will get the permit with the conditions if we don't make a decision
3 today. So we have a motion on the floor to defer.

4
5 Mr. Robinson: I have a new motion.

6
7 Ms. Duvauchelle: But wait, we need to deal with the motion --

8
9 Mr. Robinson: Well there's no deferral. There was no second.

10
11 Ms. Duvauchelle: Is there a second to defer? Okay seeing none the motion fails. Commissioner
12 Robinson? You changed your mind? Okay Corp Counsel, I'm at a loss.

13
14 **It was then moved by Mr. Higashi to Defer the State Land Use Commission Special**
15 **Permit, and the motion died due to a lack of a second.**

16
17 Mr. Galazin: Okay. Well it appears that you do not have any motion that's going to pass with
18 the majority. And it requires -- any action by this body requires a vote of the majority of the
19 members to which the body is entitled. There being nine members to which the Planning
20 Commission is entitled, it requires five affirmative votes for any action to take place so no action
21 is taken on this item.

22
23 Ms. Duvauchelle: Okay so no action. Thank you very much.

24
25 Mr. Wollenhaupt: So once the 120-day rule is achieved then we will be writing a letter of
26 approval.

27
28 **No action was taken on the application.**

29
30 Mr. Galazin: That is correct.

31
32 Ms. Duvauchelle: Okay thank you.

33
34 Mr. Wollenhaupt: Thank you.

35
36
37 **F. ACCEPTANCE OF THE ACTION MINUTES OF THE OCTOBER 24, 2017 MEETING**
38 **AND REGULAR MINUTES OF THE SEPTEMBER 26, 2017 AND OCTOBER 10, 2017**
39 **MEETINGS**

40
41 Ms. Duvauchelle: Deputy Director next agenda item.

42
43 Mr. Yoshida: We're on Item F, acceptance of the action minutes of the October 24th, 2017
44 meeting, and the regular minutes of the September 26th, 2017 and October 10th, 2017 meetings.

45

1 Ms. Duvauchelle: Thank you Kurt. Okay, minutes? So I need a motion to accept the minutes.
2 Moved by Commissioner Higashi, seconded by Commissioner Robinson. All those in favor
3 raise your hand. Aye. That's five ayes; minutes are accepted.

4
5 **It was moved by Mr. Robinson, seconded by Mr. Higashi, and**

6
7 **VOTED: To accept the action minutes of the October 24th, 2017 meeting, and**
8 **the regular minutes of the September 26th, 2017 and October 10th,**
9 **2017 meetings.**
10 **(Assenting – K. Robinson, R. Higashi, C. Tackett, S. Castro,**
11 **S. Duvauchelle)**
12 **(Excused – T. Gomes, L. Hudson, L. Carnicelli)**

13
14
15 **G. DIRECTOR'S REPORT**

16
17 **1. MR. WILLIAM SPENCE, Planning Director, notifying the Maui Planning**
18 **Commission pursuant to Section 12-202-17(e) of the Maui Planning**
19 **Commission's SMA Rules of his intent to process the following time**
20 **extension requests administratively:**

21
22 **a. MR. GRANT Y.M. CHUN of WAILEA MF-7 LLC requesting a two (2)-**
23 **year Special Management Area Use Permit time extension to initiate**
24 **construction of the Wailea MF-7 Multi-Family Residential Project at**
25 **Kai Malu Drive, TMK: 2-1-008: 116, Wailea, Island of Maui.**
26 **(SM1 2006/0038) (PD1 (2006/0004) (PD3 2007/0004) (P. Fasi)**

27
28 **The Commission is being asked to waive or not waive its review.**

29
30 **The Commission may take action on this request.**

31
32 Mr. Yoshida: Moving to Item G.1., Mr. William Spence, Planning Director, notifying the Maui
33 Planning Commission pursuant to Section 12-202-17(e) of the Commission's SMA Rules of his
34 intent to process the following time-extension request administratively. (A) Mr. Grant Y. M.
35 Chun of Wailea MF-7 LLC requesting a two-year Special Management Area Use Permit time-
36 extension to initiate construction of the Wailea MF-7 multi-family residential project at Kai Malu
37 Drive, TMK: 2-1-8 parcel 116, Wailea, the Island of Maui. The staff planner is Paul Fasi.

38
39 Mr. Fasi: Good afternoon Commissioners. The applicant is requesting a two-year time-
40 extension to initiate construction on the MF-7 project. This is not unusual. It has been before
41 the Commission with the same request and this Commission has waived its review and so the
42 Department is requesting the same decision and making the same recommendation. Thank
43 you.

44
45 Ms. Duvauchelle: Thank you. Any questions for --? Commissioner Robinson?

46
47 Mr. Robinson: Mr. Fasi, why not 10?

1
2 Mr. Fasi: Well I will gladly entertain 10 Mr. Robinson. Thank you.
3
4 Mr. Robinson: I do have a question for Mr. Chun.
5
6 Mr. Grant Chun: Good afternoon Madame Chair and Members, Grant Chun here on behalf of
7 Wailea MF-7 LLC.
8
9 Mr. Robinson: Aloha Grant.
10
11 Mr. Chun: Aloha.
12
13 Mr. Robinson: It will be the last time we'll see you, huh?
14
15 Mr. Chun: I might be back.
16
17 Mr. Robinson: You'll be back. Good.
18
19 Mr. Chun: In another capacity.
20
21 Mr. Robinson: That's good news. Yeah, if you're back here that will be great. So you were here
22 before and you were here before for this. I mean, do you guys have any plans or do you want a
23 longer extension or do you guys know what your status of this project?
24
25 Mr. Chun: Yeah we do now. It looks like we'll be able to start construction within the time line of
26 the two-year requested extension.
27
28 Mr. Robinson: Oh fantastic.
29
30 Mr. Chun: Yeah we're on track.
31
32 Mr. Robinson: Oh great. Thank you.
33
34 Ms. Duvauchelle: Any other questions? Thank you Grant.
35
36 Mr. Chun: Thank you.
37
38 Ms. Duvauchelle: Okay then Commissioners, discussion or waiving our review.
39
40 Mr. Robinson: Move to waive.
41
42 Ms. Duvauchelle: Moved by Commissioner Robinson, seconded by Commissioner Higashi. All
43 those in favor raise your hand. Five eyes. It passes. Thank you very much.
44
45 **It was moved by Mr. Robinson, seconded by Mr. Higashi, and**
46
47 **VOTED: To waive its review.**

1 (Assenting – K. Robinson, R. Higashi, C. Tackett, S. Castro,
2 S. Duvauchelle)

3 (Excused – T. Gomes, L. Hudson, L. Carnicelli)
4
5

- 6 b. MP VENTURE, LLC requesting a 2-year time extension on the
7 Special Management Area Use Permit condition to complete
8 construction and for non-substantive design changes for the Maui
9 Palms Hotel Redevelopment Project at TMK: 3-7-003:007:0002,
10 Kahului, Island of Maui. (SM1 2001/0012) (C. Thackerson)
11

12 **The Commission is being asked to waive or not waive its review.**
13

14 **The Commission may take action on this request.**
15

16 Mr. Yoshida: Item 1.b. is the request from MP Venture LLC for a two-year time-extension on the
17 Special Management Area Use Permit condition to complete construction for the Maui Palms
18 Hotel Redevelopment Project at TMK: 3-7-003 parcel 7, 0002, Kahului, Island of Maui. Staff
19 planner is Candace Thackerson.
20

21 Ms. Thackerson: Good afternoon Commission. I just wanted to point out that on the agenda it
22 also says non-substantive design changes and those are not you before you because they are
23 non-substantive which means the Director can approve them administratively. So we've already
24 had a meeting and decided to do that administratively. They were very minor. It was just more
25 of some of the façade work on the outside of the building.
26

27 So what is before you today is just to waive review of the two-year time-extension to complete
28 construction. So they've already begun it and they just need a little more time to complete it
29 probably because these things like these small design changes come up and they do have to
30 amend building permits and things like this so two-year waiver would be much appreciated.
31 And the applicant is here, yes, if you have any specific questions.
32

33 Ms. Duvauchelle: Any questions? Do we have a motion to waive or not waive?
34

35 Mr. Higashi: I move.
36

37 Mr. Castro: Second.
38

39 Ms. Duvauchelle: Okay. Commissioner Higashi to waive the review, seconded by
40 Commissioner Castro. All those in favor raise your hand. Motion carries.
41

42 **It was moved by Mr. Higashi, seconded by Mr. Castro, and**
43

44 **VOTED: To waive its review.**

45 (Assenting – K. Robinson, R. Higashi, C. Tackett, S. Castro,
46 S. Duvauchelle)

1
2 Mr. Yoshida: Moving to G.5., discussion of future Maui Planning Commission agendas. Your
3 next meeting is scheduled for November 28th. There's a one public hearing on a State Special
4 Use Permit to operate a B&B in Kula. We have that Mahinahina Beach AOA SMA settlement
5 agreement back on the record which was previously scheduled for October 24th, but had to be
6 rescheduled. And we also have that -- the Alfred Fairbanks time-extension request which the
7 Commission heard from the investigative committee on.

8
9 Ms. Duvauchelle: Okay. Commissioner Robinson?

10
11 Mr. Robinson: I'd like to request at our next meeting if we could be shown the exact law or the
12 charter that says that applications that aren't approved or denied are automatically accepted.
13 I'd like to see that law please at the next meeting. Thank you.

14
15

16 **H. NEXT REGULAR MEETING DATE: November 28, 2017**

17

18 **I. ADJOURNMENT**

19

20 Ms. Duvauchelle: Thank you. All right, any other questions Commissioners? Thank you all for
21 a long day. I appreciate it.

22

23 Mr. Yoshida: On behalf of the Department we would like to wish all of you a Happy
24 Thanksgiving.

25

26 Ms. Duvauchelle: Thank you. That's right we won't be back before Thanksgiving. Thank you
27 very much. Planning Commission is adjourned.

28

29

30 The meeting was adjourned at approximately 3:30 p.m.

31

32

33 Respectfully submitted by,

34

35

36

37 LEILANI A. RAMORAN-QUEMADO

38 Secretary to Boards & Commissions II

39

40

41 **RECORD OF ATTENDANCE**

42

43 **Present**

44 Lawrence Carnicelli (excused at 12:30 p.m.)

45 Sandy Duvauchelle, Chairperson

46 Richard Higashi, Vice Chairperson

47 Larry Hudson (excused at 12:30 p.m.)

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1 Keaka Robinson
2 Steven Castro
3 Christian Tackett

4
5 **Excused**
6 Tina Gomes

7
8 **Others**
9 William Spence, Director, Planning Department (excused at 12:30 p.m.)
10 Clayton Yoshida, Planning Program Administrator, Planning Department (in attendance at
11 1:30 p.m.)
12 Ann Cua, Staff Planner, Current Planning Division
13 Paul Fasi, Staff Planner, Current Planning Division
14 Kurt Wollenhaupt, Staff Planner, Current Planning Division
15 Candace Thackerson, Staff Planner, Current Planning Division
16 Kimberely Willenbrink, Staff Planner, Current Planning Division
17 David Galazin, Deputy Corporation Counsel, Department of the Corporation Counsel
18 Rowena Dagdag-Andaya, Deputy Director, Department of Public Works (excused at 12:00 p.m.)