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**MAUI PLANNING COMMISSION
REGULAR MINUTES
JULY 25, 2017**

A. CALL TO ORDER

The regular meeting of the Maui Planning Commission was called to order by Chairperson Sandra Duvauchelle at approximately 9:04 a.m., Tuesday, July 25, 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.)

Chair Duvauchelle: Good morning ladies and gentlemen. It is, what is today, it's July 25th, the Maui County Planning Commission is now in session. Thank you all for being here. Director, do you want to read our first agenda item?

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.**

Mr. Spence: Sure. Okay, Commissioners we are Item C-1. This is, we're transmitting alternate proposed bills as related to short-term rental homes in the Paia-Haiku Community Plan area. And what this is, I'll just let David Raatz. David Raatz is our, if you don't know is our Administrative Planning Officer. When Mr. Alueta went on to other things we hired Dave from Council...used to be from Council Services. He has a legislative background and legal background and so he is going to present to us this bill and we'll get into the discussion.

Chair Duvauchelle: One moment. Commissioner Carnicelli?

Mr. Carnicelli: Good morning, Chair. Thank you. Before we go forward with this agenda item I would like to make a disclosure for full transparency and to be completely ethical about everything. This is the type of item that my employer might take a position on at the Council level. We do not have a position currently. There's, you know, there's not a position that the employer has taken. However, you know to be transparent to my fellow commissioners, I wanna say that this something that in the future depending upon what happens that my employer might. So I just want to put it forward to my fellow commissioner that if this is something that you feel as though I should go get an opinion from the Board of Ethics on as to whether or not I should recuse myself and it's also...my employer will have no financial interest no matter what happens in this, but they might have a position. This is something...when I first came onto the commission this is the type of things that I went before the Board of Ethics and said, okay, I'm going to disclose if something like this comes about. So anyway so I'm going to put it to my fellow Commissioners to just say this is what it is. If you feel as though I need to go get an opinion from the Board of Ethics I will do that. If you feel as though I should absolutely recuse myself I will honor that. If you feel as though it's okay and I can have my opinion, then that's fine too.

Chair Duvauchelle: Thank you. Commissioners do we have any discussion? Thank you Commissioner Carnicelli for the disclosure. And just for information, as the agenda states we are now taking public testimony after the agenda item has been presented not prior when the meeting starts. Okay, go ahead. Thank you sir.

1 **C. PUBLIC HEARINGS** (action to be taken after each public hearing.)
2

3 **1. MR. WILLIAM SPENCE, Planning Director, transmitting alternative**
4 **proposed bills relating to Short-Term Rental Homes in the Pa`ia-Ha`iku**
5 **Community Plan Area, respectively described as follows:**
6

7 **a) A proposed bill titled “A BILL FOR AN ORDINANCE AMENDING THE**
8 **PA`IA-HA`IKU COMMUNITY PLAN RELATING TO VISITOR**
9 **ACCOMMODATIONS.” The purpose of the proposed bill to amend**
10 **the Pa`ia-Ha`iku Community Plan, adopted by Ordinance 2415**
11 **(1995), to confirm Short-Term Rental Homes are allowed in**
12 **Pa`ia-Ha`iku Community Plan Area, consistent with Ordinance 3941**
13 **(2012).**
14

15 **b) A proposed bill titled “A BILL FOR AN ORDINANCE RELATING TO**
16 **SHORT-TERM RENTAL HOMES IN THE PAIA-HAIKU COMMUNITY**
17 **PLAN AREA.” The purpose of the proposed bill to amend Chapter**
18 **19.65, Maui County Code, to prohibit new Short-Term Rental Homes**
19 **in the Pa`ia-Ha`iku Community Plan Area.**
20

21 Mr. David Raatz: Thank you Madam Chair. Good morning Members, my name again is David
22 Raatz, Administrative Planning Officer with the Department of Planning. I just have a very brief
23 overview to explain why we're here today. It's a very simple slide show regarding the issue of
24 short-term rental homes in the Paia-Haiku Community Plan area. First, just some background
25 on transient vacation rental in Maui County.
26

27 There are basically two types of rentals, as I'm sure most of the members understand that long-
28 term rentals where there's a lease term of 180-days or longer or the category of transient
29 vacation rentals which is when you have a lease term of fewer than 180-days. TVRs are
30 permitted uses in some zoning districts as of right such has Hotel Districts for instance. TVRs
31 may also be permitted by the Council adopting an ordinance providing a Conditional Permit. In
32 addition, the Council has created two types of TVRs that are allowed with a permit in some
33 zoning districts certain to restrictions, standards established in the County Code. These are bed
34 and breakfast homes which are codified in Chapter 19.64 of the Maui County Code. There are
35 various standards and restrictions. Having an onsite owner is one of the key characteristics of
36 B&Bs. Then short-term rental homes which is in Chapter 19.65. Again, there's an array of
37 restrictions and standards in the Code but one of the characteristics is offsite ownership is
38 allowed.
39

40 So there are two different policies on short-term rental homes established by ordinance that we
41 see as not being in harmony and we're seeking the Council to resolve the discrepancy and
42 make it clear policy choice and we're asking the Maui Planning Commission to make a
43 recommendation to the Council.
44

1 First is in the Paia-Haiku Community Plan which some of you had the hard copy it's in this
2 purple binder established by ordinance in 1995. At Page 17 there's a policy that states, "Limit
3 visitor accommodations to owner-occupied bed and breakfast establishments", and that was in
4 the quotes at that time. We didn't have a Bed and Breakfast established, "that are residential in
5 both scale and character. Any proposed bed and breakfast should not be situated near the
6 shoreline so to avoid the proliferation of this use and subsequent changes in the character of the
7 region's coast."
8

9 Then subsequently Chapter 19.65 of the Maui County Code was established by ordinance in
10 2012, and there are various limits of STRHs in the various community plan areas and the Code
11 currently says you can have up to 88 STRH permits in Paia-Haiku. There's currently 47. So the
12 Department's position, we've been regarding the Maui County Code and Chapter 19.65 as
13 reflecting the current County policy that short-term rental homes should be allowed within the
14 Paia-Haiku Community Plan area. That's why we've had 47 permits issued. But we are
15 requesting and proposing that the Council confirm this policy choice by amending the
16 community plan to specifically allow short-term rental homes.
17

18 So before the body today are various options. Number one, you can recommend to the Council
19 the approved...one of the bills that we've drafted and brought before you. The first one is to
20 again reflect our recommendation that the community plan should be amended to allow short-
21 term rental homes. The other option if you want to go the opposition direction and the Code
22 consistent with what the community says you could amend the County Code and change that to
23 current authorization of up to 88 STRH permits down to zero. We would, if that option is taken
24 continue to allow permit holders to renew their applications based on current law. Additionally,
25 you could recommend amendments to one or both of the bills that we've put before you. Could
26 potentially come up with a compromise position for instance to decrease the County Code's cap
27 on short-term rental homes in the community plan area. You could go from 88 to some other
28 number. That would require amending the community plan as well 'cause currently the
29 community plan language seems to essentially say you should prohibit STRHs in the Paia-Haiku
30 Community Plan area. So again, that's a conflict that we see here. That's the basic policy
31 choice before the body and the Planning Director and I would be happy to answer any
32 questions. Thank you very much.
33

34 Chair Duvauchelle: Thank you. At this time, we'll open the floor for public testimony on Agenda
35 Item C-1. Registered to testify is Francine Aarona. Please state your name and you'll have
36 three minutes.
37

38 **a) Public Hearing**
39

40 Ms. Francine Aarona: Good morning Madam Chair and Members of the Commission. Before
41 my testimony I just wanted to ask a question primarily to Will Spence, our Planning Director.
42 In...am I to understand that at the time that this ordinance was done the Chapter 19.65,
43 Ordinance 3941 was the community plan amended at that time to include the short-term rental?
44

45 Chair Duvauchelle: Director?

1
2 Mr. Spence: And this is for the benefit of the public and the Commission. The community plan
3 was adopted in 1995. At that time of that adoption it had that...it had that particular policy in
4 there to limit visitor accommodations to bed and breakfast establishments, okay, that are both
5 residential...that are residential in both scale and character. And any bed and breakfast
6 establishments should not be situated near the shoreline so as to avoid the proliferation of this
7 use and subsequent changes to the character of the region's coast.

8
9 Ms. Aarona: Thank you.

10
11 Mr. Spence: The Short-Term Rental ordinance was adopted significantly later than that. And as
12 we were going through that the proceedings and the hearings before the Planning Committee
13 we thought the Council was fully aware of this particular policy. And so they went ahead and
14 adopted a cap within the Paia-Haiku area, what is it, 88? And then you know, and so we're
15 sitting there going okay, we're approving this one and approving that one, and we're bringing
16 Special Use Permits before the Planning Commission for their review and adoption. And you've
17 heard me in a number of meetings bring this particular policy to your attention. Looking back on
18 the minutes of the Planning Committee meeting it's not clear that the County Council was aware
19 of this particular policy. So in order to clarify this and to say, okay we're gonna allow short-term
20 rental homes in the Paia-Haiku Community Plan region or we're not, we need to have the
21 policymakers make that decision. Policymakers in this case by ordinance is the County Council.
22 So that was a long answer to your question Mopsy. This policy existed way prior to short-term
23 rental home ordinance.

24
25 Ms. Aarona: Yeah, and I'm sorry, I you know forgot to state my name. Francine Aarona and
26 they call me Mopsy. I'm known as Auntie Mopsy from Protect Paia, and I'm here to of course
27 ask that question because in the memorandum that was sent out to the Maui Vacation Rental
28 site you know the other thing was the recommendations and the options which he brought up.
29 You have three bullets. One to recommend approval of one of the proposed bills as drafted to
30 the Maui County Council. And one recommend approval of one of the proposed bills with
31 amendments to the Maui County Council or vote to defer action of both proposed bills in order...

32
33 I'm a young person on this process of coming and testifying before the boards but I'm learning.
34 So with that...so I'm assuming that one of your proposed bills which is (a) the purpose of the
35 proposed bill to amend the Paia-Haiku Community Plan which was adopted 1995 to confirm the
36 short-term rental. That means that before you had the cart before the horse and now you're
37 putting the horse ahead to serve out this community plan which you're asking the Council now
38 to amend, to make it right to the 2012. Am I wrong? Am I right?

39
40 Chair Duvauchelle: Director?

41
42 Mr. Spence: Normally testifiers don't—

43
44 Ms. Aarona: I know, I know—

45

1 Mr. Spence: --don't ask questions.

2
3 Ms. Aarona: --and it goes with my testimony 'cause I wanted to be clear. I stayed up till two
4 nights. So I reading all the community plan, catching up on this and I know it's out of the
5 ordinary, but with that said—

6
7 Chair Duvauchelle: So if you can go ahead and begin your testimony and you'll have three
8 minutes.

9
10 Ms. Aarona: I can go with my testimony.

11
12 Chair Duvauchelle: Yeah.

13
14 Ms. Aarona: So the goal of the community plan was a community that preserves the region's
15 small town ambience and rural character, coastal scenic vistas and extensive agriculture land
16 use and accommodates the future needs of residents at a sustainable rate of growth and in
17 harmony with the region's natural environment, marine resources and traditional use of the
18 shoreline and mauka lands.

19
20 Now it amazes me that back in 1995, 13 people met for 21 days as a part of this community
21 advisory committee and they deliberated 225 days to protect the growth of Paia-Haiku District.
22 A well thought out plan that would allow our people to live a peaceful life and allow change to
23 grow with them. I strongly recommend to this board and the Planning Committee that any future
24 amendments that you make to the Paia-Haiku Community Plan that you have a town meeting in
25 the evening so that the community can have an input and be well aware of the changes that will
26 affect them especially our young adults with families who continue to protect their style of living.

27
28 Referring to your second proposed bill. I feel you should stop future short-term rentals and send
29 a taskforce to investigate illegal rentals in Paia-Haiku area. Many of our residents are unaware
30 of filling out an RFS to get your attention. Some of our town friends have short-term rentals that
31 has the community in their best interest. So I ask that you allow those people to have their
32 short-term rental and allow them to renew their permits. We have friends that have short-term
33 rentals, we're not against it. But when you affect the community plan or make any changes to
34 the community plan, I urge you have an evening meeting. Let the community come forth. It is a
35 community plan. You figure 225 days they deliberated to put this plan together, what we're
36 talking a week or a month or so that you're having to make decision. So thank you so much. I
37 really appreciate it.

38
39 Chair Duvauchelle: Thank you. Any questions for the testifier? Commissioner Carnicelli?

40
41 Mr. Carnicelli: Good morning Aunty Mopsy.

42
43 Ms. Aarona: Good morning.

44

1 Mr. Carnicelli: So you said that you have friends that have short-term rentals and you're not
2 necessarily against those.

3
4 Ms. Aarona: Correct.

5
6 Mr. Carnicelli: Are any of them located near the shoreline?

7
8 Ms. Aarona: No.

9
10 Mr. Carnicelli: Okay.

11
12 Ms. Aarona: There is one that is my neighbor that's not my friend that has a shoreline rental if
13 want to be specific.

14
15 Mr. Carnicelli: I'm saying, but near the shoreline. I'm not saying on the shoreline, I'm saying
16 near the shoreline?

17
18 Ms. Aarona: If you consider I'm on the shoreline. My renter is next to me further toward the
19 town. So I'm the shoreline. Yeah.

20
21 Mr. Carnicelli: How would you define near the shoreline?

22
23 Ms. Aarona: The beach is right there. That's my backyard.

24
25 Mr. Carnicelli: Okay. Got it. Thank you.

26
27 Ms. Aarona: Okay.

28
29 Chair Duvauchelle: One moment. Commissioner Robinson you have a question?

30
31 Mr. Robinson: Aloha.

32
33 Ms. Aarona: Aloha.

34
35 Mr. Robinson: You know I think the problem is we have a lot of friends. All of us have friends,
36 all of us want to be nice people and when the Commission comes it hard for us to reject people.

37
38 Ms. Aarona: Exactly.

39
40 Mr. Robinson: Even though this permit right here and this community plan and these 225 days
41 of deliberation says don't do this, we don't want this, we still do it anyway because we're
42 inherently good people.

43
44 Ms. Aarona: Yes.

1
2 Mr. Robinson: But right now there's a situation where you're saying we wanna follow the plan
3 but my friends are okay. So I think that's the challenge we have. And so my question to you is
4 if you had to choose between no short-term rentals and friends get affected or everybody is in
5 the same boat 'cause we can't pick and choose, right, it's America. So that's the question that's
6 in front of us today. So we can't pick and choose, but if we had to go all or nothing which side
7 would you be on?

8
9 Ms. Aaron: No short-term rental.

10
11 Mr. Robinson: Okay.

12
13 Ms. Aaron: And my friends would agree, I mean, would be along my side.

14
15 Mr. Robinson: Thank you.

16
17 Ms. Aaron: And that's why I made that comment.

18
19 Mr. Robinson: Thank you.

20
21 Chair Duvauchelle: Any other questions? Thank you very much.

22
23 Ms. Aaron: Thank you.

24
25 Chair Duvauchelle: Next testifier, Terry Tolman. State your name, you'll have three minutes.

26
27 Mr. Terry Tolman: Good morning, my name's Terry Tolman and I'm a resident of Haiku. I've
28 been living in the Paia and the Haiku area since 1982. Thank you Commissioners, Director and
29 Chairperson for allowing us to testify. I'm testifying on Agenda Item 1. I do not recommend an
30 amendment to outdated community plan nor change to Title 19.65. It's a very complex situation.
31 You got a community plan that should have already been updated but isn't and I know they take
32 a long time. The recommendations in this ordinance don't fit the community of today. At the
33 time of forming legislation for short-term rental there was a lot of community support especially
34 in the Paia-Haiku area. There are a lot of feelings about it we know. Public hearings were held,
35 recommendations from the commission were heard, numerous hearings from the County
36 Council and Corporation Counsel when they approved the Chapter 19.65 or .65. I would
37 suggest don't make a rash decision or a quick decision. Study it better and perhaps see if we
38 can accelerate the updating of the community plan for Paia and Haiku. Nobody wants to see it
39 all vacation rentals. They do provide a viable function and accommodation of place for tourists
40 to stay besides the hotels and give it some thought. It's easy to make a rash decision that you
41 pay the consequences for it later, when either way they get to decide and hope that you give it
42 some thought and I enjoyed seeing the presentation that gave more than two options. Thank
43 you very much.

44

1 Chair Duvauchelle: Thank you. Any questions? Thank you very much. Next testifier Barbara
2 Barry? Please state your name, you'll have three minutes.

3
4 Ms. Barbara Barry: Good morning everyone. My name is Barbara Barry and I'm a resident of
5 Haiku, and personally after looking at luckily three options, I support the idea of stopping...really
6 getting community input on this and making a choice based on the community...updating the
7 community plan and not just making rash decisions with full community input. This is a really
8 delicate topic considering we have such a short...such a housing rental shortage. I see it all the
9 time in my moku where people are needing to move for some reason or another, their home
10 gets sold or the house that they've been renting gets sold and they can't find affordable housing.
11 And the more short-term rentals we have the less affordable housing is available to people that
12 want to raise their families in a rural area away from the tourist zones. And I just think it really
13 needs to be carefully considered before having either a (a) or (b) option. There's too much at
14 stake and...it needs to be fair and across the board for everyone. We have infrastructure
15 problems with roads and traffic jams and you know, adding more short-term rentals without a
16 plan is really not a well-thought out idea. So that's my recommendation. Thank you so much.
17 Any questions?

18
19 Chair Duvauchelle: Thank you. Any questions for the testifier? Thank you very much. Next
20 testifier, Tim Wolfe. State your name, you'll have three minutes.

21
22 Mr. Tim Wolfe: Got my timer ready to go here. Aloha to the Planning Commission and Planning
23 Department members. My name is Tim Wolfe. I have lived and worked on Maui for almost
24 30 years. I'm very involved in community affairs. I serve as the Treasurer of the Haiku
25 Community Association and have recently become a member of the Maui Vacation Rental
26 Association as well. My wife and I are fortunate to own two properties in Haiku at
27 22 Laupapa Place. I have a cottage that has been in long-term rental for years. It's a terrific
28 spot at an affordable price and my school teacher tenant loves it. It has generated GET
29 revenue for the State for a long time.

30
31 We also own a property on Kahope Place it includes a Maui County permitted B&B vacation
32 rental that generates both GET and TAT tax revenue. When my Hungarian wife was learning to
33 speak English she watched every episode of I Love Lucy and became an extreme fan of Lucille
34 Ball. If you search Airbnb for a vacation rental on the north shore of Maui you may find the Lucy
35 Fan Ohana. What you will also find is a long list of positive reviews from our guests that keeps
36 our modest neighborhood rental continuously occupied. With our guests we create goodwill and
37 great word of mouth about a vacation on Maui. With our neighbors, we enjoy a solid reputation
38 for our low impact on our street which is nowhere near the shoreline. It would be an error in
39 judgment by our county government to cancel our legal status or to fail to renew our permit
40 years from now. The law may have some flaws, it can be addressed over time, but it is
41 responsive to our modern conditions. A 20-year-old island plan is simply out of our touch with
42 our digital economy.

43
44 A final remark, I property manage my neighbor's home across the street because he is working
45 on the mainland for the foreseeable future. That property has two long-term affordable rentals,

1 a three-bedroom, two-bath family rental with a fenced yard for pets pretty rare, and a
2 comfortable one-bedroom studio. The owner may be able to spend more time on Maui starting
3 next year and he hopes to be able to utilize the cottage himself from time to time, but what can
4 he do with the property when he or his family cannot be here? A short-term rental housing
5 permit for the cottage with responsible, knowledgeable, local management would be the best
6 use of that unit. If a STRH permit becomes unavailable what is his option to make the highest
7 and best use of his property. We are ready to file an STRH permit request in the near future.

8
9 We believe that it would be in the best interest of all our citizens to leave the well-established
10 rules in place at this time. It is always healthy to review permit requirements from time to time.
11 It would be a poor choice to climb into the way back machine and create shocks and tremors in
12 a healthy and active segment of our vacation economy. So we recommend deferring action at
13 this time, Option No. 3 in David's presentation. And of course, none of this means anything
14 without confidence in government and business to respect and enforce the law, please police
15 the permits. Thank you for your attention to this(inaudible)...testimony. 3:01.25

16
17 Chair Duvauchelle: Good job. Any questions for the testifier? All right, seeing none, thank you
18 very much. Next testifier Greg Mabel?

19
20 Mr. Greg Mabel: Mabel.

21
22 Chair Duvauchelle: Mabel.

23
24 Mr. Mabel: Thanks for letting me speak today. I'm gonna reiterate some of the things that were
25 already said. I'm Greg Mabel. I live in Paia. I have a short-term rental. I also work in real
26 estate and have a bunch of friends that have short-term rentals or work within short-term rentals
27 meaning housekeepers, landscapers, people who own restaurants, people who own shops in
28 Paia or Haiku. There was a time in Maui when all the short-term rentals were effectively ended
29 and it was a big problem in Paia and Haiku actually for a lot of the business owners and for a lot
30 of people who were employed. There were fewer jobs, et cetera. So that's when everyone
31 kinda put their heads together and created this program to have a short-term rental or B&B
32 permits which is working well. Sure there's bumps in the road but it's the newest thing. It did
33 consult the community plan originally and it just needs to be able to evolve. And I think that this,
34 it sounds like this is part of its evolution looking at this contradiction.

35
36 One issue or two issues I was gonna bring up and just stop me when my times ends up or is
37 over. But one of them is, you know the idea of putting these two documents in alignment
38 obviously is a good idea so there's no questions. Some of the proposed language talks about
39 the shoreline which is...it's undefined what's near the shoreline. Another part of it is whether it
40 changes the character that's also undefined. However, within the short-term rental process
41 every single permit gets scrutinized for exactly that. Does it change the character of the
42 neighborhood? How is it changing? Is it acceptable? All the neighbors have...are asked, they
43 get certified mail, they get an option to chime in every single time. So that's really...it's already
44 been addressed.

45

1 And then finally, you know the numbers here, someone brought up affordable housing in Maui
2 that's a huge a problem. We need, I just heard Paul Brewbaker speak who's a Hawaii
3 economist who said we need 1,400 new units on Maui a year, 14,000...thousand excuse me.
4 What we're talking about are 48 permittees in Paia and Haiku. These are two separate, totally
5 separate issues. If you look at short-term rentals and this as a fix for our affordable housing
6 problem. It's not a fix. That's a separate issue. Anyway, thank you. Any questions for me?

7
8 Chair Duvauchelle: Thank you. Any questions? Thank you very much. That was the last of the
9 people that signed up. Anybody else wishing to testify please come forward? You can just go
10 up, you don't have sign. State your name you'll have three minutes.

11
12 Mr. Tom Croly: I'm Tom Croly and today I'm speaking on behalf as a volunteer of the Maui
13 Vacation Rental Association. The Maui Vacation Rental Association supports all efforts to
14 effectively regulate bed and breakfasts and short-term rental homes on Maui. Having said that,
15 we question the need for what's before you today. Obviously we do not support setting the cap
16 for STRHs for Paia-Haiku at zero. We compare this to abandoning a functioning ordinance. But
17 neither do we support the idea of making changes to an objective in a community plan that is
18 nearly 25 years old. This should be done as part of the upcoming community plan updates.

19
20 The implementing action that's contained in the Paia-Haiku Community Plan related to the
21 proposed policy objective was, and I quote, "establish and enforce regulations for bed and
22 breakfast establishments conducted by owner-occupants within single-family dwellings to
23 ensure that they will be situated in appropriate areas and not adversely affect the surrounding
24 neighborhoods. The regulation should include but not be limited to criteria related to location
25 and size of operation.

26
27 This policy was implemented in 1998 with the adoption of the first B&B ordinance. That B&B
28 ordinance totally failed because it was too restrictive. After more than a year and a half's review
29 and scores of public input and meetings that ordinance was amended in 2008, and was far more
30 successful because the regulations made sense and allowed more properties to comply. Then
31 in 2011 and 2012, with tremendous support from the Paia-Haiku community and full
32 consideration of the objectives contained within the Paia Community Plan, the County Council
33 established the Short-Term Rental Ordinance. It contained things that had been learned over
34 20 years since this was first discussed as part of the Paia-Haiku Community Plan.

35
36 The commission should be supplied with the minute from all the community meetings and the 16
37 public hearings and County Council meetings from when the Short-Term Rental Ordinance was
38 promulgated rather than just being asked to make comment on amending a 25-year-old
39 community plan objectives. Perhaps the community plan objective for promoting sugar cane
40 and pineapple for Haiku might need to be updated as well. I'm being facetious there.

41
42 While community plans are important for guiding policymakers in establishing laws, it is
43 backwards to be going back to an old community plan after laws considering them have already
44 been established. I think Mopsy put it best. We don't want to put the horse before cart, cart
45 before the horse.

1
2 Ms. Takayama-Corden: Three minutes.
3
4 Mr. Croly: So we've come to where we are. It's time to review the community plans, let's do
5 that appropriately. Thank you.
6
7 Chair Duvauchelle: Thank you. Any questions? Commissioner Robinson?
8
9 Mr. Robinson: Hi, do you have...could I have a copy of that on the letterhead of your
10 association that you just spoke for?
11
12 Mr. Croly: Sure I could do that. I don't have--
13
14 Mr. Robinson: I mean you said you're speaking for them right?
15
16 Mr. Croly: I am speaking for the Maui Vacation Rental Association, correct.
17
18 Mr. Robinson: And could you give us copies of that speech that you just read from them,
19 please?
20
21 Mr. Croly: I suppose I could. I don't have that today.
22
23 Mr. Robinson: You don't? Okay, thank you.
24
25 Chair Duvauchelle: Commissioner Carnicelli?
26
27 Mr. Carnicelli: Good morning, Tom. So I guess, you know we're...it's an interesting thing
28 before us because we have a community plan that I think somebody said 225 days-worth and
29 you know all these meetings and things like that, but we also have an STRH and a B&B
30 Ordinance that was the same. When the STRH and B&B Ordinances were vetted I believe
31 there was a bunch of meetings as well as this sort of thing discussed or like...how was this
32 addressed in those meetings?
33
34 Mr. Croly: You know, I can't speak to the exact what was discussed at every single one of those
35 meetings, but I can say that there is a record of those meetings on file and there were
36 community meetings held within the Paia-Haiku community at the time of both the Bed and
37 Breakfast Ordinance and the Short-Term Rental Ordinance promulgation. And those included
38 the community merchants association. Those included the Paia-Haiku Community Association.
39 No one can say that Paia-Haiku was not consulted you know during this process. And then
40 when we got to County Council, both of these ordinances took more than a year to get through
41 County Council where we had meeting after meeting and again, these things were discussed at
42 that time. As well, Corp. Counsel reviewed each of the bills that came through for, you know,
43 their application. So I'm just saying at this moment that I don't think you have a full record
44 before you to be able to be making a recommendation on either of these policies with respect to
45 the Paia Community Association's or the Paia-Haiku Community Plan that was originally

1 discussed let's be clear in 1992 and 1993, although it was finally adopted in 1995. So we really
2 talking about something that's about 25 years old at this point.

3
4 Chair Duvauchelle: Thank you. Thank you very much.

5
6 Mr. Croly: Thank you.

7
8 Chair Duvauchelle: Anyone else wishing to testify? Please come forward. Please state your
9 name and you'll have three minutes.

10
11 Ms. Tiare Lawrence: Aloha Commission. My name is Tiare Lawrence. I kinda looked over this
12 briefly but I do wanna say that for 1b the purpose is to prohibit new short-term rental homes, I
13 think the proposed bill should actually read or maybe should be considered as to just cap it at 88
14 for now until the community plan is updated. I think that's the more logical and fair way to
15 approach it rather than just saying banning, no more new, because there is a lot of legitimate
16 people that have worked really hard and having been complying with County and I'd like to see
17 them maintain that for now and then let the community decide when the community plan
18 updating comes. As you folks know that affordable housing is a huge crisis right now and I
19 personally am not a huge fan of short-term vacation rentals. I understand this is a very complex
20 situation. But I do feel that Haiku and Paia, in Skill Village you have a lot of illegal vacation
21 rentals on Airbnb and all these VRBO sites. You ever have a chance to skim, I like to go and
22 check like every two to three days to see what new ones pop up and I was surprised to find out
23 that there was multiple ones in Skill Village and I know personally living in a neighborhood that
24 is very rural and old school families, I don't like the...I don't like being bombarded with tourism in
25 my neighborhood. That's kinda the main reason why I moved out of Lahaina is because it just
26 got too crazy. Something to consider, but never a huge fan of amending the community plan. I
27 think that we need to get on this community plan soon and try to find compromise within the
28 means of the community versus just saying no or you know, it needs more vetting so, thank you.

29
30 Chair Duvauchelle: Any questions? Thank you very much. Anyone else wishing to testify?
31 Please state your name you'll have three minutes.

32
33 Ms. Catherine Clark: Aloha Commissioners. My name is Catherine Clark and I'm board
34 member of the Maui Vacation Rental Association. When the Bed and Breakfast and Short-Term
35 Rental Home Ordinances were crafted there was significant community outreach and many
36 meetings in Council Chambers. There were many opportunities for community members to
37 come forth to express support or concern and many took that opportunity to let their voice be
38 heard. One of the concerns was proliferation and community plan caps were imposed to be
39 certain that this was tightly controlled.

40
41 From Baldwin Beach out to Huelo and up into the country of Haiku the total number of short-
42 term rental homes that can be permitted is 88. This control was necessary to limit impacts to
43 housing and to address the character of the area. Because there are still many illegal
44 operations we have yet to see the results of what these controls will look like. Keep in mind that
45 visitors are attracted to the north shore. There's a need for short-term lodging for family visiting

1 local residents and to provide jobs in Paia, Haiku where residents can work close to home.
2 Where there is demand there will be supply. Lacking legal rentals the illegal market will simply
3 explode operating without the rules imposed on the short-term rental homes.
4

5 But why are we focused on this one inconsistency? The community plan also has an objective
6 and policy of prohibiting, not limiting, but prohibiting hotel resort development within the region,
7 but just a couple of years ago a change was made to B-CT zoning to allow small hotels. This
8 would seem to be a greater conflict than the one we're discussing today. As you read through
9 the plan, there are many other policies that don't match the activity that's taking place in the
10 area today. This issue is best addressed in the upcoming community plan update which will be
11 an opportunity to review all of the issues that exists in the Paia-Haiku area. It is impossible to
12 isolate one item from the plan and consider it without considering the broader scope of the plan.
13 Thank you.
14

15 Chair Duvauchelle: Thank you. Any question? Thank you very much. Anyone else wishing to
16 testify, please come forward? State your name and you'll have three minutes.
17

18 Mr. Billy Jalbert: Good morning Commission Members. My name is Billy Jalbert and I am a
19 resident of Paia. I am also a owner of a small real estate brokerage in Paia and I am also a
20 board of member of a local not-for-profit. I am deeply entrenched in my community and I care
21 deeply about Maui.
22

23 I recently read an article in Outside magazine, and it was titled, how STRs are killing the
24 mountain town. It was actually an incredibly thoughtful article and I saw a lot of parallels
25 between Maui and these mountain town. But what I also learned as I uncovered and looked a
26 little further was that the STR and B&B legislation that Maui has taken a lot of time and a lot of
27 effort to put in place is some of the most forward thinking legislation in the country when it
28 comes to STRs and it was specifically designed to protect the fabric of our communities while
29 enabling a new type of tourism to our island which is in strong, strong demand. There's an old
30 term called throwing the baby out with the bathwater and I think that modifying the community
31 plan or modifying the legislation to comply with the community plan would be throwing the baby
32 out with the bath water. Right now we have STRs and B&Bs that are providing tax revenues
33 and jobs to members of our community. These are things that will help us with infrastructure,
34 with education and with all the things that we need in our community. We have very, very
35 common laws in place. What I am in strongly in favor of is increased enforcement of those laws.
36 As you've heard over and over from other testifiers and other testimonies there's still a lot of
37 illegal vacation rentals going on on this island. People have worked very hard to comply with
38 the rules. They're doing the right thing. Now we need to do right by them and have increased
39 and more strict enforcement that way we will preserve the fabric of the community that we have
40 and that we all love and we have also provide business opportunities for local residents. That's
41 it. Thank you.
42

43 Chair Duvauchelle: Thank you. Any questions? Thank you very much. Anybody else wishing
44 to testify? Okay, seeing none, public testimony is now closed. Director?
45

1 Mr. Spence: Okay, thank you Madam Chair and I think it's important I make some statements
2 here. First off, when we look back at the minutes I mean there's testimony about how this
3 was...how the Short-Term Rental Home Ordinance was fully vetted through the communities
4 and there was a lot of input from Paia and Haiku residents that's true. However, this specific
5 provision of the Paia-Haiku Community Plan was never discussed in this specificity.

6
7 One of the things that it's fairly constant comment, are you following the community plan? Are
8 you following the community plan? The community plans have the force and effect of law. And
9 there's even in County Code 2.80B requires that all departments follow the provisions of the
10 community plans and the General Plan. That's why this is before you today. 'Cause if we follow
11 this specific provision of the community plan as it is you know, we may just be denying all short-
12 term rental home permits within the Paia-Haiku Community Plan area. That's how seriously we
13 take this. We're not in favor of that. But we can't reconcile the two things.

14
15 We're not in favor of prohibiting short-term rental homes within the Paia-Haiku area. We think
16 the existing cap that stands at 88 should stay in place. That we allow at least that...you know,
17 up to that amount within this community plan area. But we have to have...you know, what we're
18 doing is we're bringing to you a choice. Either we're gonna say, we should allow short-term
19 rental homes within the Paia-Haiku Community Plan area or we're not. We're either gonna
20 follow the community plan which says, no, this community plan provision says, no short-term
21 rental home permits only B&Bs and those should not be situated near situated near the
22 shoreline. I agree with the testifier, I don't know what, near the shoreline means. You know, is
23 that walking distance, is that driving distance, I don't know. That's not very clear. But certainly
24 B&B, owner-occupied B&Bs that's very clear. We agree that this community plan is old. At the
25 time, and I don't think there's anybody here except for myself who were involved with that
26 community plan. I was the staff planner. I see Mr. Frampton hiding in the back. I was one of
27 the staff planners along with Mr. Frampton assigned to this community plan so I remember the
28 discussion that at that time they were very concerned that just B&Bs would be allowed. So
29 that's why that ended up in that plan.

30
31 Okay, to put this decision making off until the community plan is updated and I wish we were on
32 it right now. Unfortunately the way that the General Plan and the community plans have gone
33 down in implementing the new law the General Plan started updating in 2006, and nobody ever
34 really took a look at the timeline and the amount of time it would take to update. So we are very
35 far behind and to wait for decision making on this particular community plan...we're just starting
36 on West Maui. We have Molokai up at Council right now. We're just starting on West Maui,
37 then comes South, then comes Central, then comes Makawao-Pukalani-Kula, then will come
38 the Paia-Haiku Community Plan. We're probably five years out before this discussion ever
39 takes place. In the meantime, there are law abiding property owners who want to come forward
40 and get permits and we think it's unfair to them to wait, you know, to have this dichotomy of
41 okay, you should be following the community plan which says don't permit any short-term rental
42 homes versus you know what the County Council has passed in setting a cap and with the more
43 recent input from the community from you know, all the discussion on the short-term rental
44 homes. So we're trying to reconcile this.

1 The Planning Department's decision is we should, we should change the community plan to
2 allow short-term rental home that will not change the cap that will just reconcile what the
3 community plan is saying right now.

4
5 And then the alternative if the Members feel strongly enough that there should be no short-term
6 rental homes at all in that community plan area you can vote to set the cap at zero and follow
7 what the community plan says. Was that...make sure I covered...okay, that pretty much covers
8 my comments. I'm certainly available Commissioners for questions.

9
10 Chair Duvauchelle: Commissioner Higashi?

11
12 Vice-Chair Higashi: I have a question regarding this proposal from the standpoint that it sounds
13 like we could defer it so that the communities in Paia and Haiku will have an opportunity to make
14 input before the Commission itself does action on it. Is that a possibility or is there a time
15 element that says that we must act on it?

16
17 Mr. Spence: That's certainly an option for the Commission to recommend. The problem with
18 that is we have applicants who have applied and they're waiting for their permits and we could
19 very well just...it's difficult for us to say you're approved or you can go forward and we have one
20 applicant here today with the way that things are.

21
22 Chair Duvauchelle: Commissioner Higashi?

23
24 Vice-Chair Higashi: So is there a possibility that this particular ordinance give temporary
25 permits until such time that they community association has input in this proposal?

26
27 Mr. Spence: There's really no such thing as a temporary permit, and how it would create more
28 problems than it would solve to say okay, you can short-term rent now and then let's say the
29 consensus is okay, no permits. Okay, now we're gonna take away your short-term permit. That
30 creates hardship for property owners that I don't want to even approach.

31
32 Vice-Chair Higashi: So our choice basically is either to accept or defer or deny? Those are our
33 three options.

34
35 Mr. Carnicelli: That's not what they presented. That is an option...

36
37 Mr. Spence: The options that we've presented to the Commission, and remember you're
38 making a recommendation to the Council. You're not making the decision. Recommend
39 approval of one of the bills either as they're drafted, either set the cap at zero thus following the
40 community or amend the community plan to allow the cap of 88 to allow short-term rental homes
41 to go forward and that cap of 88 would remain. That's one option. You can recommend
42 changes to either one of the bills. And then you can defer action on that.

43
44 Chair Duvauchelle: Commissioner Carnicelli?

45

1 Mr. Carnicelli: So after listening to all of the testimony and reading over it, I understand where
2 the Department's coming from, however I will respectfully disagree that this...we have a gun to
3 our head because when we start talking about the community plan one of the things about that
4 people talk about the community plan over, over, and over again that there was so much effort
5 put into the community plans. For us to do an hour worth of three-minute testimony and then to
6 just make a chance and recommendation and say okay, let's go forward I think is a little bit rash.
7 To me, I'm in favor of deferring this at the very least to get additional information because
8 there's still some nebulous language in this, near the shoreline, proliferation, subsequent
9 changes, you know what do those mean?

10
11 Apps didn't exist when this community plan was put together. Uber didn't exist. Airbnb did not
12 exist. You know the shared economy wasn't a thing then so they didn't consider it in 1995. It
13 wasn't considered the shared economy. It's just the way it is. It's the way that things have
14 evolved, good or bad, like it or don't like it, it's just kinda it's the new economy. Airbnbs are
15 gonna work. You like...(inaudible)...surfing wasn't really a thing. I guess it was a thing then,
16 but standup paddling wasn't. Kite surfing wasn't even a thing yet. You know, when you talk
17 about what happens in Haiku and the people that go to Haiku specifically for what Maui has to
18 offer and what the north shore has to offer is obviously this community plan is extremely dated
19 in that, you know, those things didn't exist, we couldn't...you know we couldn't consider those
20 things because they just weren't there. So us to in a meeting say, okay, well we're gonna now
21 change this to match an ordinance which was equally as vetted, and you know, there was just
22 as many conversations as there was in the community plan. I just think that we need to get
23 more information on this of if nothing else just to clean the language up to be more specific so
24 the community knows what they're getting into. You know, multiple testifiers are saying like the
25 community wants more input. You know we had a handful of testifiers show up for three
26 minutes. When we do community plan updates it's 18 months of community input, six months of
27 CRC, six months of planning commission, and then a year at Council and we're doing it in a
28 meeting. I just think that we need to really understand what we're getting into before we just
29 make a recommendation. So I'm gonna make a motion to defer to get more information.

30
31 Vice-Chair Higashi: Second.

32
33 Chair Duvauchelle: Okay, discussion on the motion? Commissioner Robinson?

34
35 Mr. Robinson: I'm an opponent of short-term rentals and I think you know there's been a lot of
36 schematics I thought today you know proliferation is a word which means rapid increase. You
37 know, near the shore. We gave a house on the rocks with the water lapping to the backdoor I
38 think I can call that close to the shore. So I we gotta stop playing around and saying, oh we're
39 not sure, we don't know. You know this kind of misinformation, this kind of you know,
40 schematics it doesn't do anybody any good. And it's unfortunate that it's still happening and you
41 know that kind of clouds the issue here. I have a question still, I know there's a motion, but I
42 have a question still with the Department, you spoke about we, we feel this way, we feel that
43 way, who is "we" actually, Will?

44
45 Chair Duvauchelle: Director?

1
2 Mr. Spence: Certainly as a Director I have issues with what the two, what the community plan
3 says versus what the County Council passed as Short-Term Rental Ordinance with the cap that
4 it has. I would say that's true for the management of the Planning Department. We discuss this
5 regularly, staff planners who process these permits, in Zoning Enforcement they have issues
6 with this. This would resolve...to me deferring doesn't resolve the issue. We're just gonna put a
7 whole bunch of people on hold for I don't know how long until it is resolved.

8
9 Mr. Robinson: Is "we" the Planning Department?

10
11 Mr. Spence: Yes.

12
13 Mr. Robinson: Is "we" the County? Is "we" the Mayor's Office?

14
15 Mr. Spence: We, the Planning Department.

16
17 Mr. Robinson: We, the Planning Department?

18
19 Mr. Spence: Yes.

20
21 Mr. Robinson: Okay.

22
23 Mr. Spence: I'm charged with administering our Zoning Code and community plans.

24
25 Mr. Robinson: Okay. Fellow Commissioners I feel, I feel our problem here today is two major
26 things. The one major thing is Paia and Haiku is being grouped together. Haiku is a large, vast
27 area, lot of space, lot of rooms for people to do and Paia is a condensed area, very condensed,
28 you know, and business oriented. We know with homes in the background. And with putting
29 the cap at you know, if we were to spread it out per acre, we can see where the majority of
30 these rentals which is a money generating business is in Paia and then Haiku is spread out. I
31 think this Commission has always been open with the bed and breakfasts. I think we enjoy bed
32 and breakfasts. I think bed and breakfasts is the aloha spirit of inviting somebody into your
33 home and having a different type of experience for rental people and for vacations and I think
34 that's what a lot of people want to talk about. A short-term rental is a totally different category.
35 It's somebody having a home, renting it out and making money as a mini hotel and we have
36 those, like I've said before, we have zoning for that it's called a TVR. We have areas all over
37 the island where people can do that and we're always tasked with saying, okay people want to
38 do a TVR in this residential area, can you come here and give a special permit for that because
39 we feel that these people have a special need, but the special need is always finances. Okay,
40 there's a lot of illegals and the illegal is because the lack of enforcement from the County of
41 Maui, from the Planning Department, from I don't if it's funding or the budget and we don't have
42 any enforcement. We have RFSs, we have people drive-bys, but that's really our problem. You
43 know, if we were able...like the testifier said, if we're able to get rid of all the Airbnbs and we're
44 able to get rid of all the VRBOs and have everybody legit these applicants come up would be
45 not seen you know. But you know we like that. But right now is we have people that are saying

1 they're part of the community, but they don't live in the community, they rent the house in their
2 community. There are people who say they have business in the community, but their business
3 is renting out the property in the community but they can't live in the home because it's a short-
4 term rental. It's not a vacation rental. And over the last six months we've given at least a
5 handful of Paia, not Haiku, Paia short-term rental even though the community plan says that
6 they don't want short-term rental. Us, as a commissioners, we have overstepped the
7 community plan and we've said well, I know the community plan says this, but we've given it
8 anyway. And I feel that that's where the Planning Commission is like...I mean, the Planning
9 Department is like you know, we gotta define this because if somebody wanted to go ahead and
10 file a lawsuit here we are we're stuck in court, we've promised people permits to where they can
11 take reservations and have a monetary value to it, and then we have a legal issue where we're
12 going against what we're saying in ourselves. And so to defer this isn't going to fix anything. I
13 think, I think is we should give a recommendation and the recommendation could be to split up
14 Paia and Haiku. Our recommendation could be to do three or four things. It doesn't have to be
15 one, but it's just a recommendation. And then even after our recommendation, the County
16 Council decides when they want to talk about this and as we know it could be three months, it
17 could be two years because they make their agenda. I mean, I'm just being serious. You know,
18 to just defer does nothing. It's going to come back where these people and these permit holders
19 are gonna come and they're gonna, they're gonna ask for permit again, and I'm gonna say the
20 same speech were we're going against the community plan and they're gonna have a permit
21 and the County's gonna have another notch where okay, somebody can still you know contest
22 this permit that we're trying to make people lawful. Is I think that there...I think we should have
23 some discussion about either we're gonna make it lawful or we're not gonna make it lawful. The
24 88 is a cap, it's not a minimum. We don't have to have a minimum of 88 short-term rentals in
25 Haiku-Paia. That's the majority, but we can have a minimum of two. You know, so there's a lot
26 to address and I think deferring is not going to do anybody any good. I think we should try to
27 come to a recommendation and at least work at one and then if we don't come up with
28 something then maybe defer. Thank you.

29

30 Chair Duvauchelle: Yeah, we have the motion on the floor. Commissioner Carnicelli?

31

32 Mr. Carnicelli: I get where Commissioner Robinson is coming from, and I love the fact that he's
33 consistent about being an opponent of short-term vacation rental homes. But that's not the
34 conversation whether or not we like them or don't like them or we agree with them or shouldn't
35 or whether they're money making venture. The community's already agreed that they exist and
36 we're gonna allow them. That's why we have an ordinance. We created an ordinance for them
37 to exist because prohibition has never worked on anything. Oahu has a prohibition on short-
38 term vacation rentals, not allowed. Barack Obama stayed there in one. So prohibition is not
39 going to work. And so to suddenly say, okay you know separate Paia and Haiku, I mean all
40 those are great ideas, but now suddenly we're rewriting the community plan. Now, we're
41 suddenly saying like okay, and there is a lot of discussion that needs to happen, you know, so
42 on one hand saying okay, a lot of discussion needs to be happen, but then okay, well we don't
43 want to defer, so when the discussion gonna happen?

44

1 And I guess so here's...I do have a question for you, Director, and that is this has existed since
2 2012, this discrepancy, five years later we're going oh my God we have to do it now. Why?

3
4 Chair Duvauchelle: Director?

5
6 Mr. Spence: It's more a recent relook at the...this particular conflict has existed for a number of
7 years now and we just finally got down to looking at the minutes, we got down to looking at
8 specifically okay, was this addressed when the County Council adopted the Short-Term Rental
9 Home Ordinance? And the testifiers are correct, there was a lot of input from that area in favor
10 of providing you know some provisions for short-term rental homes in the Paia-Haiku area, but
11 the community plan which we are supposed to follow does not and this was never specifically
12 addressed even though there was lots of testimony from people from that area this provision of
13 the community plan was never addressed in any of that discussion. So we need to follow our
14 community plans and we see this the way to address it.

15
16 Community plan amendments are not unusual. You see them, it's not very usual see changes
17 to the text. But there are fairly regularly there are changes to the land use map, that's what
18 everybody would be most familiar with. You, you know, change the map for a school or for
19 additional housing or something like that and it triggers an EA and all that stuff. It's not unusual
20 to amend community plans. What's unusual about this is is part of it is the text and part of it is
21 the Planning Department is initiating it.

22
23 Chair Duvauchelle: Commissioner Higashi?

24
25 Vice-Chair Higashi: I'm basically very concerned about the idea that we create ordinances,
26 et cetera, but we don't have any enforcement teeth in it. That's why what happens is that we
27 create more laws which creates more illegal because there's no enforcement. And one of the
28 things I think we should first address is how we're gonna get people to follow the ordinance and
29 law and go from there because right now we have not really enforced a lot of the ordinance that
30 we have today and we need to take a look at that.

31
32 Chair Duvauchelle: Okay, any further discussion on the motion? Commissioner Castro?
33 Commissioner Castro?

34
35 Mr. Castro: I have a question for the Director? The community plan right now is capped at 88?

36
37 Mr. Spence: Correct.

38
39 Mr. Castro: So how many are actually operational right now?

40
41 Mr. Spence: We've issued—

42
43 Mr. Raatz: Forty-seven.

44
45 Mr. Spence: Forty-seven.

1
2 Mr. Castro: And I think there's a concern about the enforcement. What are we doing about
3 enforcement in regards to the illegal ones?

4
5 Mr. Spence: We have six enforcement officers. They are responsible for...and that's an
6 increase from a number of years ago and that's been at the request of the County Council they
7 wanted increased enforcement. We handle, I wanna say, three...I wanna say three or four
8 hundred requests for service every year and we do an investigation on each one of those. And
9 we've done quite a bit of proactive enforcement specifically on vacation rentals because that's
10 what the County Council was pushing. Coincidentally, enforcement so everybody understands,
11 enforcement is not a very popular thing because when go out and enforce everybody goes why
12 are you picking on me? So there's the dichotomy in that. Yes, and the illegal operators know
13 they're illegal, so...but anyway, we issue Notices of Warning and if they shut down, great. If
14 they don't shut down, we issue Notices of Violation. We've probably issued 30 or 40 violations I
15 guessing this year. And we're looking into other ways to make that more effective. To say that
16 there's no enforcement I guarantee all six of those people and their supervisor and the Division
17 Chief and myself are very busy with enforcement. There is...you just...you don't see it until the
18 complaints appear before the Commission for some reason or another. We are quite busy and
19 full-time in that.

20
21 Mr. Castro: Thank you.

22
23 Chair Duvauchelle: Commissioner Hudson?

24
25 Mr. Hudson: Well, I need some clarification. The community plan that exists now it already
26 allows for short-term home rental or the problem is it doesn't and we issued permits for it
27 because we weren't aware of it until a couple years back?

28
29 Mr. Spence: The community plan right now does not allow short-term rentals.

30
31 Mr. Hudson: Okay so then we issued it because we were not aware of the problem?

32
33 Mr. Spence: Because we believed that the ordinance that the County Council passed in 2012,
34 they were aware of this provision, et cetera and so they set a cap. It's much more recent and
35 with all the testimony and support from the community they set the cap at 88.

36
37 Mr. Hudson: Okay, that's fine. The current plan does not allow for short-term home rental?

38
39 Mr. Spence: That's correct.

40
41 Mr. Hudson: Okay. We were not aware of this problem but now we are?

42
43 Mr. Spence: Yes.

44

1 Mr. Hudson: Okay. So the basic question before us today is amend the plan to allow it to go up
2 to 88 or say stick with the plan as it exists and keep it at zero?

3
4 Mr. Spence: Correct.

5
6 Mr. Hudson: Or defer. Thank you.

7
8 Chair Duvauchelle: Okay, Commissioner Robinson?

9
10 Mr. Robinson: I'm opposed to deferring. I think we need to give a recommendation one way or
11 the other. I think we haven't even try to even talk about maybe a possible recommendation as a
12 Commission and that's my position. And just to go back to another point, Honolulu has different
13 laws than we do in Maui. Obama, and I'm not against prohibition...I'm not for prohibition. I've
14 actually voted for short-term rentals here. It has to be at the right location at the right time and
15 our former President actually legally stayed at that house because they have a 30-day and one
16 rental per month, so I don't wanna...again, misinformation, let us...(inaudible)...facts and
17 stay...(inaudible)...to what it is. And part of my being opposed to the deferment is I really think
18 that we might need to recommend to the Council that we look at Paia and Haiku as two different
19 areas, you know, and that's where I'm coming from because the proliferation is in one area for
20 short-term rental where there's congestion while Haiku is a large, vast area and to have the 88
21 of it maybe all being in one, you know, small, you know, three-mile area I think is where the
22 concern might be. Thank you.

23
24 Chair Duvauchelle: All right, are we ready to vote on the motion on the floor or is there any
25 other discussion on the motion to defer?

26
27 Mr. Carnicelli: I'm just gonna...if I may Chair?

28
29 Chair Duvauchelle: Commissioner Carnicelli?

30
31 Mr. Carnicelli: Thank you. We have language in front of us...if we do not defer and basically
32 were gonna have to try to masticate on this particular language ourselves now and the public
33 isn't gonna have any input on what it is that we're going to try and chew on because we're
34 gonna try and chew on it now. We're gonna try and say, okay we'll recommend this or that
35 or...because the language is semantics and it is nebulous and I don't see that we can propose
36 something that might be enforceable or might not because it says, because there's nebulous
37 words in there. So I think that if...the deferral isn't just to kick the can, but to actually work on
38 this with the community to come up with something that we want to recommend to the Council
39 not just to kick the can. Because I get, I mean, it's just like all right, it does need to be
40 addressed, but right here, right now in this setting, I just don't think that it's been properly vetted.

41
42 Chair Duvauchelle: Thank you. Commissioner Robinson?

43
44 Mr. Robinson: Deferment is doing nothing. And we're not deferring it for another meeting, we're
45 deferring it to the Council and then have no recommendation is that what...and a second

1 question is do we have to follow the options given to us on what our recommendations are, can
2 we recommend something else?

3
4 Mr. Spence: That was...that's your option number 2, recommend approval of one of the
5 proposed bills, either one, with amendments. So you can say, County Council we recommend
6 and this would be my preference so I'm not hiding anything here, we recommend that we amend
7 the community plan to allow short-term rental homes, but we really want to have the Department
8 clarify what near the shoreline means or eliminate the language of near the shoreline. You can
9 make those kinds of recommendations. To me, this is a...what we're saying here, what we're
10 presenting to this commission is we want to allow some, some not everywhere, some short-term
11 rental homes in the Paia-Haiku area or we don't want to allow them at all. That's, to me that's
12 what we're presenting to this...

13
14 Unidentified Speaker: What does deferment do?

15
16 Mr. Spence: Deferment doesn't do anything. I'm not sure what we would do that, and if that's
17 what the vote is on the motion then we would look to you for some kind of instructions.

18
19 Mr. Carnicelli: I'll clarify my motion if you'd like.

20
21 Chair Duvauchelle: One moment. I have a question for the Director? Can we...could we defer
22 and ask... and with the recommendation that it come back to this committee after we've been
23 given more information?

24
25 Mr. Spence: Sure.

26
27 Chair Duvauchelle: Commissioner Carnicelli?

28
29 Mr. Carnicelli: So my motion to defer was to gather additional information and to look at the
30 language. Because even though Director you are saying okay, this is...we're choosing either
31 make it legal or move it to zero, no what we're proposing is this particular language specifically
32 is what you're asking us to approve and that's where we're saying is okay, we can change this
33 language. We can also vote to just deny both of them. I mean, it's possible. I mean, it is an
34 option. I mean, it's not probably the best thing to do but you know, so is that's where I'm saying
35 is deferment to take a look at this particular language before we say, okay this is my
36 recommendation to the Council.

37
38 Chair Duvauchelle: Commissioner Higashi?

39
40 Vice-Chair Higashi: I seconded the motion from the standpoint that...well, first of all I agree with
41 Commissioner Robinson that to defer is to just leave it alone. That was not my intention. My
42 intention was to provide time for the...both community Paia and Haiku to be able to give input
43 because we agree that there is room for vacation rental and that I guess the plan is old from
44 1995 so it needs to be updated but I think at the same time a few months to delay it giving Paia

1 and Haiku time to make specific input might be a viable source of a deferment rather than to
2 flatly say no room for any deadline.

3
4 Chair Duvauchelle: Okay.

5
6 Unidentified Speaker: Chair, can we clarify the motion again please?

7
8 Chair Duvauchelle: Yes, Director could you repeat the motion please?

9
10 Mr. Spence: The motion was to defer.

11
12 Unidentified Speaker: With conditions?

13
14 Mr. Spence: I don't recall any conditions on that.

15
16 Chair Duvauchelle: Do you want to clarify Commissioner?

17
18 Mr. Carnicelli: Not conditional but it's just like the deferment in order to gain more information
19 and to work on the language of the proposed changes.

20
21 Chair Duvauchelle: Commissioner Robinson?

22
23 Mr. Robinson: Commissioner are you asking it to be deferred and being brought back on top of
24 our agenda in the future is that what we're hearing?

25
26 Mr. Carnicelli: Yeah, I'm not saying...defer isn't endless. It's not saying okay, deny. It's saying,
27 no...is to me there's some additional vetting that needs to happen in the community and this
28 particular language needs to be worked on and then brought back and we'd still make a
29 recommendation but this particular language needs to be worked. That's what the intention of
30 deferral is is to vet the language we're being requested by the Department to approve or deny.

31
32 Mr. Robinson: Yeah, I think the deferment in front of us was a different deferment. It wasn't for
33 us to be put on another agenda, it was defer the topic altogether, but if you want to bring it to
34 another agenda and with some more information I think that's something I could support.

35
36 Chair Duvauchelle: Okay Commissioners, Director can you...and then could we put a timeline
37 on it. Could we see it in front of the Commission again say in two months, a month, any
38 preference?

39
40 Mr. Carnicelli: I'm reading, hang on. Go ahead, he's got his hand--

41
42 Chair Duvauchelle: Commissioner Higashi, I'm sorry.

43
44 Vice-Chair Higashi: Can I make a motion to say that we'd like to amend the—
45

- 1 Chair Duvauchelle: We already have a motion on the floor so the maker of the motion would
2 need to amend.
3
- 4 Mr. Carnicelli: What's your recommendation for amendment?
5
- 6 Chair Duvauchelle: Go ahead Commissioner Higashi?
7
- 8 Vice-Chair Higashi: That the information gets back to us within two months so that the
9 Commission can then act on the proposal.
10
- 11 Chair Duvauchelle: Commissioner Carnicelli, maker of motion?
12
- 13 Mr. Carnicelli: Sure I'll amend it to put a 60-day timeline on it.
14
- 15 Chair Duvauchelle: Okay. Discussion? Commissioner Robinson?
16
- 17 Mr. Robinson: I'm with this motion. We'll be able to submit questions to the Planning
18 Department on things that we'd like?
19
- 20 Mr. Spence: I don't know what information you're looking for on this proposed language in this.
21
- 22 Mr. Carnicelli: Community input.
23
- 24 Mr. Spence: Okay.
25
- 26 Chair Duvauchelle: Okay, Commissioner Hudson?
27
- 28 Mr. Hudson: Let's say the motion carries and it's deferred. What are you gonna do with the
29 applications now knowing that something is wrong with it to begin with how could you possibly
30 approve something knowing that there's issues?
31
- 32 Mr. Spence: Exactly.
33
- 34 Mr. Hudson: You have stuff that was dated before okay, there was an oversight, an error. We
35 can deal with it. But going forward if you know there's an error you're stuck between a rock and
36 a hard place.
37
- 38 Mr. Spence: We're probably going to put applicants in some kind of limbo until this is resolved
39 until at least there's a recommendation by this Commission.
40
- 41 Chair Duvauchelle: Commissioner Carnicelli?
42
- 43 Mr. Carnicelli: But our recommendation is nothing but a recommendation. It doesn't change the
44 ordinance. So it's...whatever we do today we could say yes, let's accept this language today, it

1 still doesn't change the ordinance until it goes...Council is the only one that can change the
2 community plan. So nothing changes today.
3
4 Mr. Spence: That's correct.
5
6 Chair Duvauchelle: Okay, good conversation. All right, so we have a motion on the floor to
7 defer.
8
9 Mr. Spence: For at least two months.
10
11 Chair Duvauchelle: For at least two month.
12
13 Mr. Spence: And I understand it's to get community input.
14
15 Mr. Carnicelli: Yes.
16
17 Chair Duvauchelle: And any other questions the Commissioners have you will provide.
18
19 Mr. Robinson: I apologize. I didn't hear at least two months.
20
21 Mr. Spence: I heard two months.
22
23 Mr. Robinson: Is it at least or no more than two months.
24
25 Chair Duvauchelle: Let's say 60 days.
26
27 Mr. Spence: I'm just thinking—
28
29 Mr. Carnicelli: At least two months.
30
31 Mr. Spence: --I'm just thinking that if we go to the I forget what Paia Town committee there is as
32 well as the Haiku Community Association and discuss it with them, I'm not...I don't know if 60
33 days.
34
35 Mr. Carnicelli: At least. That's enough time?
36
37 Mr. Spence: I'm hoping it's enough time.
38
39 Mr. Carnicelli: Okay, I mean but if you have...it's deferred at least 60 days which means you
40 can go further than that. So if the Paia Town doesn't have you know a meeting for 90 days you
41 can still do that in 90 days and then come back to us.
42
43 Chair Duvauchelle: Okay, so we have a motion on the floor. All those in favor of the motion to
44 defer for at least 60 days for community input please raise your hands.
45

1 Mr. Spence: Five ayes.

2
3 Chair Duvauchelle: Five ayes. Those opposed?

4
5 Mr. Spence: One opposed.

6
7 Chair Duvauchelle: One opposed. Motion carries.

8
9 Mr. Spence: Yes.

10
11 Chair Duvauchelle: Motion carries.

12
13 **It was moved by Mr. Carnicelli, seconded by Mr. Higashi, then**

14
15 **VOTED: To Defer the Matter to Receive Community Input for at Least**
16 **60 Days.**
17 **(Assenting – L. Carnicelli, H. Higashi, K. Robinson, C. Tackett,**
18 **S. Castro)**
19 **(Dissenting – L. Hudson)**
20 **(Excused – T. Gomes)**

21
22 Chair Duvauchelle: We will take a 10-minute recess reconvene at 10:40.

23
24 A recess was called at 11:03 a.m., and the meeting was reconvened at 11:13 a.m.

25
26 Chair Duvauchelle: So Maui County Planning Commission is back in session. Director, our
27 next agenda item?

28
29 Mr. Spence: So Commissioners, after all that discussion on vacation rental homes within the
30 Paia-Haiku area we have an application for a short-term rental home within the Paia area.
31 Mr. Francisco Goya, Tamara Catz, and Emanuel Mattiello requesting Short-Term Rental Home
32 Permit in Paia and our Staff Planner is Evelyn Aako.

33
34 **2. FRANCISCO GOYA, TAMARA CATZ, and EMANUEL MATTIELLO**
35 **requesting a Short-Term Rental Home Permit in order to operate the Paia**
36 **Beach Home, a 3-bedroom in one dwelling short-term rental home located**
37 **in the R-1 Residential District at 36 Ae Place, TMK: 2-6-002: 028, Paia,**
38 **Island of Maui. (STPH T2017/0002) (E. Aako)**

39
40 **The subject application is being brought to the Maui Planning Commission**
41 **for review because there are at least two (2) permitted short-term rental**
42 **home operations located within 500 ft. of the subject property. The**
43 **applicant's previous STRH Permit expired prior to the applicant renewing it**
44 **so a new permit is required.**

45

1 Chair Duvauchelle: One moment Evelyn. Commissioner Robinson?
2

3 Mr. Robinson: Chair at this time, I'm gonna recuse myself from this next item. A family member
4 of mine was employed with Mrs. Catz just recently.
5

6 Chair Duvauchelle: Okay.
7

8 Mr. Robinson: And I will be not in any deliberation or discussions. Thank you.
9

10 Chair Duvauchelle: All right. Thank you very much. Evelyn please proceed.
11

12 Ms. Evelyn Aako: Okay, thank you. Thank you, Director. Thank you, Chair. And good morning
13 to all the Commissioners. So as the Director just said this item is under review for a request by
14 the applicants, Mr. Francisco Goya, Ms. Tamara Catz, and Mr. Emanuel Mattiello for a Short-
15 Term Rental Home Permit to operate in Paia and it's called Paia Beach Home Short-Term
16 Rental and it's located at 36 Ae Place in Paia. The STRH requires commission approval
17 because there is two or more existing STRHs within 500 feet.
18

19 So the applicants are Francisco Goya who's the owner/proprietor of Goya Windsurfing and
20 Ms. Tamara Catz who owns and operates Tamara Catz Clothing, a store in Paia, and then
21 Emanuel Mattiello who is Mr. Goya's step-father. Just a little history on this particular STRH.
22 The applicants actually successfully operated a short-term rental for several years they were
23 administratively reviewed and approved for a short-term rental permit back in February of 2013.
24 They operated successfully for a year, were renewed in 2014. Unfortunately they inadvertently
25 allowed their permit to expire, February of 2016. So at this point they're coming back for a
26 short-term rental permit to continue to operate the STRH operations. Mr. Goya and
27 Mr. Mattiello are here so at the end of the presentation if the Commission has questions for
28 them they're here to answer those.
29

30 So here's the subject property. It is right off Hana Highway behind Flatbread and Paia
31 Contemporary Gallery at 36 Ae Place. And another view of the subject property from the
32 satellite position. This is the north facing or the front elevation of the house and the west facing
33 elevation and then the next few shots are the interior area. It's a three-bedroom home. This is
34 the main living room area, kitchen, dining area, bedroom one, bedroom two, bedroom three, and
35 a bathroom area.
36

37 So as I mentioned previously there are two or more existing permitted STRHs within 500 feet.
38 There are actually six. So you can see the subject property in gray and then there's three in the
39 adjacent lots sort of to the north of the subject property and then a little across the way on Ae
40 Place to the northeast another three permitted STRHs. So I'm sorry at the time of the drafting of
41 the staff report when this power point was done there was 45 but there's actually 47 permitted
42 short-term rentals in the Paia-Haiku Community Plan region area as we've talked about plenty
43 this morning the cap is 88 and then for bed and breakfast there are currently 42 permitted and
44 the cap is also 88. And within that 500 foot radius around the subject property there are actually
45 no permitted B&Bs just the STRHs. In the time that the applicants successfully operated the

1 STRH previous there were no noise disturbances, no reports filed with the Maui Police
2 Department. There were no complaints regarding the short-term rental operation filed with the
3 County. There were no open RFSs at the time of the writing of the report. There were seven
4 letters of neighbor support and those are all attached to staff report as Exhibits 14 through 20.
5 After the finalization of the staff report there was a letter of protest that was received which I
6 believe was emailed to the commissioners and then was also handed out to you guys today so
7 you would have that before you. So that's the end of the presentation. Candace could you get
8 the lights.

9
10 Chair Duvauchelle: Thank you.

11
12 Ms. Aako: You're welcome.

13
14 Chair Duvauchelle: All right, at this time we'll open the floor for public testimony on this agenda
15 item. I have Francine Aarona. Please state your name and you'll have three minutes for your
16 testimony.

17
18 Ms. Francine Aarona: My name is Francine Aarona known as Auntie Mopsy in the Paia District
19 and I'm here...I thought I was gonna be here for this testimony only but something else came
20 before that. But I'm here to speak in behalf of Frances La Goya and Tamara Catz who has
21 short-term rental at 36 Ae Lane. I live at 37 Ae. Francisco and Tamara have always had the
22 sincere interest of the community. They have given so much to the community. We have had
23 no problems with their guests who come to Maui to enjoy the simple way of life. We have made
24 a lot of new friends through the years and they have returned every year. I ask the Board to
25 renew his application for his short-term rental which he has had for years. Unfortunately
26 because of medical situations he...there was an oversight on his part of renewing the
27 application so I ask the Board to have consideration over that and that if I were to have any
28 neighbors he would be one that would sincerely enjoy and I do enjoy the people that come and
29 we have that communicative here. Thank you very much.

30
31 Chair Duvauchelle: Any questions? Thank you very much. Next testifier Joshua Stone.

32
33 Mr. Joshua Stone: Aloha Chair and Commissioners. Thank you for hearing us today. My
34 name is Josh Stone and I'm a Paia resident and business owner. I'm here to testify in support
35 of a TVR license for 36 Ae Place in Paia. One of the owners of the Flatbread Pizza Company
36 as well as the owner of the building at 87 Hana Highway which is right next or in front of
37 Franciscos. I'm absolutely in support of Francisco Goya and Tamara Catz in regards to their
38 relicensing of their transient vacation rental located at 36 Ae Place in Paia. We're direct
39 neighbors to the subject property which has been a license transient vacation rental for a
40 number of years. The owners, Francisco and Tamara have been amazing neighbors and
41 excellent operators of the rental. They have always been in communication with myself and our
42 operation and have accommodated any and every issue we may have had making the
43 operation zero impact on us and the surrounding neighbors. I know from discussions with other
44 neighbors on Ae Place the general consensus is that this operation has been a perfect example
45 of how to run a transient vacation rental. Guests are well educated on the rules and regulations.

1 The rental is never overcrowded and guests have been cordial and pleasant without any
2 incidences over the years. In my humble opinion this has been one of the best run and low
3 impact vacation rentals in Paia and I believe it should be an example of how to do this kind of
4 operation correctly. As neighboring landlord and business operator I'm very much in support of
5 this license being reawarded as I find it to be a benefit to our community and surrounding
6 neighbors and I'd like to offer to the Chair and Commission that if I'm needed to testify further as
7 an adjacent owner on any issue I will remain available and willing to testify during this hearing.
8 So thank you very much for your time and appreciate it.

9
10 Chair Duvauchelle: Thank you. Any questions for Mr. Stone? Thank you very much. Anybody
11 else wishing to testify at this time please come forward. Okay, seeing none, we'll close public
12 testimony and we'll take questions from the Commissioners. I see no questions. Do we have a
13 motion?

14
15 Mr. Spence: We have a recommendation.

16
17 Chair Duvauchelle: We have a recommendation, sorry, yes.

18
19 Ms. Aako: The application does comply with the applicable standards for a short-term rental
20 home permit and as such the Department recommends approval subject to the 22 standard
21 conditions for a short-term rental permit.

22
23 Mr. Carnicelli: So move.

24
25 Mr. Castro: Second.

26
27 Chair Duvauchelle: Moved by Commissioner Carnicelli, seconded by Commissioner Castro.
28 Any discussion on the motion? Commissioner Hudson.

29
30 Mr. Hudson: My compliments to the applicant and your supporters but I'm gonna tell you
31 straight up I'm not going to be able to support the measure until we get this thing cleared up with
32 the community plan I have to vote no, but I want you to understand that I read through the stuff
33 and I think you guys are fine applicants and I wish you the very best.

34
35 Chair Duvauchelle: Any further discussion? Okay, seeing none, Director can you repeat the
36 motion please?

37
38 Mr. Spence: Motion is to approve as recommended.

39
40 Chair Duvauchelle: All those in favor please raise your hand. That's three ayes.

41
42 Mr. Spence: Three.

43
44 Chair Duvauchelle: All those opposed?

45

1 Mr. Spence: Abstention is...Oh, one opposed.

2

3 Chair Duvauchelle: Two opposed.

4

5 Mr. Spence: Okay, two opposed.

6

7 Chair Duvauchelle: Are you abstaining?

8

9 Mr. Robinson: Recused.

10

11 Chair Duvauchelle: Oh recused that's right. I'm sorry.

12

13 Mr. Spence: And motion fails.

14

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

16

17 **The Motion to Approve the Short-Term Rental Home Permit, FAILED.**

18 **(Assenting – L. Carnicelli, S. Castro, R. Higashi)**

19 **(Dissenting – L. Hudson, C. Tackett)**

20 **(Recused – K. Robinson)**

21 **(Excused – T. Gomes)**

22

23 Chair Duvauchelle: Motion fails. Do I have another motion?

24

25 Mr. Hudson: Make a motion to defer for 60 days.

26

27 Mr. Tackett: I second.

28

29 Chair Duvauchelle: Deferral by Commissioner Hudson, seconded by Commissioner Tackett.

30 Any discussion on the deferral motion? Commissioner Carnicelli.

31

32 Mr. Carnicelli: But again I have a little bit I guess maybe I need Corp. Counsel to jump in on this
33 one. James we're gonna put you on the mic. So we make a decision to make a
34 recommendation to the Council. How does that change you know what we're discussing right
35 now. If the reason why this is not passing is because there is a discrepancy in the community
36 plan and the ordinance until that is actually passed...something is passed by the Council to
37 rectify that it still is change. So what changes when we make a decision as far as a
38 recommendation?

39

40 Chair Duvauchelle: Corp. Counsel.

41

42 Mr. Giroux: The short answer is nothing. The long, you don't want the long.

43

44 Mr. Carnicelli: I'll take the short answer thank you.

45

1 Chair Duvauchelle: Okay, any other further discussion? Director would you...oh,
2 Commissioner Higashi.

3

4 Mr. Higashi: A point of clarification on this particular application it was because they missed the
5 deadline for renewal and they are coming back again for approval, reconsideration for approval.
6 Is that correct?

7

8 Chair Duvauchelle: Yes, that's correct.

9

10 Mr. Higashi: So they would basically fall more in the what I would say the grandfather side
11 where they're already versus what we're talking about with this new ordinance that's coming up
12 which I see as being a little different that this particular one sort of falls earlier than what we're
13 talking about earlier this morning is that correct? No?

14

15 Chair Duvauchelle: Director.

16

17 Mr. Spence: When the short-term rental home ordinance was originally passed there was a
18 provision that for a certain amount of time you could have as many short-term rental homes
19 within 500 feet of each other as without coming to commission for approval. This was one of
20 them. It's...unfortunately the permit did expire so a new permit has to be obtained. Yeah, this
21 is one of the original ones.

22

23 Chair Duvauchelle: Commissioner Carnicelli.

24

25 Mr. Carnicelli: You might be able to answer this. When does the 180 days expire? Or is it a
26 120, 120 and 180? When is the time line end?

27

28 Chair Duvauchelle: I believe it's from the public hearing so it would be—

29

30 Mr. Carnicelli: From today. Okay. Anyways for those of you that don't know is if we don't make
31 a decision in 120 days then it's automatically approved. So we have to make a decision within
32 120 days otherwise it's automatically approved. So I don't know if that speaks—

33

34 Mr. Spence: Well, the motion was to defer for 60 days.

35

36 Mr. Carnicelli: --to the motion or not.

37

38 Chair Duvauchelle: So the motion on the floor is to defer for 60 days. Any other discussion?
39 All those in favor of the motion please raise your hand. That's two ayes. Opposed?

40

41 Mr. Spence: One, two, three opposed.

42

43 Chair Duvauchelle: Three opposed. Motion fails.

44

45

1 **It was then moved by Mr. Hudson, seconded by Mr. Tackett, and**
2

3 **The Motion to Defer the Short-Term Rental Home Permit for 60 Days, FAILED.**
4 **(Assenting – L. Hudson, C. Tackett)**
5 **(Dissenting – L. Carnicelli, S. Castro, R. Higashi)**
6 **(Recused – K. Robinson)**
7 **(Excused – T. Gomes)**
8

9 Chair Duvauchelle: Do we have...

10
11 Mr. Spence: Could you use the microphone Mr. Corporation Counsel.
12

13 Mr. Giroux: The question was we have a recused person who wants to either talk or vote on the
14 issue of the motion to defer. So my two cents on that is that if it's just gonna be a issue of
15 administration and not on the substantive motion then yes, you participation is welcome.
16

17 Mr. Robinson: Commissioners I'm gonna step back in because we don't have enough members
18 here and I apologize but I'm gonna come in but I am an abstention. So I'm a vote on whichever
19 way this commission moves the majority will have my side thank you.
20

21 Chair Duvauchelle: Okay, Corp. Counsel or Director I also understand that that gives us the
22 option to put this item on our very next agenda?
23

24 Mr. Spence: Yes, that's correct.
25

26 Chair Duvauchelle: We don't have a motion on the floor right now. Commissioner Carnicelli.
27

28 Mr. Carnicelli: I would like to make now that we have new information I would make a motion to
29 approve as recommended by Staff.
30

31 Chair Duvauchelle: Thank you.
32

33 Mr. Higashi: Second.
34

35 Chair Duvauchelle: All right a motion by Commissioner Carnicelli to approve, seconded
36 Commissioner Higashi. Any discussion? Director.
37

38 Mr. Spence: The motion is to approve as recommended by Staff.
39

40 Chair Duvauchelle: All those in favor please say aye, raise your hand.
41

42 Mr. Spence: That's three ayes.
43

44 Chair Duvauchelle: That's three ayes. Opposed?
45

1 Mr. Spence: One opposed.

2

3 Chair Duvauchelle: One opposed.

4

5 Mr. Spence: One abstention so that would be four ayes.

6

7 Mr. Carnicelli: Two abstentions.

8

9 Chair Duvauchelle: Two abstentions.

10

11 Mr. Spence: Two abstentions. A non-vote is a yes. So that's four ayes.

12

13 Mr. Giroux: You got five.

14

15 Mr. Spence: Okay, you have five.

16

17 Chair Duvauchelle: So the motion carries.

18

19 Mr. Spence: Motion's carried.

20

21 Chair Duvauchelle: All right motion carries. Thank you. That was very confusing.

22

23

24 **It was moved by Mr. Carnicelli, seconded by Mr. Higashi, and**

25

26 **VOTED: To Approve the Short-Term Rental Home Permit as Recommended**
27 **by the Department.**

28 **(Assenting – L. Carnicelli, R. Higashi, S. Castro,**

29 **K. Robinson-Abstained, C. Tackett-Abstained)**

30 **(Dissenting – L. Hudson)**

31 **(Excused – T. Gomes)**

32

33 Chair Duvauchelle: All right Director our next agenda item.

34

35 Mr. Spence: Moving right along. Yes, Commissioners we're on item D.1, Vintage Rentals, LLC
36 requesting an EA Determination for a Final Environmental Assessment. Our Staff Planner,
37 where did Candace...Candace ran off.

38

39 Chair Duvauchelle: There she is.

40

41 Mr. Spence: So Candace Thackerson is our Staff Planner.

42

43 **D. NEW BUSINESS**

44

- 1 **1. VINTAGE RENTALS, LLC requesting an Environmental Assessment**
2 **Determination on the Final Environmental Assessment prepared in support**
3 **of the Community Plan Amendment request from Single Family Residential**
4 **to Business/Commercial for the Paia Trade Center project for the proposed**
5 **renovation of an existing single family to a commercial building located at**
6 **150 Luna Place, TMK: 2-6-005: 005, Paia, Island of Maui. (EA 2016/0001)**
7 **(CPA 2016/0002) (CIZ 2016/0001) (SMX 2016/0003) (C. Thackerson)**
8 **(Draft Environmental Assessment was reviewed by the Commission at its**
9 **November 7, 2016 meeting.)**

10
11 **The Chapter 343, HRS trigger for the Environmental Assessment is the**
12 **community plan amendment.**

13
14 **The applicant has also submitted applications for a community plan**
15 **amendment, a change in zoning, and a Special Management Area**
16 **Assessment. These applications will scheduled for further review after the**
17 **Chapter 343, HRS process has been completed.**

18
19 **The Commission may act to accept the Final Environmental Assessment as**
20 **a Findings of No Significant Impact (FONSI) or take some other action.**

21
22 Ms. Candace Thackerson: Commissioners before you we have –

23
24 Mr. Robinson: Chair can I request a five-minute recess?

25
26 Chair Duvauchelle: Yes. We're going to break for five minutes. Thank you.

27
28 A recess was called at 11:03 a.m., and the meeting was reconvened at 11:13 a.m.

29
30 Ms. Thackerson: I'll do a brief intro. So this is the Environmental Assessment Determination for
31 the...this is the Final EA. This body has reviewed the Draft EA previously for the Paia Trade
32 Center and the permits are the CPA 2016/0002, CIZ 2016/0001, and it also has an SMA Permit
33 with it. Just an SMX though not an SM1 as the valuation will not kick it up into the review before
34 this body. Permit Number SMX 2016/0003 and the applicants are here to go over the
35 comments that you gave last time and comments from the community and we've incorporated
36 them into the Final EA and all the revisions and then I guess we can open it up to questions
37 after the short-presentation.

38
39 Chair Duvauchelle: Thank you.

40
41 Ms. Thackerson: Thank you.

42
43 Mr. Jordan Hart: Good afternoon Commissioners. Again, thank you very much for your
44 patience and consideration. My name is Jordan Hart from Chris Hart and Partners. We're here
45 to present the Paia Trade Center. The applicants is Vintage Rentals LLC but that's Cinco and
46 Trisha Young who are the property owners. They're here today in the audience. Raymond

1 Cabebe is the lead planner. My name is Jordan Hart, Chris Hart & Partners. David Sereda is
2 our landscape architect also from Chris Hart & Partners. Greg Skog is the architect. Linda
3 Taylor is the civil engineer and Philip Rowell is our traffic engineer.

4
5 The project is proposing a Community Plan Amendment from Single Family to Business
6 Commercial and Change in Zoning from R-1 Residential to Business Country Town
7 Commercial. I'll go through some photos of the project site but the existing garage and storage
8 building are to be demolished. The existing residence is going to remain in its current state. It's
9 gonna be rehabilitated and that will be converted into the commercial building. So there's no
10 change to that primary building footprint.

11
12 Everybody knows where Paia is. This is a tax map key. This is Hana Highway. So the ocean
13 is up here. This is the property abutting Luna Place. To the left is Charley's and to the right is a
14 church property. This is an aerial photograph of the same property. Luna Place, the project
15 site, Charley's parking lot and Charley's here. The property is located in the State Urban District
16 and it's Single Family in the Paia-Haiku Community Plan. This is a zoning map. You can see
17 the pattern of development surrounding. So the property is basically abutting the church, the
18 church here and then a string of commercial uses that are abutting Hana Highway. And then
19 you can also see that the string of uses extends beyond this is where Paia General used to be
20 and these are all commercial sites here as well on the opposite side of the street. And so we're
21 proposing to match the development and the zoning on the opposite side of the street just in
22 that front section abutting Hana Highway.

23
24 The Community Plan Amendment is our trigger for environmental assessment. We published
25 on September 23, 2016. The 30-day comment period ended October 24, 2016. We did file an
26 SMA Assessment application and we did have a meeting with the Paia Town Action Committee
27 and that was on September 28, 2016. The Maui Planning Commission reviewed the Draft EA
28 on November 7, 2016 and we are here today for the review of the Final EA. We did go before
29 the Urban Design Review Board on two occasions, on January 3rd and February 7th. Our final
30 approval of the land use designation changes will be by the Maui County Council.

31
32 Agencies that commented are Environmental Management, Housing and Human Concerns,
33 Public Works, DOT...sorry, County of Maui, Transportation, Department of Water Supply,
34 Department of Accounting and General Services, Department of Health, Office of Environmental
35 Quality Control and State Office of Planning.

36
37 We did receive comments from three property owners on Luna Place. The concerns were
38 related to the width of the roadway. The applicant proposes to pave that driveway. There was
39 a concern about parking on Luna Place that could prevent emergency vehicle access. The
40 applicant proposes to install no parking signs and work with their tenants to manage that area in
41 order to keep it clear and then there's a concern who two things that happened. First there are
42 people who don't know where they're going and then second, there are people who think they
43 want to turn into Charley's, but then see that it's paid parking and look for their next option to
44 turn around. And so what the applicant proposes to do is to place a dead end sign and
45 welcome vehicles to turn around at the back parking lot and I'll recover that when we go over
46 the site plan. But basically what that will do is allow vehicles to turn around and leave Luna

1 Place without driving all the way down to the end of Luna Place which is what happens
2 currently.

3
4 So the parcel is very small. It's actually 4,402 square feet. The single family residence which
5 will be converted to commercial use is 948 square feet and then then existing garage and
6 storage structures are 221 and 131 square feet.

7
8 This is standing in front of the old Paia General looking across the street at the project site. This
9 is Luna Place here. In this site, you're on Luna Place running this way towards Hana Highway
10 and this is the back, current back driveway area. This is the back view of the commercial
11 structure or the proposed commercial structure and this is looking from beside the property, you
12 have Charley's parking lot on your left and you have the property on your right and then you're
13 looking out towards the complex that replaced Paia General. This is looking over so that you
14 can see Charley's parking lot and Charley's itself, and then Luna Place and then there's some
15 shadow but this is the project site. This is looking towards Kahului on Hana Highway with the
16 project site to your left. This is in front of the project site, you're basically standing at the bus
17 stop looking east towards the Paia Fire Station. This one is looking west through Paia past the
18 project site.

19
20 So this is the land survey of the property. This is the garage and storage structure which will be
21 removed. This is the existing single family residence which will just be rehabilitated and
22 converted into the commercial structure. Approximately this location is where signage can be
23 placed in order to instruct drivers that it's just a private residential drive beyond that and that
24 they can use this area to turn around. Some further views directly on the project site.

25
26 This is a site plan of the completed project, the proposed project. There's going to be the
27 addition of a landing placed here as well as ADA access here. There will be three stalls
28 provided here which meets the requirement for the proposed commercial retail use. This is an
29 aerial with the landscape plan. There's one tree for five stalls or over accommodated. This is
30 the existing layout or floor plan of the property and then this is the proposed space. There'll just
31 be an open space with a restroom at the back.

32
33 This is a rendering of the finished conversion of the property. So it's the same structure that
34 exists now just being rehabilitated. The south face. This is looking west...oh, I'm sorry, the
35 west face looking over Luna Place so we had a rendering of the north face and UDRB asked for
36 a rendering but basically because of the wall that separates the Charley's parking lot from the
37 property we couldn't get the perspective in order to do that rendering so we basically just
38 showed the elevation and then we showed a panorama of the site. But this is what it will look
39 like from that spot. And then this is how it fits with the character of the existing development.
40 So it's...the building has been there for some time and so it will fit in because it's the same
41 structure that's just being rehabilitated. Let's see, I think that I've discussed all of these things.

42
43 The project will comply with the window...the Paia Town Design Guidelines. We did confirm
44 with the Urban Design Review Board. Here's a close up of the landscape plan. The plant
45 material Queen Emma Lily, African Iris, the trees are Pink Tecoma, Manila Palm.

46

1 There is 5/8-inch meter and there is a 4-inch fire line installed. There is also a hydrant
2 immediately in front of the property abutting the north property line. Sewer laterals will be
3 connected to the Central Maui system. Drainage system will be designed by Linda Taylor. The
4 main access is off of Luna Place that's a 20-foot wide roadway. Philip Rowell did our traffic
5 impact assessment report, unfortunately Phillip has had some health issues. He's not going to
6 be able to be here today. I will go through those slides. The MPD was concerned with the
7 construction phase and so the project will need to manage those things but as far as the
8 operation of the project there was no objection to that. The morning peak is 7:30 a.m. to 8:30
9 a.m., now these are vehicles on Hana Highway. There was 1,110 vehicles counted in the
10 morning and then from 4:00 p.m. to 5:00 p.m. there was 1,347 vehicles.

11
12 So the development that's proposed what we're asking for is just outright Business Country
13 Town zoning. So the Council, the Council can apply conditions in the context of planning the
14 community of Paia and long term uses of this property the current proposal is for
15 retail/commercial use but over the next 30, 40 years someone else could come through and
16 redevelop that property and so we're just asking for all the uses that are permitted within
17 Country Town Business. And so in order to do that we used the maximum trip generation in
18 order to do our counts to run those vehicles with the existing background traffic and so that's 10
19 trips in the morning and 9 trips in the P.M. peak. And so these are the different types of uses.
20 These are types of uses that are proposed in the context of retail and office, but these are the
21 higher end uses which would be high turnover restaurant versus a high quality restaurant. And
22 then there are also banks.

23
24 So basically the level of service analysis was done. So without the project the west left and
25 right is a D. The north and south through are uncontrolled that's Hana Highway, and then the
26 southbound left is operating at A. Southbound left operates at A throughout. The westbound
27 left and right is D without the project, C with the project, and E without the project and a D with
28 the project. So to preemptively explain how the project improves level of service with the
29 addition of vehicles, in talking with the traffic engineer there's a threshold which will step up the
30 trips which reduces the level of service. But at the threshold it's at when you add more vehicles
31 it defrays the delay that each vehicle has and so that lowers the level of service. So it's just a
32 function of, of the way the traffic impacts are calculated but that's how it works out.

33
34 So in conclusion we feel that we have met with the community, we've received comments from
35 the community and responded. We received comments from governmental agencies and
36 responded to those. The project is a reorganization of existing structure and we find that that
37 proposed development is not anticipated to have a significant impact. That's the conclusion of
38 the presentation.

39
40 Chair Duvauchelle: Thank you. Okay, at this time we'll open the floor up for public testimony. I
41 don't know if we have anybody? Is there a sheet signed up? No? Nope. Okay, then we'll open
42 the floor for public testimony. Anybody wishing to testify? Please come forward, state your
43 name, you'll have three minutes.

44
45 Ms. Francine Aarona: I think I wrote my name on there. And to my amazement, I stumbled on
46 this. I sit on the Paia Board Association and I was at that meeting in September of last year.

1 Unfortunately it was kind of like just poured upon us because this is our annual meeting that we
2 had an overall of whatever was going on in Paia Town and they were given the opportunity to
3 speak on this presentation. It just came upon us. There was no pros or cons or discussion
4 about it at that meeting. So as far as letting the community know that this Paia Trade Center is
5 gonna pop up on you, they don't have info. They don't have all that concerns. And my biggest
6 concern in Paia is that you have a lot of buildings coming up. Now we had one Special Use
7 Permit when Rock and Brew was being build. And we have this complex that's been built that
8 hasn't been filled. The police substation was supposed to go behind. You can't expect the
9 police to go through a gate to get to wherever. So we requested the front. So there's a lot of
10 buildings that are not being filled. This area which they're talking about is, and I'm hearing that
11 there are homes in the back that's gonna be requesting for short-term rentals. So you're gonna
12 have this commercial, this restaurant or whatever and you're gonna have these people
13 requesting short-term rentals in that same lane. It's a very narrow lane and the parking is very
14 small on the outside, the side parking. And now with MPO coming in to repave Paia and
15 possibly remove some parking spaces it's gonna be a big thing to consider. So I...anything that
16 is called upon to amend the community plan I'm going to be in the forefront to make sure that
17 the community knows what's going on not just that meeting 'cause to me it wasn't a meeting I
18 was there. I mean, it was just information to us at a general meeting but not in-depth. Just
19 them alone and the community alone so that they can give and take the answers or
20 acknowledgement of this. So it's a very narrow, it's you know...I would really like the committee
21 before it goes to the Council to get more input or get community input. That's what you're
22 gonna hear from me. Thank you very much.

23
24 Chair Duvauchelle: Thank you. Any questions? Thank you very much. Anybody else wishing
25 to testify on this agenda item? Okay, seeing none, public testimony is now closed. We'll take
26 questions from the Commissioners. Commissioner Robinson.

27
28 Mr. Robinson: Did you ever go over the list of concerns that we had at our last meeting
29 before...prior to this?

30
31 Mr. Hart: We did.

32
33 Mr. Robinson: And could you show me where those questions are?

34
35 Mr. Hart: Sure. So basically the...all of the comments that were received there's a section in
36 the Draft EA that contains those but basically the Planning Commission had a concern about
37 the scale of development and it did not want to see the scale of development overpower the
38 existing community. And our response to that was that, you know, the structure that's gonna be
39 converted is the existing residence and it's not proposed. Aside an additional porch which is
40 approximately 45 square feet and a ADA ramp and the three-stall parking lot that's the extent of
41 development that's proposed in this action and so that...any action that's proposed in this area
42 requires a SMA Permit and so we're proposing conversion of the existing structure.

43
44 Mr. Robinson: Jordan I apologize, but can you show me where that—

45
46 Mr. Hart: Yes, let's see, I will have to...I'm looking at it loose so I'll have to flip through it.

1
2 Mr. Robinson: I'm sorry, I can't find mine.

3
4 Mr. Hart: Sure no problem. It's gonna be in the comments. So it's Appendix G. Okay, so in
5 the beginning of Appendix G there's a list of all the agency's comments that were received and
6 then planning commission is the second to the last.

7
8 Mr. Robinson: There you go. That's it. So Jordan, am I seeing just...we just had one
9 comment?

10
11 Mr. Hart: Yes.

12
13 Ms. Thackerson: Commissioners, at the time when we did the Draft EA there was just one
14 comment on the Draft EA. I think at the time you had discussed seeing this permit again when it
15 came back for the CPA and the CIZ as this body will be reviewing that and then forwarding it
16 onto Council later, but this is just for the EA review. So at that time that was your only comment
17 on the Draft EA.

18
19 Mr. Hart: If I could I would, if it's possible I think it will be helpful for the line questioning that's
20 going on right now. I would like to go over the comments that we received at the Paia Town
21 Association meeting that was on October 7, 2016 so we did document all the comments that we
22 received from the community members and then we did put them in our Final EA and we did
23 address them. I do also want to say that there was a...there was quite a bit...it was the annual
24 meeting so there was quite a few people there and there was quite a bit of questions just about
25 general land use planning and how community plans are adopted and how community plans are
26 amended and whether or not this project precedent setting in the context of the Paia-Haiku
27 Community Plan and things like that.

28
29 So there was a good, good amount of discussion in those things but the comments and
30 concerns that were received is, is there a need for commercial space. There was questions
31 about vacant buildings seeming to indicate excess space. And so there was a comment from a
32 person who claimed to be a real estate broker in the audience and they claimed that there was
33 basically those were pricing issues. Luna Place is a private road with no street parking allowed.
34 There's seven signs and then there was a discussion of the width of the gravel paving. So the
35 reason that this project is proposed as a retail or office is because that's the only parking that it
36 could provide onsite. There's no county parking within the range where you could get relief from
37 that and so the use is dictated by the available space and the parking that can be provided.

38
39 There was a question about whether or not this was the only community meeting and outreach
40 and you know at that time the response was yes, we are doing a Draft EA and we're required to
41 meet with the community and we did...we were having that meeting. There was also the Draft
42 EA that could be commented on. There was also these meetings with the Planning
43 Commission for the Draft EA, for the Final EA and for the Community Plan Amendment and so
44 on. There was a question about the renters that are living there now and whether or not they
45 would be displaced. So yes, the commercial space it is a residential structure that's being
46 converted to commercial. There was a question about additional question, I do want to also say

1 also that aside from the slight adjustments that we made for the Urban Design Review Board
2 regarding the renderings and things like that this presentation that we showed you now and that
3 Draft EA is the same presentation that I made to the Paia Town Association. So there was
4 questions about the traffic and then we went over the number of trips it's 10 and 9. There was a
5 discussion about Paia being an agricultural town and you know, HC&S had already been closed
6 at that point and there was a discussion about, you know, what was going to happen in the
7 future and I was talking about the pattern of development being appropriate that these parcels
8 abutting Hana Highway especially one that's got a public/quasi-public use on one side, a road
9 and then a bar and a parking on the other side, it's not the most desirable residential lot and so
10 it would be appropriate to be small scale commercial. There was a discussion about illegal
11 parking and there was a discussion about the owners working with their future tenants and
12 working with signage. There was a question about whether or not this sets a precedent for
13 community plan amendments. My personal opinion is that it doesn't and that the Commission
14 and Council address each one in its context and whether or not makes sense in this location.
15 And then comments that we provided back is that the existing dwelling is the proposed
16 development it's not going to be expanded by this action. We let them know that we collect all
17 comments and we put them all in the Draft EA and have to respond to them and they'll be in the
18 Final EA. We let them know about the future occupant being likely office or retail because of the
19 parking requirements and also because that's what we're proposing to you now and in the SMA
20 application. We talked about how the Paia...how all of the community plans are in the process
21 of being updated and Paia-Haiku is one of them and so you know people who are interested
22 should communicate with the Planning Department and participate in that process. And then
23 the final comment return was one of the people who was in the meeting was a commercial
24 broker and said that their opinion was that the vacancies were related to pricing and not
25 demand in Paia.

26
27 Chair Duvauchelle: Any other questions Commissioners?

28
29 Mr. Robinson: I have one more question.

30
31 Chair Duvauchelle: Commissioner Robinson.

32
33 Mr. Robinson: Jordan can you, can we go back when we talked about emergency vehicles and
34 the access that they're gonna have and when they're coming in. 'Cause I think I recall now we
35 talked about certain times when you're gonna receive deliveries that a van would be parked
36 there to you know, unload merchandise and certain things and if you could explain to me that
37 again how the emergency vehicles and your deliveries are gonna work?

38
39 Mr. Hart: Well I believe that...okay, so there's no loading zone required. But I believe that a
40 vehicle can park here for deliveries in order to make that happen. But as far as the scale of
41 development it doesn't trigger the requirement for a loading zone.

42
43 Mr. Robinson: And emergency vehicles from the neighbor's concerns what?

44

1 Mr. Hart: That was, that was regarding coming up and down Luna Place and so basically what
2 was said is that if parking...there's no parking permitted there. If parking is not controlled on
3 Luna Place then that can be...that can block vehicles.

4
5 Mr. Robinson: Thank you Jordan.

6
7 Chair Duvauchelle: Any other questions? Okay, thank you. Can I get the Department's
8 recommendation?

9
10 Ms. Thackerson: The Department recommends that the Commission accept the Final EA and
11 issue a FONSI, a Finding of No Significant Impact Determination.

12
13 Chair Duvauchelle: Commissioners? Commissioner Carnicelli.

14
15 Mr. Carnicelli: Move to approve as recommended by Staff.

16
17 Mr. Higashi: Second.

18
19 Chair Duvauchelle: Moved by Commissioner Carnicelli, seconded by Commissioner Higashi.
20 Any discussion on the motion? Okay, seeing none, Director.

21
22 Mr. Spence: The motion is to approve, accept the FONSI.

23
24 Chair Duvauchelle: Thank you. All those in favor please raise your hand?

25
26 Mr. Spence: Six ayes.

27
28 Chair Duvauchelle: Six ayes, the motion passes. Thank you.

29
30

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

32

33 **VOTED: To Accept the Final Environmental Assessment as a Findings of No**
34 **Significant Impact (FONSI) as Recommended by the Department.**
35 **(Assenting – L. Carnicelli, R. Higashi, L. Hudson, K. Robinson,**
36 **C. Tackett, S. Castro)**
37 **(Excused – T. Gomes)**

38

39 Mr. Hart: Thank you. And thanks again for your patience.

40

41 Chair Duvauchelle: Thanks. Okay, Commissioners are we moving onto our next agenda item?
42 Okay, Director let's go for it.

43

44 Mr. Spence: We're on Item E, Unfinished Business. There's two of these, but the first one is
45 Mr. Peter Sullivan of Hawaii Materials Recycling LLC requesting a State Land Use Commission

1 Special Permit to operate basically a recycling facility upon agricultural Land, and with us still
2 this morning is Livit Callentine.

3
4 **E. UNFINISHED BUSINESS**

- 5
6 **1. MR. PETER SULLIVAN of HAWAII MATERIALS RECYCLING LLC requesting**
7 **a State Land Use Commission Special Permit in order to establish and**
8 **operate a construction materials recycling facility to accept and process**
9 **inert construction and demolition wastes including concrete, rock, and**
10 **asphalt on approximately ten acres of land located in the Agricultural**
11 **District at TMK: 2-2-002: 084 (por.), Kihei, Island of Maui. SUP2 2016/0014)**
12 **(L. Callentine) (Public hearing was conducted at the July 11, 2017 meeting**
13 **and the matter was later deferred.)**

14
15 **The Commission may act on the subject application.**

16
17 Ms. Livit Callentine: Thank you Director. We had a little, we have a little technical difficulty here
18 and we need about five minutes say to correct this problem before we continue on? Can we
19 have, can we have that?

20
21 Chair Duvauchelle: Yes. We'll break for five minutes.

22
23 A recess was called at 11:42 a.m., and the meeting was reconvened at 11:46 a.m.

24
25 Chair Duvauchelle: Please continue.

26
27 Ms. Callentine: Thank you. And hello again Commissioners, we were together on this item
28 you're going to be hearing today two weeks ago and we had a lively discussion and there was a
29 few concerns raised by the Commission and so the applicant put together a packet in response
30 and the Department also wrote a memorandum report which you found on your desks this
31 morning and that includes a copy of the applicant's submittal. So you may have gotten that
32 twice, sorry about that, but better you get it twice than not at all.

33
34 So I wanted to clarify regarding the scale of the project or the scope of the project just one
35 additional use which is included in the application but didn't get specifically called out in the
36 report is that...and our Zoning...our Enforcement Division told we'd be in trouble if we didn't get
37 this in here so I'm going to go ahead and update you with this. The applicant will at time to time
38 stockpile source materials that will be incorporated into the recycled materials to create new
39 materials and that source materials will include sand but all of the sand will be from other sites,
40 offsite so there will be no mining or extraction of any kind going on this site just so I'm clarifying
41 that for you.

42
43 So the concerns that you expressed that I heard, the location. There was questions about
44 whether the location was an appropriate location and so I just want to go over that. The
45 proposed location to provide construction materials recycled is appropriate given the

1 circumstances. Many projects have been granted entitlements and permits for development or
2 redevelopment exist in the South Maui area and these would benefit from being proximate to a
3 construction materials recycling facility. Locating material recycling services closer to
4 development would reduce construction traffic along the highway, both highways and ideally
5 such facilities would be located in each of the major areas throughout Maui County. Now this
6 particular facility will have the capacity to get 30,000 tons...30,000...3,000 tons, 3,000 tons per
7 month of material that will not go into the Central Maui Landfill if this use is approved.

8
9 This project is...there was questions about closeness, proximity to a residential area. This
10 project is approximately 2,272 linear feet from the nearest residential area. And between...can
11 we get the lights off so I can show this better? Thank you. So really apologize this was
12 supposed to be Google Earth and Google Earth is not opening on this computer today so we...I
13 have to show you this. So this project is right up here, can you see the mouse moving, Hawaii
14 Construction Materials Recycling and between that and the highway is the Kihei compost
15 facility, the Kihei wastewater treatment facility and the Goodfellows baseyard right here, and so
16 we believe that the residential area if impacted by any of these projects it's going to be the
17 projects that are closer to them, closer to the highway. This, this like I say this is almost 2,500
18 feet away from...away from the Hale Mahaolu Ehiku.

19
20 So furthermore this site is located in the State and County Agriculture District and the
21 productivity, the soil productivity is E which is a very low productivity soil. The lowest on the
22 chart. So it's not likely that this facility is ever going to be used for growing any planting, plant
23 materials.

24
25 Furthermore, the site is surrounded by as I said these similar or more intensive uses such as
26 the Goodfellows baseyard and rock crushing, the Maui Tropical Algae Farm, Maui Tropical
27 Algae Farm, the ...(inaudible)...solar farm, the Kihei compost facility and the Kihei wastewater
28 reclamation facility.

29
30 And as we know on Maui construction and demolition activities have increased since 2008 and
31 as South Maui and the island's buildings age, this trend will continue. Landfill disposal expense
32 has been due to the increasing number of environmental requirements making construction and
33 demolition waste not compatible with most municipal landfill requirements. These trends have
34 established the need for a multi-pronged approach to waste management including establishing
35 material recovery facilities that offset the demands of Maui County's municipal landfill.

36
37 Now then I thought we just do a little compare and contrast. Back in June of this year you heard
38 a Land Use Commission Special Permit, you granted a Special Permit to allow the uses
39 identical to those proposed in the subject application and that was granted in a different
40 location. That's up on Pulehu and Hansen Road in Kahului but it is also zoned Agriculture and
41 other uses are happening on that site including handling of vehicles, scrap materials collection
42 from the vehicles, parts collection, removal of all the fluid, removal of the tires. So something
43 has to happen with all of those things. So that's all taking place on that site as well as now
44 what, I don't know if it's been launched yet but will be launching a construction materials
45 recycling facility at that site. We actually think that it's a good idea to have these kind of

1 recycling sites close to where the development is occurring so it ideally we'd like to see one in
2 West Maui and Hana and you know Central Maui and South Maui.

3
4 Both of these sites require multiple Department of Health permits. Both of these projects have
5 the support of the Department of Environmental Management and in the report you got today
6 you see a copy of both of those letters from the Department of Environmental Management.
7 And also in your report today Exhibit D shows a table comparing the major components and
8 elements of each project. So that was all addressing location which we do feel is appropriate.
9 We don't feel that this is the kind of use we'd want to plunk down in a residential area or even a
10 commercial area or a tourist heavy intensive use area.

11
12 So the second point I wanted to make is that the project is located just outside the Urban
13 Growth Boundary. It's right on the border and if you look at the map for the Urban Growth
14 Boundary that was shown in my original report to you, you'll see that there's a lot of little
15 notches and keyholes kind of cut out around where that boundary is and I suspect there was a
16 little bit strategizing and horse trading going on to actually make the boundary. I don't know
17 how that happened, but I do know that this project is right on the boundary.

18
19 And the Maui Island Plan does have provisions for dealing with exceptions to development
20 outside of growth boundary. Now the intent of the Maui Island Plan and the growth boundary is
21 to identify an area for growth but in their wisdom Council decided to include an exception to
22 development outside of growth boundaries. So...and they say, during the life of the Maui Island
23 Plan there will be a need for certain land uses that may have unique impacts or requirements
24 due to the nature of the use and would be more appropriately located outside of identified
25 growth boundaries. These land uses may include heavy industrial operations such as but not
26 limited to infrastructure facilities, baseyards, quarries, transfer stations, landfills and uses
27 generating noise or odor that are undesirable in an urban environment. Then it goes on to say
28 alternative energy systems and other land uses relating to emerging industries of which we
29 would say construction recycling...recycling of construction materials is one for reuse. It's not
30 just recycling remember it's reuse as well that's the important part I believe. So other land uses
31 related to emerging industries may also be suitable outside of urban, small town and
32 growth...rural growth boundaries when consistent with community plans and zoning.
33 Commercial uses may also be permitted where appropriate.

34
35 So then we look at the proposed uses in regard to these State and Agriculture Land Use...the
36 State and County Agriculture District designations and the report goes through an analysis of
37 that and shows you that the way in which the Department concluded that the proposed use
38 does meet the criteria in Chapter 205 of the Hawaii Revised Statutes and pertaining to special
39 uses.

40
41 In regards to the community plan, the Kihei Community Plan addresses special use permits
42 saying, allow special use permits in the State Agriculture District to accommodate unusual yet
43 reasonable uses including public facilities such as utilities, installations or landfills. There's four
44 uses that are not exclusive but agriculture related commercial activities, public and quasi/public
45 uses serving the immediate community, uses clearly accessory or subordinate to a principle ag

1 use, public facilities as I read and extractive industries such as quarrying where the operation
2 would not adversely affect the environmental or surrounding agriculture uses. So that's pretty
3 broad but some of the uses state is appropriate for receiving a special use permit are actually
4 more intensive and more potentially obnoxious than the use that's being proposed today.

5
6 The subject property is also in the County of Maui's Agriculture Zoning District. You know what
7 you can turn the lights back on. The facility falls under the definition of a major utility according
8 to our Zoning Division's determination, Planning Department. Per Chapter 19.30A of the Maui
9 County Code, a major utility is permitted in the Agriculture District if a special use permit has
10 been obtained. That is what they're attempting to do here is obtain a special use permit. So
11 that concludes my remarks and as you know you have alternative actions to consider once
12 you've heard and deliberated. Thank you very much. And now I'd like to ask Rory Frampton to
13 come up.

14
15 Chair Duvauchelle: We are gonna take public testimony but you can...were you gonna do a
16 presentation?

17
18 Mr. Rory Frampton: Yes.

19
20 Chair Duvauchelle: Go ahead and do that.

21
22 Mr. Frampton: Thank you very much. I'm Rory Frampton the land use planning consultant for
23 Hawaii Materials Recycling which I Pete Sullivan and they're very closely...Hawaii Materials
24 Recycling is very closely aligned with P B Sullivan Construction, Inc. Livit covered a lot of the
25 points I think that we needed to go through. I know Commissioner Carnicelli wasn't here last
26 time but I was told you had a chance to view the video is that?

27
28 Mr. Carnicelli: I did.

29
30 Mr. Frampton: Okay, so I'm gonna go through these quickly. I really don't want to be too
31 repetitive. If there's anything you want me to clarify please ask me at the end.

32
33 Mr. Carnicelli: Thank you.

34
35 Mr. Frampton: I'm gonna actually go through really quickly. This is just some of the basic
36 information here. I think the important thing is that this is a recycling facility that requires the
37 Department of Health Solid Waste Permit and there's a lot of controls on that permit when it
38 comes to the type of materials you can receive, dust control and all the...mitigating all the
39 environmental impacts.

40
41 I actually...in one of the handouts that I gave to you as part of the supplemental information I
42 sent you the draft closure plan. It was Section 6 of the Department of Health Permit and that
43 closure plan I thought it was good because it summarized a lot of the things that are being done
44 to screen the material that comes in so that when you do the closure plan the idea is that you
45 don't have a problem. And so that's why they focused on the closure plan about how you're

1 running your operations and how you're screening your materials making sure you don't get all
2 these potential contaminated wastes.

3
4 The other things that I handed out to you had to do with the dust controls that are currently in
5 place one the machines that are run by P B Sullivan as part of their construction operation. So
6 these are the same machines that will be brought to site to use for the crushing of the materials.
7 They'll have to comply with those standards as well as the solid waste permit standards
8 including all the dust control measures. And these machines are pretty sophisticated machines.
9 They all have water built into them so that the water actually screens the materials and I'm
10 gonna let in a little bit, I'm gonna let Pete talk a little bit more about the dust control measures. I
11 think the concerns that were raised I think were very serious concerns. I don't think...we don't
12 take those lightly and we want to make sure we address those. Okay, I also gave you the letter
13 from the...the correspondence we did with the fire department. We basically summarized the
14 meeting that we had with the department. Sent Captain Haake the plan and he said...he just
15 said that we put the tank and the water meter on there which we've done. And we'll have to
16 comply with the fire department as we go through the permitting process after obtaining the
17 special permit.

18
19 So I do have aerial photos and facilities that are shown. There's one here that I wanted to show
20 which was the Goodfellow Brothers baseyard. This is a facility...this is what...it was a rock
21 crushing facility for many years. They opened it up in 1979 for the construction of Piilani
22 Highway. After that they kept it going and it's been there for over 30 years. It was issued a
23 special use permit, same permit we're asking. Eventually they've involved to where they've put
24 their offices, equipment storage, there's a lot of other things that are going on on that site in
25 addition to the permit that they have for rock crushing. I believe someone from Goodfellow is
26 here today that's going testify and I'd like a chance to speak to their comments after they're
27 done. I need to hear them first.

28
29 Chair Duvauchelle: Okay.

30
31 Mr. Frampton: So I just wanted you to see that so you have a visual on that. That's the sight
32 distance report. We're gonna have the traffic guy speak to that. Livit went over the growth
33 boundary and we did talk about the benefits of recycling construction waste obviously and the
34 reduced trucking distance to have this in a South Maui project, I mean South Maui area.

35
36 The additional information that I want to just have today, hopefully we can go over it real quickly
37 is wanna have Tyler Fujiwara from ATA just briefly talk about the sight distance and the left-turn
38 movements coming out of the facility. That was a topic of discussion last time and I don't think
39 Tyler had an opportunity to discuss that with you. So if it's okay, I'll have Tyler come up.

40
41 Chair Duvauchelle: Yes, just so are we're gonna power through this or are we feeling
42 like...okay, yes please.

43
44 Mr. Frampton: You guys wanna keep going?

45

1 Chair Duvauchelle: Yeah.

2

3 Mr. Frampton: Okay. Thanks. Tyler?

4

5 Mr. Tyler Fujiwara: Good afternoon Commissioners my name is Tyler Fujiwara with Austin
6 Tsutsumi and Associates and we're the ones that did the traffic study for this development. So I
7 know based on the last meeting one of the questions was about the traffic counts and
8 whether...why we didn't count Friday, Friday traffic. You know for these traffic studies it's
9 usually common for us to do counts on Tuesdays, Wednesdays and Thursdays. Fridays are
10 usually a little bit more variations in traffic. So typically County and State will require us
11 Tuesday, Wednesday, Thursday. And we also looked at some of the daily traffic counts on
12 Piilani Highway that were done in April. So this is the same month that we counted our manual
13 turning movement counts and it showed that at least during weekday P.M. Peak counts were
14 similar to Friday, Friday counts and they were actually less than Friday during the weekday A.M.
15 Peak period. So I think our traffic counts are pretty sound.

16

17 The other thing was the sight distance. So with regard to sight distance, okay so this was our
18 sight distance figure that we included in our traffic study. What is shown here are distances, the
19 available distance, sight distances that are currently out there at the intersection.
20 Measurements that we took were estimated from Google Earth but we also went in the field to
21 measure them with a measuring wheel so we could take into account any of the obstructions or
22 growth along the frontage that could have obstructed any of the sight distance from these
23 vehicles turning. So the sight distance calculation is actually consistent with national standards.
24 You know it includes...it accounts for trucks and a higher speed limit so we went with a 50 mile
25 an hour speed as opposed to the posted 40 mile an hour speed. So it increases the required
26 sight distance at this location. We found that the available sight distance was 715 feet and
27 based on the national standard calculation we're getting about 700 feet of the required sight
28 distance. So our sight distance that we're showing here is greater than what is required by the
29 national standard. And if you have any more questions on traffic I can, I can answer them later
30 this afternoon.

31

32 Mr. Frampton: Okay, second issue I wanted to have Pete Sullivan address was the dust control
33 and worker safety.

34

35 Mr. Peter Sullivan: I'm Pete Sullivan. I'm not sure of the protocol here too much. I'm new at
36 this so Rory had asked me also to tell a little bit about our company 'cause there seems to be
37 some confusion about who we are and what we represent. So I'll give a little bit about that. So
38 the parent company to what will be Hawaii Materials Recycling. P B Sullivan Construction was
39 established in September of 2014 on the Island of Maui by me with a longing to build quality
40 projects without compromise to my personal code of ethics.

41

42 We've taking pride in our standing on safety and proved year after year with every project that
43 we place safety first. At P B Sullivan Construction we know that training is a key component in
44 the safety of not only our employees but the public and have placed key personnel in charge of
45 ensuring continued training and constant maintenance of our safety program.

1
2 Our commitment to placing the employees first is evidenced in our retention rate. We have
3 several employees that started with the company at the beginning and are still here today. One
4 of our first employees will be retiring next year with financial stability as a result of our pay scale
5 that meets or exceeds the organized union labor standards. A profit sharing program and 401K
6 and healthcare plan paid for by the company that covers every employee and their family. We
7 hire without regard to age, sex, disability, national origin, race, religion, union affiliation or
8 veteran status. As a disabled veteran myself it was easy for me to hire a veteran of the
9 Afghanistan War with an 80 percent disability. He's here in the audience today. We also have
10 a succession program that encourages each of our 45 employees to set long term goals that
11 include a strong potential for ownership of this merit based company.

12
13 As there was question about the safety and health of the surrounding community in regards to
14 silicosis we have prepared the following. Silicosis causes by silica is a growing concern for
15 construction companies all over the world, but is not...it is not a growing diagnosis. The number
16 of deaths in the United States from silicosis has declined from a 1,065 in 1968 to 165 in 2004.
17 From 1996 to 2005 only one death has occurred in Hawaii. There have been no reported
18 incidents of silicosis on Maui. This statistically significant decline in silicosis death rate is
19 because of the new safety regulations placed to not only protect the workers but our community.
20 At P B Sullivan Construction safety is and always will be our number one priority and we are not
21 excluded from following rules and regulations that have been put in place.

22
23 Our Covered Source Permit also known as an Air Quality Permit is granted by two government
24 agencies, the Clear Air Branch of the State of Hawaii, Department of Health and the United
25 States Environmental Protection Agency. They require us to implement, maintain and have
26 monitored by outside consultants our crushing and screening activities to ensure compliance
27 with their regulations. OSHA has established a permissible exposure limit or PEL that is the
28 maximum amount of crystalline silica to which workers may be exposed during a eight-hour
29 work shift. OSHA also requires hazard communication training for workers exposed to
30 crystalline silica and we maintain a respirator program and engineering controls that
31 preventative measures as well.

32
33 We employ dust control measures that are approved by the Department of Health, EPA and
34 OSHA as needed to ensure a safe workplace. One method P B Sullivan uses to keep down is
35 utilization of water sprays. This method is the most used method for any dust control due to its
36 low cost of implementation and excellent results. Because of its proximity to the wastewater
37 treatment plant this site has an abundant available supply of R1 water the preferred type of
38 water to be used for dust control. By implementing procedures such as this silicosis is not an
39 issue for P B Sullivan employees or the community on any of our projects. Also, studies show
40 that there has been no connection made in death from silicosis due to construction activity to
41 anyone outside of the project boundary. And that's all I have.

42
43 Mr. Frampton: Thank you Pete. And I just was gonna add to Livit's comments about the
44 special permit and whether or not this use is appropriate in the Agricultural District. As Livit
45 mentioned the TJ Gomes Trucking facility was...(inaudible)...zoned Agriculture by the County

1 Zoning. It's also State Agriculture. They got the exact same permit. The difference is they got
2 a lot more urban types of uses on there with their auto salvage and their tow truck and the
3 various other facilities. When the Island Plan was developed they did have...at the time it was
4 just the auto salvaging and the vehicle storage and that type of stuff and they did have a urban
5 growth boundary placed around it. But they did not...when they did the Maui Island Plan they
6 did not intend to have landfills, quarries and the like have an urban designation. Hawaiian
7 Cement's quarry in the center of the island they don't have an urban growth boundary, Chick
8 DeCoite's landfill in Maalaea doesn't have an urban growth boundary. They both have the
9 same type of permits that we're requesting today. The Rojac Trucking which is the only
10 construction recycling facility on the island right now they have a permit for concrete processing
11 that's Pohakulepo recycling. They have special permit I believe. But nobody's in the urban
12 growth boundary and all these facilities are...have obtained the exact same permit that we're
13 asking for today. So I'll conclude and would like to...a chance to discuss any comments that
14 may come up during testimony. Thank you.

15

16 Chair Duvauchelle: Thank you. Okay, at this time we will open the floor for public testimony. I
17 don't know if we have list but anybody wishing to testify please come forward.

18

19 Mr. Mike Moran: Aloha Chair and Commissioners. Mike Moran for the Kihei Community
20 Association. Our testimony delivered two weeks ago still stands but we now have a suggestion
21 for an added condition examination of a...(inaudible)...of which we were not aware of
22 previously. We now understand that when grinding or crushing just one single material, asphalt
23 and added action should be taken because this is an oil containing material. When grinding or
24 crushing of asphalt the extract should not be set onto the aina or the earth but contained in
25 either a container or laying some material upon the earth to prevent it from making direct
26 contact. It's our understanding that not taking this action can allow lasting petroleum residue
27 which will sink into the earth and possibly...possible ultimate contamination of ground water.

28

29 We did offer this information to Pete and from his perspective this is not a consideration. We're
30 not experts but when we get a community concern it's our obligation to present it for the
31 commissioners to consider. So we ask you to address that. I won't read what we presented to
32 you two weeks ago, you already heard it but just briefly we asked that we would be...we would
33 ask you to carefully examine storm water and drainage, traffic, and we said for traffic no we
34 don't want a traffic signal but maybe some kind of mitigation such as right-turn only entering and
35 exiting. And our understanding on the special permit there's a limited time that you set, we
36 suggested two years, we believe the Department was suggesting three years, but something
37 reasonable. It's a new project and certainly you want to put some sort of limitation on it.

38

39 I'll reiterate that we have great respect for Pete Sullivan and his company. They did come to us
40 initially when people were saying we never heard of this. Well, they came to us and we put
41 everything on our website so it's open to the public. It doesn't mean they'll see it but we felt that
42 everything was out in the open and above board and so we think it's a good project. We just
43 think it might...you know, be careful with it, be safety conscious but we do think it's a good
44 project. Mahalo.

45

1 Chair Duvauchelle: Thank you Mr. Moran. Any questions? Thank you very much.

2

3 Mr. Moran: Thank you.

4

5 Chair Duvauchelle: Anyone else wishing to testify please come forward? State your name
6 you'll have three minutes.

7

8 Mr. Bo McKuin: Good afternoon Commissioners. I appreciate you guys working through lunch
9 for us today. So my name is Bo McKuin I'm the Maui Regional Manager for Goodfellow Bros.
10 here to testify on Agenda Item E.1, Hawaii Material Recycling. It's more of just stating some
11 facts here. I know Rory mentioned our baseyard is just below the proposed project. Our GBI
12 baseyard has been in existence since we constructed Piilani Highway in 1979. After the build
13 out of the highway we felt our location there on Welakahao was ideal for a baseyard and
14 recycling and processing of aggregate material. Because the baseyard was entitled through a
15 County Conditional Permit and State Special Use Permit because it was on Ag land in 2011 we
16 processed and received approvals for various land use entitlements and permits including
17 approval of a State District Boundary Amendment from Ag to Urban, a Community Plan
18 Amendment to Heavy Industrial, a Change in Zoning to M-2, Heavy Industrial and a County
19 Special Use Permit as required by the M-2, Heavy Industrial zoning. In addition, a
20 Environmental Assessment was prepared and we felt this was necessary to be in compliance
21 with our long term plans for the baseyard and recycling operations.

22

23 As part of the conditions of the County Special Use Permit we needed to do traffic monitoring
24 and as a result of that study we built a road on our southeast boundary of the property to a
25 signalized intersection there at Kanani and Piilani Highway. This is to be used for access of our
26 heavy haulers instead of using the Welakahao which is not signalized. And I know in this
27 application Hawaii Materials Recycling Facility intends to use the unsignalized Welakahao
28 access for traffic is ATA mentioned. So the baseyard operations handles inert materials that
29 are recycled to produce aggregates.

30

31 In reviewing this proposed project there was no discussion on market conditions for recycling
32 and processing aggregate materials. And based on the current use and capacity of the
33 baseyard we believe the existing Goodfellow Brothers baseyard has enough capacity to handle
34 all southside projects. I really appreciate the time for the testimony.

35

36 Chair Duvauchelle: Any questions? Oh, Commissioner Tackett.

37

38 Mr. Tackett: Are you currently doing any crushing right now?

39

40 Mr. McKuin: At our facility we are not, but we plan to this year. We're currently processing for a
41 large road job out on the westside right now and for a couple other projects currently.

42

43 Mr. Tackett: That's all.

44

45 Chair Duvauchelle: Any other questions? Okay, thank you very much.

1
2 Mr. McKuin: Thank you.

3
4 Chair Duvauchelle: Anybody else wishing to testify? Please come forward, state your name,
5 you'll have three minutes.

6
7 Mr. Sean Lopez: Good afternoon Commission. My name is Sean Lopez. Born and raised here
8 on the island. I do solar engineering and sustainable energy consultations here in Maui and in
9 the South Pacific. Just want to say for the record this is a good project. Fits with the goals and
10 missions of Maui, the area and the neighborhood of what it is. It's basically Goodfellows doing
11 what they're doing, Monsanto is doing what they're doing, sewage treatment plant is right there
12 so it fits. So I just wanted to ...(inaudible)...

13
14 Chair Duvauchelle: Any questions? Thank you very much. Anyone else wishing to testify?
15 Seeing none, public testimony is closed. Do we want to entertain discussion or do we want to
16 break for lunch? Commissioners?

17
18 Mr. Robinson: ...(inaudible)...

19
20 Mr. Hudson: I would rather go on with discussion.

21
22 Chair Duvauchelle: Okay, very good me too. All right, questions by the Commissioners?
23 Commissioner Robinson.

24
25 Mr. Robinson: Rory?

26
27 Mr. Frampton: Yes.

28
29 Mr. Robinson: Hi, I've heard some contradicting testimony so I want if you want to respond. I
30 heard that Goodfellows has different conditions than you folks have. They have different things
31 they have to follow and I heard from yourself as well as the Planning Department that that's not
32 the case.

33
34 Mr. Frampton: Can you be more specific?

35
36 Mr. Robinson: They had to get rezoned.

37
38 Mr. Frampton: That wasn't a condition. It's not my understanding it was a condition. They
39 were doing rock crushing with a special permit since 1979 and for over 30 years they evolved
40 and starting putting their office...their offices there and they were storing equipment and so it
41 became more of a baseyard, it evolved to a baseyard. They had to get a conditional permit for
42 the baseyard. Eventually I believe they came in voluntarily in 2011 after 30 some odd years to
43 get the Heavy Industrial zoning and to address the other things that were going on on the
44 property in addition to the rock crushing.

45

1 Mr. Robinson: When the use changed that's when the zoning changed?
2

3 Mr. Frampton: No, they got...when the use changed they got a conditional permit.
4

5 Mr. Robinson: Conditional permit.
6

7 Mr. Frampton: And they had a conditional permit for five or seven years and then eventually
8 came in for their entitlements.
9

10 Mr. Robinson: Okay, thank you.
11

12 Chair Duvauchelle: Any other questions? All right, seeing none, did you want a moment to
13 speak to anything?
14

15 Mr. Frampton: I'm sorry, yes just real quickly. With the Goodfellow rock crushing facility they
16 don't have a Solid Waste Permit from the Department of Health to do recycling and the Sullivan
17 proposal is different in that regards in that they're gonna have to follow the Department of
18 Health standards to allow people to come in six days a week, small guys not the big jobs, but
19 the smaller guys need a place to dump their material. When Livit and I were out there on our
20 site visit, saw a guy with a flatbed come up with a backload of concrete, smashed up concrete,
21 dumped it in a gulch and apparently he had permission of the owner. It wasn't Haleakala Ranch
22 the landowner, it wasn't Pacific Rim Land or Goodfellow, but it was on another property and...I
23 mean there's no place for the little guys to dump that type of stuff in South Maui. So this facility
24 serves a really important need. As you mentioned Chair, we're behind the ball when it comes to
25 recycling and we really need to serve all of the niches and this one facility would serve an
26 important niche for the smaller guys to come in and drop materials off in South Maui and that's
27 not available. It's my understanding at the Goodfellow facility they're not recycling now. They
28 would have to get a Department of Health Permit in order to do so. Thank you.
29

30 Mr. Robinson: Chair.
31

32 Chair Duvauchelle: Commissioner Robinson.
33

34 Mr. Robinson: Rory at the last meeting I thought I asked if it was going to open to the public
35 and you guys said that it was, it was gonna be just for your use, so are you gonna—
36

37 Mr. Frampton: No.
38

39 Mr. Robinson: No, so it's gonna be open. You will have a person there receiving, open to the
40 public.
41

42 Mr. Frampton: Absolutely.
43

44 Mr. Robinson: Okay, good. Okay.
45

1 Mr. Frampton: Big difference.

2

3 Mr. Robinson: Yes.

4

5 Mr. Frampton: Thank you. And one last thing, the fact that they've been there, the wastewater
6 treatment been there since 1979ish, their plant has been there since 1979ish, the earth
7 composting place or the composting facility has been there since the early 90's. There've been
8 no issues with those that I'm aware of. KCA didn't bring any up. KCA felt that this was a great
9 location to put these type of I call it back of the house type of uses. So I just would also note
10 that in thinking of Goodfellow it just to me that's more of a testimony to that this is an
11 appropriate area for this facility. Thanks.

12

13 Chair Duvauchelle: Thank you. Okay, any other questions? Commissioner Robinson.

14

15 Mr. Robinson: Chair, I apologize but I don't have the green recommendation form for this
16 project from when it changed from the two weeks ago to today. Is there a new one? Because,
17 because I know we voted on some things with different conditions. I don't know if the conditions
18 were added on as far as time and things like that or do we have to start all over again?

19

20 Chair Duvauchelle: Director.

21

22 Mr. Spence: I don't think we had a new—

23

24 Mr. Robinson: New recommendation paper?

25

26 Mr. Spence: --new recommendation. It's still for approval. I was gonna suggest to the
27 Commission an additional condition for automatic watering during off, you know, nonoperational
28 hours, but that was about it. I can share my scratched up copy of—

29

30 Mr. Robinson: No, but I mean is I know there were some conditions that was agreed to last
31 time, but it wasn't—

32

33 Mr. Frampton: Yeah, I've worked with Livit and she has some suggested language for some
34 conditions that would address dust not during just operations but dust control period. And the
35 open, right 8:30 in the morning was the big one. So the dust and the opening and the hours of
36 operation were the two that we wanna suggest.

37

38 Mr. Robinson: Is, is Chair could I ask one more question of Rory.

39

40 Chair Duvauchelle: Yes, go ahead.

41

42 Mr. Robinson: Rory, is, is how about a right-turn only affect your operation?

43

44 Mr. Frampton: It be really difficult. You know Goodfellow constructed that road but they're not
45 using it to my...

1
2 Mr. Robinson: Rory, Rory just you, just you guys. We don't want to—

3
4 Mr. Frampton: But I think the...my point is is that's been used by heavy equipment and trucks
5 now and it's currently and it's not a problem. It would be problematical because if you're talking
6 about people coming from say the south and if they weren't able to turn left in there, they'd have
7 to go and make a turnaround at some other location in Kihei. It could be problematical or you're
8 gonna be routing people down Lipoa Street and neighborhoods, it could be problematical if we
9 do a right-turn in and right-turn out only.

10
11 Mr. Robinson: Thank you.

12
13 Mr. Frampton: Thank you.

14
15 Mr. Tackett: I have a question.

16
17 Chair Duvauchelle: Commissioner Tackett.

18
19 Mr. Tackett: Sounds like the difference between your project and the other projects are your
20 recycling component. Could you elaborate on that whole process? What you're bring in and
21 what you, what you expect to put back out?

22
23 Mr. Frampton: So the type of materials that we're gonna be bringing in...hard to see on here.
24 Concrete, asphalt, rock, soil, ceramic.

25
26 Ms. Callentine: You can use this and go up to the board.

27
28 Mr. Frampton: Thank you. So here's the site plan and the material, the source materials would
29 be deposited. It would be concrete, asphalt, rock, soil, organic, porcelain, that's the major
30 materials we see coming in. They'll go through the...when there's enough accumulated they'll
31 be processed and the processed materials would be either top soil, select borrow, wall rock,
32 crushed concrete which can be used as base, crushed asphalt, 3F material and other types of
33 rocks basically as the market dictates. So it will be used, the materials will be recycled and
34 used in construction facilities. And the idea is to lessen the impact on...as Pete says, lessen
35 the impact on the Earth by not having to do as much extractive operations and really try to
36 recycle as many of these materials as possible.

37
38 Mr. Tackett: And so currently none of that happens with the other two that you're discussing on
39 the other two? Gomes doesn't do any of that? Goodfellow doesn't do any of that?

40
41 Mr. Frampton: So Gomes requested from this Commission approval to do that, to do exactly
42 this, and but he doesn't have a Solid Waste Permit yet and you gotta go through the Solid
43 Waste Permit process. We filed the Solid Waste Permit back in December. They're waiting for
44 this permit to be issued and then they can proceed with their detailed technical analysis. The
45 Goodfellow project does not have a Solid Waste Permit. I confirmed that today and the

1 Department of Health said that the only construction recycling occurring on Maui and I don't
2 even know if they're in operation but the approved one was Pohakulepo. I believe that was by
3 Rojac.

4
5 Chair Duvauchelle: Thank you. Any other questions?

6
7 Mr. Frampton: Could I ask Pete to supplement my answer?

8
9 Chair Duvauchelle: Yes, I'm fine with that.

10

11 Mr. Sullivan: In doing...Pete Sullivan. In doing a search through the internet, through the
12 yellow pages, driving down the highways of Maui there is no concrete or asphalt recycling that
13 anybody, anybody on the island advertises including our potential neighbors. They don't have
14 signage, they don't...they're not included in this guide right here. There's just...there's nobody
15 out there that says yes, we do it. The only, the only people that get mentioned in here at all for
16 concrete recycling and this is from the County, the only name that gets mentioned in there at all
17 is P B Sullivan Construction and next to it, it says mobile rock crushing, concrete and asphalt.
18 So over the years as I've been trying to do this and having a tough time...the big problem was
19 finding land and water and finally got the ranches here to it and it's next to where we can use
20 R1 water. That's the whole reason for us going there. We've been asked by the Department of
21 Environmental Management for years and we tried. We failed because of nowhere to do it.
22 And these are the only people that gave us the opportunity to do it and in order to meet the
23 requirements of the integrated solid waste management plan that the County is I'll say subject
24 to, they call us, call our office every year and say can we use your numbers that you guys use
25 for ...(inaudible)...recycling on site. So they use our numbers for crushing rock, concrete,
26 asphalt all the time. So our intent is to be the recycling guys and that if it was the intent of these
27 other companies that say that that's what they're doing then I would think that they would be
28 advertising that, they would make it available. I've been to the neighbor's facility or called them
29 and say hey we want to bring in material and they say no, we're full or no, we're not accepting
30 material today. It's not every time, but that's not how we would run our situation. So I just
31 wanted to make that clear. But I don't know if that was clear. The intent is to recycle. The
32 intent is to not create a bigger scar at the landfill. It's to take that inert material and to reuse it
33 consistently.

34

35 So the definition of inert really is in layman's terms just to say without motion and that's what
36 rock, concrete, asphalt does and to speak to the KCA's comments in municipalities all over the
37 country are using what they call RAP or recycled asphalt product all the time in construction
38 activities, for road base, and once that oil has solidified it takes a whole bunch to get that oil to
39 move off of the rock and to become an issue later and we just haven't seen that at all. And this
40 has not been done without studying. For 11 years I've been trying to do this and for the past
41 five with the County and haven't been successful because we can't find land and we can't find
42 water. So that...I just wanted to make all that clear in case it seems to be some I don't know
43 grey area there, I don't know, but that's what's really going on and that's our intention.

44

45 Chair Duvauchelle: Thanks. Thank you. Commissioner Higashi.

1
2 Mr. Higashi: Sullivan. Do you have any material that you cannot recycle that you get through
3 the plant and what do you do with it?
4

5 Mr. Sullivan: Yeah, well we have materials that we can't take in, hazardous materials. We can'
6 take any materials with lead based paint on it and everything is included in our Department of
7 Health Permit. It has to be screened and we have to have a qualified scientist to check our
8 materials and they have to train us in order for us to do this. So ours is a...in order to obtain
9 and maintain these permits from the Department of Health and the Environmental Protection
10 Agency it's not easy. It's a...I think it's a 388-page report that we've had to hire a consultant to
11 do. And in that, I said specifically I don't want to deal with hazardous. I don't want it there and
12 part of that was because in order to get approval from the ranch to do this they're real sticky
13 about that. They didn't want any of that on their property and I'm fine with that because we
14 don't want to deal with it either. So if we...if that stuff comes to us, well there's a manifest that
15 has to be filled out by any of the larger haulers to bring that stuff to us and they have to let us
16 know exactly what is within their loads. And if there's anything that's not acceptable they've got
17 to take it to the landfill or somewhere else. We can't take it.
18

19 Mr. Higashi: So where does it go?
20

21 Mr. Sullivan: The landfill would be...well, so that gets...that's another question how do you deal
22 with the hazardous materials. It's not our thing. We're not dealing with hazardous materials.
23 Again, we don't want to put it here. The landfill...say it was asbestos or something like that you
24 have to hire a licensed guy, an asbestos contractor to come and bag it and they take it. I don't
25 know where they go with it, but special orange bags, but we don't deal with any of that. That's
26 just a way to keep our people safe and to get the ranch to say yeah, yeah it's okay for you guys
27 to do this here.
28

29 Chair Duvauchelle: Okay, thank you. All right, we're good. All right so we hear the
30 Department's Rec...thank you....The Department's recommendation.
31

32 Ms. Callentine: Thank you Madam Chair. The Department made a recommendation for the
33 Commission on July 11th and that was inconsideration of the foregoing the Planning Department
34 recommends that the Maui Planning Commission adopt the Planning Department's report and
35 recommendations prepared for the July 11th and July 25th, 2017 meetings as the findings of fact,
36 conclusion of law, and decision and order and authorize the Director of Planning to transmit said
37 written decision and order on behalf of the Planning Commission.
38

39 Now we talked about some additional conditions being added to the standard conditions that
40 are...and right now what we recommended is six standard conditions that every SUP gets.
41 There are seven through 13 project specific conditions already and oftentimes those conditions
42 come out of the agency comments that we get. So in this case those conditions are focused
43 primarily on possible problems, mitigating any damage or impact to the wildlife in the area
44 because we got a really solid communication from Fish and Wildlife Services.
45

1 But at the last hearing you talked about I believe limiting the operation to beginning no earlier
2 than 8:30 in the morning. And I think that that was one that you wanted to add. I have three
3 potential conditions you might want to either amend...adopt as they are written or change them
4 in some way. One of them is about the closure plan. So it would be that upon termination of
5 the facility all equipment and materials for operation shall be removed and the site shall be
6 restored in a manner to prevent erosion from wind and rain and in a manner that would not
7 adversely affect natural drainage patterns. So that would be one that I would suggest you take
8 a look at.

9
10 Secondly, that appropriate measures and this is gonna be about the dust mitigation and noise.
11 That appropriate measures as governed by the Department of Health and this says and the
12 Department of Public Works but I'm not...that should be in there, okay, shall be taken to
13 mitigate impacts relative to dust and soil erosion by wind and water and increased ambient
14 noise levels. So that's the second potential added addition.

15
16 And then the third one is specifying that the hours of operation shall be limited to the period
17 between 8:30 a.m. and ending at 5:00 p.m. Monday through Saturday.

18
19 Mr. Robinson: No, no, no, we had school days. So if there's no school, we're not concerned
20 about the opening.

21
22 Chair Duvauchelle: Talk in your microphone.

23
24 Mr. Robinson: So yeah is at our last meeting it was concerned with school days, school traffic,
25 days off of school, summer time, holidays that wasn't a concern. The concern was school traffic
26 only. So it was just school days that was the condition that we had for last time.

27
28 Ms. Callentine: That was when the limitations would be placed. Monday through Friday.

29
30 Mr. Robinson: That's the limitations were school days. School days.

31
32 Ms. Callentine: Okay, well—

33
34 Mr. Robinson: If they start doing school on Sundays then it's going to be...but it's just school
35 traffic.

36
37 Ms. Callentine: When school is in session.

38
39 Mr. Robinson: Yeah, when school...it's school days, public school days.

40
41 Mr. Carnicelli: Madam Chair.

42
43 Chair Duvauchelle: Yes, Commissioner Carnicelli.

44

1 Mr. Carnicelli: And I believe you said that you were going to be open on Saturdays, correct,
2 right to help the local folks? Okay.

3
4 Ms. Callentine: Okay so those are the three conditions that we might want to think about
5 adding. One thing I'll point out is that what I've learned in my research is that the Department of
6 Health has got this thing down. I mean they are monitoring already construction activities that
7 P B Sullivan is carrying out elsewhere and he would have to get new permits for this site and
8 I'm convinced that they're going to do a very good job of setting up the conditions. So I'm not
9 sure that you need to add conditions about dust control when that's going to be handled by the
10 Clean Air Branch of the Department of Health. Up to you though, you can be redundant if you
11 want to.

12
13 Chair Duvauchelle: Commissioner Tackett.

14
15 Mr. Tackett: What is the market for the recycled materials? Who's gonna purchase those or
16 use the materials that you recycle?

17
18 Ms. Callentine: Well, I don't do it 'cause I work for the Planning Department but I would be
19 happy to have the applicant address that further. I'm not sure that's one of the criteria that you
20 would use for a special use permit. It's a risk like any other business venture. But would you
21 like to have him come back up and—

22
23 Mr. Tackett: The reason for the question is you've got...you will have three people doing a
24 similar business with slight modifications at that time and if it...if it puts some of the other
25 businesses out of business because there's not enough demand for the product then I think,
26 then I think it's something that should be considered.

27
28 Ms. Callentine: Well, I don't believe that the Goodfellows baseyard has yet, has started any
29 kind of a recycling program. I have no knowledge of that. I've read through their approval
30 letters and so forth, but...reports to the Land Use Committee, so I'm not sure if you were
31 counting that as one of them, but I don't think they're in the business as of yet of recycling
32 materials especially not for the public. So...

33
34 Mr. Tackett: I would think they do something with their crushed rock.

35
36 Ms. Callentine: Well I'm...I'm sure that they do do something with it but they didn't include that
37 in the scope of work of their County Special Use Permit.

38
39 Mr. Tackett: I understand that but so many things go without saying, you know, so many things.
40 I'm just trying to get a clear picture of what's really happening because we have three people
41 doing similar things. If Goodfellow is crushing rock right next to where you guys are crushing
42 rock and the product is going out and to similar areas then it would be nice to know.

43
44 Ms. Callentine: Commissioner Tackett I understand what you're saying, I appreciate that and I
45 don't really feel like it's the Department's purview to say whether there's a market or not for

1 something that's...I mean what about somebody comes and they want to start a new restaurant,
2 they take a risk.

3
4 Chair Duvauchelle: One moment. Director.

5
6 Mr. Spence: So if Commissioner Tackett wants to ask that question that would be a question of
7 the applicant. But what Livit was saying is the criteria for a special use permit would not include
8 the marketability of whatever. It's either this is an appropriate site and the criteria have been
9 met or they have not. It's a business risk, but that's his choice to make. It's not the
10 Commission's choice to say whether there's a market for something or not.

11
12 Mr. Tackett: So say a strip mall that comes into a community that has whole bunch of empty
13 space already. You're saying that that's something that shouldn't be considered and whether or
14 not it be allowed to go into those particular areas.

15
16 Mr. Spence: I think applicants...it depends on the criteria of the permit being requested. If
17 market and all those things are part of the criteria I would say probably yes, but in this particular
18 case that's not what the decision making criteria for a special use permit is.

19
20 Mr. Tackett: Do you think the criteria is legitimate that there's already those things taking place
21 in that particular spot to have two where you already have one?

22
23 Mr. Spence: The Department's position is that we're supporting this application. The
24 Commission is the decision making body. That's up to you whether you would like to support
25 this or not. We believe this is a proper location and that the issues of any impacts from the
26 proposed operation can be mitigated and would be mitigated as proposed.

27
28 Mr. Tackett: Are you saying that the line of questioning is no good 'cause I'll stop you know if
29 you don't...if you don't think that it's legitimate. What I see is two people basically doing the
30 same thing and a third place that we just, that we just got on its way going so now I see three
31 places and I don't really see a demand so I'm trying to figure out where, where is the demand.
32 Like I know that the guy drove up with his truck and he threw the stuff in the gulch. Like how
33 many people do you see loading tons of concrete into the back of their truck or loads of asphalt
34 into their truck to take for recycling? You know it doesn't generally happen. You have to have a
35 big target saw. You have to cut the concrete and the rebar into pieces that hopefully small
36 enough that you could pick up by hand, then you gotta throw them in your pickup truck, then
37 you're gonna drive 'um over there. I just, I just trying to make sure that that what we're doing is
38 loading things under a different guise into the same area where something is already
39 happening. You know it seems like somebody's already doing it right there and they got an
40 exception to do it right there and they've been doing it for a really, really long time and should
41 somebody else go in and put something in there right next to it and change a little bit of it and
42 then you get two? You know I don't know. Maybe that is the right way but I think that it's
43 something that's a legitimate concern and I think that that you should know like where is the
44 benefit? I mean, it's all you gotta do is say recycling and everybody happy about that. You
45 know, I'm happy about that, you know, I just want to know what are we actually gaining. You

1 know who's gonna come up and buy all that crushed rock? Who buys all that crushed rock from
2 Goodfellow? Where does it go you know? Just trying to understand.

3
4 Mr. Spence: Well, if that's a question you would like to ask the applicant?

5
6 Mr. Tackett: I would like to know the answer to those things.

7
8 Chair Duvauchelle: Rory.

9
10 Mr. Frampton: I'll let Pete talk about the...where he sees the materials going, but I just wanted
11 to point out that...well when you say that there's two other people or three other people doing
12 this there's no...there's nobody accepting material as a recycling facility on Maui except for
13 Pohakulepo. So who are you referring to when you say there's other people doing the same
14 thing?

15
16 Mr. Tackett: There's other people that take construction debris. I'm not saying that they're
17 doing the recycling. I understand that you've taken one other step. I understand that probably
18 those other two people could put in for that same permit that you're putting in for and they
19 already have infrastructure in place to do those types of things. So which one is easier for who
20 I'm not really sure. Would somebody else put in a permit like that as well as you if they thought
21 that you were going to put in one right there? I don't know. I don't know if any of those things
22 are gonna happen. What I do know somebody's crushing rock here and we just, and we just
23 gave the okay for a new project in Central Maui. And this project is coming in after when we
24 don't have the other one off the ground and the one that's been there forever we don't know
25 how it's going to impact the one that's been there forever and I'm just trying to understand it
26 before we put another one next to it.

27
28 Mr. Frampton: Okay. And I understand. You know I think as a Commission and with this
29 permit you know we're asking whether or not this is an appropriate use for that area and I just
30 think because of that that the wastewater treatment plant has been there, the composting has
31 been there, the rock crushing facility has been there, I think adding another facility that can
32 handle...all these things are dealing with processing waste. Allowing this recycling facility there
33 is another way to process waste. And the Department of Health says it rather firmly that if
34 you're bringing materials from offsite and doing what's being proposed you need a Department
35 of Health Permit and so this does fill a separate niche in the market and what Goodfellow
36 decides to do in the future I don't know, I think you don't know, I don't know, we don't know what
37 they're going to do. You know I think that the Gomes facility is in Puunene and can service the
38 entire Central Maui area as well as Haiku, Paia, I think that's enough. To me it makes sense to
39 have two facilities so you're not driving the additional ten or twelve miles on Mokulele Highway
40 with loaded trucks. So you know, let me just real quickly let Pete just talk about just the market
41 because I know that's where you kinda going at is can the market support the Gomes facility
42 which is not yet on line. So this will be the first facility that will come on line that's doing
43 recycling pursuant to the Department of Health's rules. So Pete can you just talk briefly where
44 you see this project going, the demand as well as the supply?

45

1 Chair Duvauchelle: One moment. We're gonna take a question real quick from
2 Commissioner Robinson.

3
4 Mr. Robinson: Commissioner, I see our role on this Commission of not choosing companies. I
5 see our role on this Commission of choosing all companies not one or the other but all of them
6 or either to give them the ability to operate a business in a safe environment and under certain
7 codes and the more the merrier. We have a, we have a perfect example is Walgreens
8 purposely goes across Longs, a Longs Drug to try them out, right? We know that, but
9 that's...we can't say we don't want you to take out Longs. We can't say you know Longs has
10 been there for 20 years and they've been a good...(inaudible)...That's just the way it's set up
11 and I understand what you're saying is we want to be able to help all businesses survive. We
12 don't want to go ahead and give one and give another, but unfortunately that's up to each
13 individual business. Me being a business owner, the only person that worries about me is me.
14 You know that's my job as a business owner to make sure I make business decisions to keep
15 us going and my competition is always trying to take my business away and vice versa. And is I
16 think as a Commission we want to be careful about that because that's where we start you
17 know, we start...we can ask are you a safe business? Are you a reliable business? Do you
18 currently always follow the rules? I think that is something our Commission can do. But to say
19 you know who we hope to succeed or not succeed or who's set up or not we really don't know
20 because that's not really our, I feel our position. But our position is to promote safety. Our
21 position is to make sure that they follow the rules and it is that way. And we each one of us
22 have our vote and I think that way and I think if we start, we start going along with that and
23 every applicant, we come and we start analyzing who you're going to do and how you're going
24 to affect it I think it's a slippery slope. And I understand what you're saying and I feel for you too
25 because we want everybody to be successful but we can't say first come, first serve. You
26 know.

27
28 Mr. Tackett: And I, I think maybe, maybe it was misinterpreted 'cause that's not what I meant at
29 all. What I'm trying to get at is we ask him for something that's not zoned for that, that there's
30 inherent problems with that type of business in that position and we have one that has come on
31 line that we don't know what the supply and the demand is for it. So it's not who I like or who I
32 don't like. As a matter of fact I really like what he said. I like what he said about his wages. I
33 like what he said about his workers. I like what he said about the amount of time he's been on
34 Maui and the quality of the products that the community has been saying that he puts out as
35 well as his help to our county and the numbers. What I'm saying is that you asking for an
36 exception from a place that already had an exception that is doing something that is out of the
37 norm that already has something doing out of the norm that we just passed something that's
38 going to be doing the same thing a little bit down the road and a left-hand turn in that place
39 could be deadly. I mean that's great they did it at 50 miles per hour but I see people hit that
40 road at 65, 70, 80 miles an hour all the time. All the time I see people do that kind of stuff.
41 Tourists with, with...they paid \$300 for a Camaro Super Sport and they want their \$300 worth
42 and that's a straightaway, you know and they open it up. I see that kind of stuff when I drive
43 around so I think, I think that's dangerous. I think that the studies about the silica dust. I agree
44 with a lot of the documentation that he just presented but the reason for the sharp decline is

1 because now there are more checks and balances in place. Is that gonna stop Kihei from being
2 hot, from crushed rock from being dry, from winds from carrying the silica probably not.

3
4 Mr. Robinson: No, and that is all valid points but marketability to me is not a valid a—

5
6 Mr. Tackett: But to me, but to me if you're gonna agree with all these things there should be a
7 market before we start just packing things in. You know there needs to be a reason for it. I'm
8 not talking about who survives or who doesn't survive but there should at least be a reason for
9 it. And if one person, if you're gonna have three big facilities and one person could...one of the
10 two other ones could pull a permit on it or we could open a third one. I just saying it's worth
11 looking into. I'm not saying that I'm gonna vote on the other side of the issue. I'm just saying I
12 would like to know who's doing what and to what extent so that I can have a decent decision as
13 to how I stand on the subject matter because it is ag land and there are some, some dangers,
14 dangers that Goodfellow already has experienced you know with the big rock that flew out of the
15 tire and killed the lady so many years ago. I'm sure they were probably there when that
16 happened, you know. So I'm just trying to figure out what and where and then a proper decision
17 being made. Who succeeds and who fails that's not up to me you know, I not interested. And I
18 have no, and I have no...nothing to gain either way.

19
20 Chair Duvauchelle: Commissioner Hudson.

21
22 Mr. Hudson: Well spoke. I hear ...(inaudible)...about this and that and the other thing and I see
23 where you're going. But the bottom dollar is is we all have to vote. We have to take a position
24 and we can stay here for the next week discussing this matter eventually we're gonna have to
25 vote. So my suggestion is vote your belief. If you don't think you have enough information vote
26 no. If you think you do have enough information and this is a good project and it meets with
27 everything else then vote yes. Thank you.

28
29 Chair Duvauchelle: All right. So we have heard the Department's recommendation. We've
30 heard a great deal of discussion. Do we...let's see what do I want to do next? I'm lost.

31
32 Mr. Spence: The recommendation is for approval with...you wanna just touch on those three
33 briefly, touch on those three other conditions?

34
35 Ms. Callentine: Thank you, yes. Just really briefly. I'll just remind you of what the topics are.
36 The first one was about the site restoration after the operation ceases. The second one is
37 regarding dust and soil erosion and noise...ambient noise levels so that appropriate measures
38 taken by the Department of Health and the Department of Public Works, governed by them or
39 other. The third one is restricting the hours of operation on days when schools, public schools
40 are in session to 8:30 to 5:00 p.m. on those days. Those are the three that I mentioned.

41
42 Chair Duvauchelle: The three added conditions. All right do we hear...do I have any...do I
43 have a motion?

44
45 Mr. Hudson: So move.

1
2 Chair Duvauchelle: To approve per the Department's recommendation with the three added
3 conditions?

4
5 Mr. Hudson: Yes ma'am.

6
7 Mr. Higashi: Second.

8
9 Chair Duvauchelle: Seconded by Commissioner Higashi. Any discussion on the motion?
10 Commissioner Robinson.

11
12 Mr. Robinson: I apologize but I have one more concern regarding the supporting this motion.
13 How does signage happen on the street? How would, how would, now that we're open and it's
14 not just their own baseyard, but it's going to be open to the public, how are people that says I
15 got rock that I want to drop off, how are they going to know where to drive on this road and slow
16 down and be safe with that?

17
18 Mr. Frampton: The facility itself, the Department of Health requires signage and it talks
19 about...the signage is like you see at the landfill that talks about the hours but it also talks about
20 what types of materials are accepted and it includes a lot of information and that will be like at
21 the project entrance. I think you're talking about just directional signs?

22
23 Mr. Robinson: No, I was talking about off the highway.

24
25 Chair Duvauchelle: Use the microphone please.

26
27 Mr. Robinson: I apologize. Is Rory, I'm talking about coming off the highway, you know. A
28 safety concern with these trucks coming and out of there. It is a street sign 'cause it isn't a stop
29 light so for the normal person that's gonna come to this facility now with the truckload of heavy
30 material that's gonna take some time to slow down it's how big is the signage for that area that
31 they'll know they'll be turning into? I know you told me all these other things around but I'm not
32 privy. I can't even think of this entrance right now in my head.

33
34 Mr. Frampton: Yeah, it's the entrance to the wastewater treatment plant. So it's a good point
35 and we...you know, you do have to take a left fairly quickly when you get into the facility...when
36 you get into the entrance so we can put a directional sign there. We can't put up too many
37 signs because of the sign ordinance that the County has. But there's as was noted earlier
38 there's a lot of...it's a well-marked intersection because there's left turn storage lanes both to
39 exit the property as well as to enter the property and they're long. They were done for the
40 trucks and it's that...it's the access point that Goodfellow uses now for both left turns and right
41 turns. So it has been operating okay. Our traffic guys they went out there, they watched, they
42 monitored. It was my biggest concern when we started 'cause I knew coming in front of the
43 Commission that their biggest concern, the way the public could be most impacted would be
44 getting in and out of this place. But it looks to me, I've never had a problem coming in and out.

1 I kinda know where I'm going but it's fairly obvious with the wastewater treatment plant there.
2 You know you can see it from either direction.

3
4 Chair Duvauchelle: Commissioner Robinson.

5
6 Mr. Robinson: So is this entrance is it a park, is it an area, is it named something besides, oh
7 turn at the wastewater plant?

8
9 Mr. Frampton: It's Welakahao Road or old...East Welakahao Road so I believe there's a sign.

10
11 Mr. Robinson: There's a sign on that side of the highway?

12
13 Mr. Frampton: I believe there is, I couldn't—

14
15 Mr. Robinson: If you guys could you know when this passes if you guys can make sure that it's
16 a very easy place to find or some type of ...work with your neighbors on some type of...

17
18 Mr. Frampton: Your concern is well-noted and we will.

19
20 Mr. Robinson: Thank you.

21
22 Chair Duvauchelle: Commissioner Carnicelli.

23
24 Mr. Carnicelli: Is that something that the County can do? I mean, could it be a County sign. If
25 it's on the road you know just like okay, wastewater treatment plant, Goodfellow, you know
26 yada, yada, yada.

27
28 Mr. Spence: I recall signage at the road.

29
30 Mr. Carnicelli: Okay.

31
32 Mr. Spence: I have noticed it specifically before.

33
34 Mr. Carnicelli: Okay.

35
36 Chair Duvauchelle: All right, we have a motion on the floor. Any other discussion? Director
37 would you like to repeat the—

38
39 Mr. Carnicelli: I'd like to ask—

40
41 Chair Duvauchelle: --oh, one moment, Commissioner Carnicelli.

42
43 Mr. Carnicelli: I just...I've been a little bit silent on this one but you know it's so unlike me.

44
45 Chair Duvauchelle: I noticed.

1
2 Mr. Carnicelli: Yeah. But I'm gonna support the motion. I think that this is a good project. I
3 think that I like the fact that it's going to be serving South Maui. I note all of your concerns
4 Commissioner Tackett and yet I still think that this is a good project, good company, well run
5 and this is something that's needed in the community. I like the recycling factor and so I'll be
6 supporting the motion.

7
8 Chair Duvauchelle: Thank you. Okay, any further discussion? Director would you repeat the
9 motion?

10
11 Mr. Spence: The motion is to approve as recommended by Staff and with those three additional
12 conditions.

13
14 Chair Duvauchelle: All those in favor please raise your hand.

15
16 Mr. Spence: That's five ayes.

17
18 Chair Duvauchelle: Opposed?

19
20 Mr. Spence: One opposed.

21
22 Chair Duvauchelle: One opposed. Motion carries.

23
24 **It was moved by Mr. Carnicelli, seconded by Mr. Higashi, and**

25
26 **VOTED: To Approve the State Land Use Commission Special Permit as**
27 **Recommended by the Department.**
28 **(Assenting – L. Carnicelli, R. Higashi, L. Hudson, K. Robinson,**
29 **S. Castro)**
30 **(Dissenting – C. Tackett)**
31 **(Excused – T. Gomes)**
32

33 Chair Duvauchelle: We will reconvene at 2:10 p.m. Make it difficult.

34
35 A recess was called at 1:04 p.m., and the meeting was reconvened at 2:17 p.m.

36
37 Chair Duvauchelle: Thank you very much. Maui Planning Commission is back in session.
38 Director our next agenda item.

39
40 Mr. Spence: The next one is Commissioners under Unfinished Business, number E.2,
41 Notification of Mediator and Selection of Hearing Officer for the following contested case: Isaac
42 Hall, attorney on behalf of Jack and Lyn Muegge, Mehehune Ventures, LLC, Worthy Clay Scott,
43 and Mary Jacqueline Scheibel intervening on the application of Ms. Kathy Davey and our Staff
44 Planner is Tara Furukawa.

45

1 **2. Notification of Mediator and Selection of Hearing Officer on the following**
2 **contested case:**

3
4 **ISAAC HALL, attorney on behalf of JACK and LYNN MUEGGE, MENEHUNE**
5 **VENTURES, LLC, WORTHY CLAY SCOTT, and MARY JACQUELINE**
6 **SCHEIBEL intervening on the applications by MS. KATHY DAVEY**
7 **requesting a State Land Use Commission Special Permit and a Bed and**
8 **Breakfast Home Permit in order to operate the Kaanapali Coffee Cottage, a**
9 **2-bedroom bed and breakfast home in the State Agricultural District at 2950**
10 **Aina Mahiai Place, TMK: 4-4-020: 052, Kaanapali, Lahaina, Island of Maui.**
11 **(SUP2 2017/0006) (BBWM T2017/0002) (T. Furukawa) (Public hearing was**
12 **conducted on the applications and intervention was granted at the June 27,**
13 **2017 meeting)**

14
15 **The Commission may take action to acknowledge the agreed upon**
16 **mediator and select the Hearings Officer/Hearings body.**

17
18 Ms. Tara Furukawa: Good afternoon Commissioners. At the June 27, 2017 Maui Planning
19 Commission meeting intervention was granted for the proposed Kaanapali Coffee Cottage B&B.
20 To refresh your memory the proposed two bedroom B&B is within the Kaanapali Coffee Farms
21 Subdivision and it was forwarded to the planning commission for review because it's on
22 agricultural land and there are 30 percent of protests from those within 500 feet. Per the
23 Commission's rules mediation was to occur within 30 days after the commission hearing.
24 However, if the parties agreed to move it back it can occur later. In this case the parties agreed
25 to move back the date. They also agreed on the selection of the mediator from the list that was
26 provided to you in your packet. They chose Ray Wimberley to serve as mediator. The parties
27 also mutually agreed upon the selection of the Honorable Judge John McConnell to serve as
28 hearings officer should there be no resolution through mediation. They chose Judge McConnell
29 because of his prior judicial experience and we recommend that you approve their selection of
30 hearing officer today for the proposed Kaanapali Coffee Cottage B&B intervention proceeding.

31
32 Chair Duvauchelle: So are we to discuss or a motion or...Are there no objections.

33
34 Mr. Robinson: So move.

35
36 Mr. Carnicelli: Second.

37
38 Chair Duvauchelle: Okay, all those in favor? Approved. Thank you.

39
40 **It was moved by Mr. Robinson, seconded by Mr. Carnicelli, then**

41
42 **VOTED: To Approve Ray Wimberley as Mediator and the Honorable E. John**
43 **McConnell as Hearings Officer.**
44 **(Assenting – K. Robinson, L. Carnicelli, C. Tackett, S. Castro,**
45 **R. Higashi)**
46 **(Excused – T. Gomes, L. Hudson)**

1
2 Chair Duvauchelle: Okay, Director.

3
4 Mr. Spence: Commissioners we're on Item F. Workshop on Managing Maui's Dynamic
5 Shorelines. We have with us this afternoon Ms. Tara Owens, our Maui Sea Grant Agent. Take
6 it away Tara.

7
8 **F. Workshop on Managing Maui's Dynamic Shoreline: Coastal Processes, Impacts,**
9 **and Responses – Tara Owens, Maui Sea Grant Agent**

10
11 Ms. Tara Owens: Good afternoon. I guess I'm standing in the way of ending your day which is
12 never a good place to be. But the good news is you don't have to make any decisions. For
13 those of you who don't know me I haven't actually done one of these informational sessions in a
14 couple of years, and Jim would you mind getting the first two sets of lights?

15
16 So I think I know Commissioner Higashi, he always has good questions and Commissioner
17 Robinson, maybe the rest of you this will be somewhat new. My name is Tara Owens. I work
18 for the University of Hawaii, Sea Grant College Program, and I'm a coastal geologist, but I'm in
19 a position where I'm cost shared with the County so I'm sort of a technical liaison to the County,
20 the Commission, the Council, the Planning Department and any other departments that might
21 need our services. And today I will be talking to you about some of the Coastal Zone
22 Management issues we face on the shoreline.

23
24 So you've actually had, you can think of this as Part 3 of a planning commission informational
25 series. You had, if you remember back in April, Coastal Zone Management Planner Jim Buika
26 came and gave an orientation on the Special Management Area Rules and the Shoreline
27 Rules and that was followed in June by our colleagues from the Office of Planning Justine
28 Nihipali and Shichao Li, they talked about the overarching Coastal Zone Management Program
29 that enables those rules and then today is more like what's actually happening on the ground
30 with our shoreline, the kinds of issues we're facing, the trends with erosion, the impacts and
31 what the responses to those are and that ultimately leads to decisions that comes before this
32 council what can be done and what can be approved, and how to mitigate some of these
33 impacts.

34
35 So I'll start off with just some photographs sort of a quick virtual tour of the shoreline if you will to
36 demonstrate some of what's going on around the island. A lot of this you'll see is happening in
37 West Maui which is kind of regionally speaking our...where most of our major erosion issues are
38 but it's common around the island as well. The last couple of winters has been pretty rough.
39 You'll remember in 2015 it was an El Nino year and we had a lot of big waves. It was back to
40 back to back high wave events. The Eddie Aikau Surf Competition on Oahu was canceled three
41 times because the waves were too big when they're usually not big enough and that was related
42 to the El Nino conditions and because of that we also had a lot of extreme erosion and impacts of
43 that erosion.

44
45 So this is leading into that winter. This is September, end of the summer, September of 2015.
46 This is on West Maui side in Kahana where we have several condominium structures that are

1 eminently threatened at this point. So this is September and then we went through the 2015
2 winter and by April these were the conditions you were seeing on the shoreline. So let me back
3 up you can see the Puu Hale in the sort of the center of the picture there, the small orange
4 colored building or peach colored building and then on the right hand side this is the Puu Hale
5 there. It sort of demonstrates the magnitude of the impacts we had that particular winter. In the
6 left hand side you can see the brown water event and that's because there's active erosion of
7 the bank fronting those structures and the building in the background there on the left hand side
8 that corner of that building has something like five feet of land between the corner of the building
9 and the waves themselves during the winter time when we have high waves. This is in front of
10 that same property where the corner is very close to the ocean. That property is now as of last
11 summer protected by these sandbag structures which are temporary, as a temporary measure
12 until the property owners and the County and the State and the planning commission ultimately
13 decide on what the long term solution will be in this case. I'll come back to this in terms of
14 solutions.

15
16 This is just down the coast in the North Kaanapali/Honokowai area. Similarly this is the summer
17 of 2016 after the El Nino winter and you can see there's...that there was about 15 feet of land
18 loss in this case and there's a 10 or 12-foot erosion scarp there and it's getting close to the pool
19 and the building and they have gas lines and irrigation lines that had to be removed and
20 relocated.

21
22 Jumping to another area of the island this is South Maui so we have some similar conditions in
23 certain erosion hot spot areas. This is Kihei, Halama Street just this past May. You can also
24 see sandbag structures there in the foreground and there are homes behind those structures.

25
26 And just sort of a compilation over the past couple of years. Obviously this isn't a new issue.
27 We've had erosion. It's been going on over the long term but it's a constant problem that is
28 worsening. So you can see some of the headlines. Maui has lost more than four miles of sandy
29 beach in the past century. Forces of nature threaten roadway. West side beaches and
30 properties face erosion from large surf. Some of these are from Oahu so hotel tax might be
31 tapped to fix eroding beaches. And walls no match for waves. Some more recent news so this
32 pertains to Kahana, some of the area where we were just looking at the photographs. Beach
33 quality sand discovered as erosion reaches crisis level. I'll come back to that. State hears
34 public concerns over highway seawalls. I'm sure most of you are familiar with the community
35 activity that's been happening on the west side with respect to the highway and the erosion
36 mitigation along the highway. This was very recent.

37
38 You've probably also been hearing in the news about the King Tides. So we have these
39 seasonal summer time high tides, the highest tides of the year referred to as King Tides and the
40 combination of those King Tides is really high tides with waves on top can really have impacts
41 along our coastline in terms of additional erosion, flooding, over washing or undercutting of the
42 roads that are along the coast so in this case local forecasters predict annual King Tides will
43 have an extra punch and that photograph there in the article is the entryway to Kealia Pond in
44 the parking lot in South Maui and you can see there was a couple of inches of water on the road
45 coming into the parking lot. So the road and the parking lot were beginning to flood with these
46 high tides. Just sort of a good glimpse of what may be to come in the future as sea level

1 continues to rise and come up over the coastline but also up into our ground water in these low
2 lying areas.

3
4 So I'm gonna just back up a little and then give you some background and this is what I typically
5 do. What are the erosion trends so there's some...those were some photographs of sort of the
6 most recent impacts, then we'll talk about trends and wrap up with responses.

7
8 So erosion is widespread throughout Hawaii. Eighty-five percent of Maui shorelines are eroding
9 in the long term and it's similar for the other islands. But Maui compared to the other islands
10 where we have lots of sandy shorelines like Kauai and Oahu, Maui beaches are experiencing
11 the highest rates of erosion in Hawaii and we have the highest percentage of beach loss. That
12 is closely tied to sea level rise, trends with sea level rising but there are other causes as well.

13
14 So coastal erosion can...erosion meaning our beaches are narrowing, the shoreline is slowly
15 moving closer to the structures that are along the shoreline. It's caused by a combination of
16 factors. So one is sea level rise. So our shoreline, our sea level...the level of the ocean is
17 actually rising up and as it does that the water gets closer to development and our beaches
18 begin to erode and narrow over time. That's a long term sort of chronic issue that's forcing
19 erosion. On top of that, of course we have our seasonal conditions. You know in the winter
20 time we have big northwest winter swells that come in and affect our west facing shorelines and
21 our north facing shorelines. Then we have in the summer time we have south swell that affects
22 our west and southern facing shorelines and sometimes we have Kona storms that come along
23 and usually affect our south facing shorelines as well. So that's always changing the conditions
24 of the shoreline.

25
26 But what's happening now is that this chronic erosion from sea level rise is leading to a point
27 where our beaches have gotten so narrow that there isn't enough buffer to buffer against the
28 impacts of these seasonal events. So if you have degraded beach and then we have a big
29 winter season there's nothing there to buffer between the water and the development behind it
30 and so we're starting to get this point where we're...it's like a tipping point where we're seeing
31 widespread impacts that are more extreme than we've in the past.

32
33 And then the last contributing factor is things that we humans have done along the way. You
34 know in the past beaches were mined for sand that's no longer a practice. It's illegal but it has
35 still contributed to our erosion trends. Armoring with seawalls leads to beach loss and it leads to
36 impacts to neighboring properties. So that's a contributing factor in some places, some areas of
37 shoreline.

38
39 So we'll just examine each of these a little bit. So human impacts, and this is a...I think this is
40 sort of a well understood point at this time. There's been a lot of awareness in our community of
41 this issue but you have beaches that are eroding and as beaches on chronically eroding shores
42 migrate landward they can maintain a beach as long as there's nothing in the way. So this is
43 what this left hand graphic is demonstrating. The beach is moving landward but the beach
44 would stay about the same as long as there's buildings, no roads, and the geology itself is
45 sandy the beach will continue to thrive and exist. If you put armoring in the way in the form of a
46 seawall or a rock revetment a couple of things can happen. You might impound the sand

1 behind it so it's no longer there to feed the beach and the beach then ceases to exist. The
2 waves come up, they interact with the structure, they hit the seawall, they reflect off of it and
3 whatever sand remains out in front eventually gets carried away into the ocean and the beach
4 disappears.

5
6 And then, and then the third thing that happens is neighboring unarmored structures began to
7 feel the impacts of erosion even more and their erosion on this property can increase because
8 the waves wrap around the hard structures and focus all their energy on the neighboring
9 shoreline which generally leads to additional armoring and armoring breeds armoring and
10 before you know it you have this domino effect where one section of shoreline is armored and
11 virtually without beach at that point. And that's in Hawaii have been very common not just on
12 Maui but throughout the islands. We've traditionally responded to erosion by building seawalls
13 and revetments to stop the erosion and hold the line. But that's been at the detriment of other
14 properties and beaches.

15
16 Okay so that's armoring. The other one of the....the second cause of erosion was you know our
17 seasonal waves. So you can see the islands and you can see the way of windows there in
18 different colors so we have our north pacific swell that comes in the winter is depicted by those
19 red bars. You have your tradewind waves that are blowing right now in the summer creating
20 waves and currents that move sand. In the blue you have your south swell and yellow there
21 and Kona Storm in green. So all the different shorelines around Maui are exposed to different
22 types of prevailing wave conditions as the seasons change. But those all ultimately affect what
23 happens on the beach and the beach is constantly on the right hand side changing to
24 accommodate those waves. When there's big waves the beach erodes, the sand moves
25 offshore temporarily creates a situation that's shallower, waves break further offshore. Once the
26 big waves go away the sand gets transported back up onto the beach, maybe up into the dunes
27 if it's an area where there are coastal dunes and that's the natural cycle of the beach and that's
28 fine as long as there's a nice, healthy sandy beach. That's great. You'll have that nice natural
29 buffer but as these beaches begin to degrade again, we get to this point where that's no longer
30 possible. There's not enough sand to adjust for those conditions.

31
32 So a good example is Baldwin Beach. This is the pavilion at Baldwin Beach last summer. So
33 this is an area where this cart of Baldwin Beach the east end erodes in the summer time and
34 because the tradewind waves are coming in from the east and pushing the sand to the other
35 end where Baby Beach is and so by September we usually reach the peak of erosion at Baldwin
36 Beach. And this last summer it got as far as the pavilion. We'll see what happens this summer
37 but it recovered nicely after that. Winter waves come and push the sand back in the other
38 direction, the beach recovers and right now we're end of July here so the beach is probably half
39 of its winter time width and it will continue to narrow until we reach the peak in September and
40 hopefully won't reach the pavilion again this year but we'll see. Eventually the pavilion will have
41 to be relocated. It will be the only option.

42
43 And then sea level rise. So we mentioned that if you go to Maui's tide gauge. So we have a
44 tide gauge at the Kahului Harbor so we can see every day and every year how...what the water
45 levels are at that tide gauge. They're always going up and down every day with the tide, right.
46 But over time this...the graph here on the bottom is the record of the...tide gauge record since

1 1940 when it was installed or somewhere in the 1940's. So you can see the water level goes up
2 and down but in general it's going up, trending up over time. So we know that over about the
3 past century we've had about nine inches of sea level rise on Maui. That's partly related to
4 these global conditions that are raising sea levels all over the world. Also partly because Big
5 Island and Maui Island are sinking relative to the ocean because the Big Island is growing every
6 day, it's volcanic, you know there's new material every day and as it cools and compacts over
7 geologic time it gets heavier and it pushes down on the earth's crust, the lithosphere that it's
8 sitting on, and it just takes Maui down with it. And so sea level is rising relative to the island
9 because the island is sinking. So that is one of the reasons or that is the main reason why we
10 think Maui has rates of erosion and beach loss than Oahu and Kauai.

11
12 Okay, so what does that mean for the future? And we could have an entire hour session on
13 what's happening with climate change and sea level rise and if that's of interest we could do that
14 at a future date but I'll try to be brief. These are records, so this is shows the record of past sea
15 level rise sea level globally. So the red line are proxy records. We know what's been
16 happening back in the 1800's from looking at things like ice cores and sediment records. Then
17 the blue line, the squiggly blue line is our tide gauge data. So we've had tide gauges in place all
18 over the world for you know maybe a hundred years so we know sea levels rising. The green
19 line before you get to the gray cone shows the satellite altimetry data that monitors sea levels,
20 sea surface levels and then the gray cone are projections going into the future. So we know
21 sea level has been rising globally is function of global warming, ice melting, thermal expansion
22 of the ocean and in the future there's a range of projections for what we might see, you know by
23 2100. Right now we're still using as a planning target three feet by 2100. We might see three
24 feet of sea level rise by 2100. But all the new science, and there are new studies that are
25 released every single day practically that are refining these projections and it's looking like...it's
26 very possible that we'll see much more than three feet of sea level rise by 2100. NASA made a
27 statement in 2015 saying, given what we now know about how the ocean expands, as it warms
28 and how ice sheets and glaciers are adding water the seas, it's pretty certain we locked into at
29 least three feet of sea level rise by 2100 and probably more.

30
31 And so what that means if you're raising sea levels, you're contributing. Waves are going to
32 then reach that much further up onto our beaches and our shorelines and continue to expand
33 the erosion problems we already have. Okay, but we're doing a lot of things about that. Really
34 quickly there was a state legislative initiative in 2015, Act 83, the Hawaii Climate Adaptation
35 Initiative.

36
37 At that time it established an Interagency Climate Adaptation Committee, ICAC which has been
38 very active over the last couple of years. And in this coming December they're going to release
39 a new report that is going to provide a lot more data about the vulnerability of our coastline. It's
40 going to make...we're gonna have new models and projections of our exposure to waves, sea
41 level rise plus waves, sea level rise plus flooding, and much more refined models of impacts on
42 our coastlines than we've had in the past and they're going to be making policy
43 recommendations and other things to go along with that. This is being led by DLNR and the
44 State Office of Planning.

45

1 Then in this legislative session we had Act 32 which builds on this, the Hawaii Climate Change
2 Mitigation and Adaptation Initiative and basically it converted this Interagency Climate
3 Adaptation Committee to a commission. So much like this commission operates and so
4 hopefully it will have some perpetuity and the work will continue.

5
6 And in terms of what the future looks like so I mentioned earlier we've been having King Tides,
7 my program, Sea Grant has had this Hawaii King Tides Initiative. You might have seen we've
8 been collecting photos. We have a phone app and citizens can go around the island and take
9 photos when we're having high tide which gives a lot of information about where we have
10 vulnerabilities and where we will start to see more and more impacts in the future. So I know
11 you've probably seen this in the news this is Olowalu near Mile Marker 15 along Honoapiilani
12 Highway. So this is what we're already seeing when we have a high tide plus maybe this is plus
13 the south swell in May and the waves are starting to go over the road. In some places the
14 waves are starting to go under the road. So this highway like many other places on Maui is
15 highly vulnerable in the future and this is the glimpse of what we will start to see as a function of
16 sea level rise more frequently as we go forward.

17
18 Okay, so what do we do and that's where the Commission comes in because when there are
19 impacts and there are proposed projects the Commission has to make decisions about those
20 things. So there's a range of options from one end you know you could think about doing
21 nothing, that's don't move the road, don't armor the road, they don't protect the buildings, just
22 leave it alone and let nature take its course to the other end of the spectrum at the bottom which
23 is armor. Both of these are sort of extremes you know. Armor, protect the buildings, protect the
24 infrastructure but probably have damaging impacts on the environment. Then there's the
25 middle ground and that's where I've written here sort of preferred strategies from the Coastal
26 Zone Management Planner perspective these are preferred strategies so things like managed
27 retreat. You could think of our existing erosion shoreline setbacks as a form of managed
28 retreat. I'll talk about that in a second. Things adaptation. A lot of our homes here on Maui are
29 built still slab on grade. So we could be, we could be thinking about pursuing or promoting
30 elevation of structures that are on the shoreline which is very common elsewhere in the world,
31 not as common here. Reconfiguring if possible. Moving things away from the shoreline as
32 much as possible when there are opportunities to do so. Beach nourishment and/or dune
33 restoration. We do a lot of dune restoration on the island. We're looking at some beach
34 nourishment projects so I'll come back to that. And then we're doing a lot of this temporary
35 erosion control things like putting sand bags out to protect structures temporarily hopefully while
36 we decide on some longer term measures to both protect the infrastructure and the
37 environment.

38
39 So in terms of our setbacks I'm sure you guys are very familiar with this because you make
40 decisions on these kinds of projects every day but we have lot depth setbacks and erosion
41 based setbacks. Our erosion based setbacks are based on maps that were developed by the
42 University of Hawaii that show how our shoreline is changing over time. It's based on, so this is
43 the 50 years times the erosion rate plus 25 feet. So we'll kind of deconstruct that a little bit.
44 Fifty years is the expected lifetime of a structure on the shoreline. So it's expected that a home
45 might last 50 years before it has to be rebuilt. The erosion rate that we're using is based on
46 historical trends. It does not factor in future trends that are associated with sea level rise. So

1 that's a limitation. And this 25 feet is essentially a minimum setback. So if you have an erosion
2 rate that's zero it be 0×5 would be $0 + 25$ so you would end up with a minimum of 25-foot
3 setback. However, there are some possible deficiencies here. The 50-year multiplier is
4 probably too low. Engineers are saying now that coastal structures typically last more like
5 70 years. So they're there longer because they get reconstructed. We're looking at erosion
6 rates that are based on historical events but not factoring in future and we're allowing some
7 buildings to be built 25 feet from the shoreline which is within five feet of what the State
8 considers to be eminently threatened. So if a building is 20 feet from the waves, the State
9 would consider that eminently threatened and would allow emergency protection measures. So
10 if a building is built, a new building is built with a setback of 25, it's only five feet from being
11 considered eminently threatened. And you know probably a minimum number of cases but
12 there are some like that. So something to think about. So setbacks they've worked very well for
13 our county since they were instituted in 2003 for new development. Doesn't really help us at all
14 though with the existing development that's there and is starting to become impacted by the
15 erosion trends.

16
17 Okay restoring dunes, I won't belabor this but we do a really good job of this on Maui especially
18 on South Maui, some on the North Shore. The dunes are your savings account for the beach.
19 When there's big waves and the sand's being carried away from the beach, the dunes give you
20 that extra supply of sand that you need for an emergency case and so the dune is like nature's
21 first line of defense against these big waves. So to the degree that we can protect the dunes
22 and restore dunes that's a really good proactive measure and we're doing a pretty good job
23 about that. You might know of some of the structures we've built down in South Maui these
24 dune walkovers that help provide access but also protect the dunes from foot traffic and
25 destroying the vegetation. So we've had some really good success stories with that.

26
27 Beach nourishment it's something that's coming up more often now as an erosion mitigation
28 measure. So this is an example on the North Shore at Stable Road. Some of you may be
29 familiar with the project. So it's sort of near the airport area. These are pictures of the coastline
30 before the beach was restored and there were some structures installed here, groins, shore
31 perpendicular structures. So you can see a lot of eroding trees, irrigation, the septic leach
32 fields were exposed and the erosion was getting dangerously close to the homes. These
33 homeowners, six of them, huddled up and did a small scale beach restoration project. They went
34 off shore, they got some sand, they put about 3,000 cubic yards of sand from the off shore area,
35 pumped it onto the beach and they build four groins. These perpendicular rock structures that
36 help to contain the sand and slow down the erosion. This is a picture just from this July so
37 about five years after the project. The homeowners are working on restoring the dunes now
38 and they have a nice beautiful vegetated dune once again. This is...you know, this dune didn't
39 exist. The erosion scarp probably was at least this far back as that green home. You can see
40 in the background. And you can see in the back you can kinda see some rocks that are
41 emerging from the water. Those are rock groins, but these are small, not very intrusive, in this
42 case called stub groins and this is widely considered a success story as a good way of
43 mitigating the impacts to homes along the shoreline using a softer solution.

44
45 You've probably heard about Kahana. This is an area where...these are the photos I showed at
46 the beginning where the condos are being affected by erosion. So we have these older condos

1 from the '70s. They're built close to the ocean. They're now threatened by erosion. Armoring
2 in some cases in front of these properties that has contributed to the problem. The episodic or
3 seasonal erosion is now becoming very damaging and the formerly wide sandy beach, there
4 used to be a nice, wide sandy beach from one end to the other has largely disappeared so what
5 once projected the buildings is now no longer there to protect the buildings. What happened is
6 we have worked very closely with the nine condos and one kuleana property to try to coordinate
7 these properties to come together and look at an erosion mitigation solution other than
8 continuing the armoring. So the County Council worked with us very closely and funded a sand
9 study. You've maybe heard report outs from this in the past. Went off shore tried to identify any
10 sand resources that might be available to to try to restore beach. We ended up finding
11 something like 400,000 cubic yards which is maybe something like four times the amount of
12 sand we would actually need to do a beach restoration project and restore a 50 to 100-foot wide
13 sandy beach out front. There's some early design concepts of what that could look like. This is
14 not what is to be but just very conceptual. It would probably involve some of these shore
15 perpendicular groin structures that you see in this diagram here with these T-heads that help to
16 contain the sand and control the wave energy and slow down the erosion rate. So the
17 properties are moving forward with this concept and are hopefully going to be starting an EIS for
18 that in the near future which would be reviewed by this planning commission.

19
20 A similar project was done on Oahu so this is a real life picture looking out of the window of the
21 airplane when I was flying into Oahu. This is the Iroquois Point Project near Pearl Harbor. They
22 installed nine T-head groins and restored the beach there. This was the result. It's been a very
23 successful project and it's about three or four years old now.

24
25 Just some other examples. This is the Kahului wastewater treatment facility. A lot of the
26 decisions on this project were made before my time here. I came along in 2010. Prior to that a
27 decision was made, you know the beaches on the North Shore have very high erosion rates.
28 The Japan tsunami actually had...there was over wash into the property so since then there's
29 been a lot of tsunami proofing and now some erosion proofing as well, erosion mitigation. The
30 County Council and the County decided to go ahead and armor the property to protect this
31 critical, this piece of critical infrastructure.

32
33 So once I came along and working with the coastal planners we tried to make the best of that
34 situation and this planning commission was a part of that story. You can see over there on the
35 left hand side there's an existing revetment. That's been there since the '70s when the
36 facility...shortly after it was built. And the idea was to continue the revetment along the entire
37 shoreline the right out in the ocean. And instead as the project was reviewed here at the
38 planning commission a decision was made to push that structure back as far landward as
39 possible just in front of the injection wells and it was buried. So this is during construction. You
40 can see there is a trench being dug in front of the facility and the rocks are going down into the
41 trench. So this is a buried rock revetment. So if you go there today you cannot even see it. It's
42 there. You cannot see it. Eventually as the erosion continues it will be exposed just like any
43 other rock revetment, but in the meantime maybe we'll get another 20 years of nice beach to
44 use and as part of the project we worked on the dune restoration project there. So this is about
45 what the condition of the facility looks like today and we have nice native vegetation and a really
46 beautiful usable beach again. So it's one way of you know taking something like armoring this.

1 It's going to have negative consequences and at least trying to mitigate those impacts to the
2 best of our ability.

3
4 This is the highway, Honoapiilani Highway at Ukumehame. You might remember this project in
5 2012 this is State Department of Transportation armoring the highway at Ukumehame. It's
6 become a very well-known area because there have been a few additional seawalls built to
7 protect the highway since then and community concerns about the loss of access, the loss of
8 beach and the truly the vulnerability of the highway. In spite of all the armoring the highway is
9 still very vulnerable to coastal hazards. It would only take one coastal storm to probably severe
10 access to that part of the island by damage to the road. So there are lots of people who are still
11 looking at and thinking about and trying to work with you know the Metropolitan Planning
12 Organization and DOT to look at the possibility of road relocation. And in terms of armoring
13 decision overall I've gotten this question a couple of times by County Council so I put this
14 together. We hadn't had very many new armoring projects since the erosion based setbacks
15 and the revised Shoreline Rules were adopted in 2003, but in the last few years there have
16 been quite a few proposed and completed projects. So these are at least the ones that I know
17 of since my time here in 2010. A couple of them are the highway projects at Olowalu and
18 Ukumehame and Launiupoko. The wastewater facility that we just looked at. A property
19 Argyropoulos on the North Shore which came through the planning commission. It's built back
20 on their property in an area where there isn't much sandy...there isn't any sandy beach and the
21 neighbors are all armored already. So kind of an infill project. And then the Hololani
22 Condominiums which is at Kahana along the area with the condos we were just looking at and
23 the commission just decided on that project, gave approval but with conditions to participate in
24 the beach nourishment project and then possibly remove the structure at some point in the
25 future.

26
27 And I will end with this. There's lots of details, lots of the stories that I've left out but if you ever
28 want to think or read more about some of these concepts there's a really nice beach
29 management plan for Maui on the web. You can go there. It has a lot of concepts and tools
30 that are thinking about moving away from ad hoc approaches to CZM and being more proactive,
31 promotes beach preservation and natural asset management. There are 13 areas to focus on
32 in that plan and there are lots of recommendations within those 13 areas and it's incorporated
33 by reference into the Maui Island Plan so it might be something you could to browse and it
34 might be...it could be beneficial for you in your analysis of projects. But of course, we're always
35 available to answer any questions and give you updates on any projects or trends or if you have
36 any questions about what's going on at part of the island contact us any time. I'll take any
37 questions. Thank you.

38
39 Chair Duvauchelle: Thank you Tara. Any questions from the Commissioners?
40 Commissioner Higashi.

41
42 Mr. Higashi: Hi Tara.

43
44 Ms. Owens: Hi.

45

1 Mr. Higashi: I've attended several of the seminars on coastal zone situations. What I have not
2 seen is that there's not much proactive ways of preventing erosion. I mean we see a lot of
3 pictures of wave action and rising of ocean level. I think one of our experts right here is Jim
4 Buika. Jim is I think...has a lot of information on how we can prevent, but what I think is lacking
5 I think is our leadership needs to take a position to look at what is there nationally or
6 internationally that's creating prevention of erosion. Example, in the late I would say in the late
7 80's there was Japanese companies that did prevention of erosion in North Carolina or South
8 Carolina and basically what they did is they put these concrete tubes into the ocean with
9 artificial seaweed and they've prevented a tremendous amount of erosion on the beach. And I
10 don't see anybody doing anything that would do an example of somebody that successful in
11 what's happening nationally and implementing it here in Hawaii. I remember the 50's Kalama
12 Beach used to have at least 20 feet of sand, Kalama Park and what had happened is that
13 people have been eradicating the ogo, the seaweed along the coast and because the seaweed
14 is no longer there, the wave action becomes greater in taking the sand away from the beach.
15 Same thing with Baldwin Park. Baldwin Park in the 50's used to have at least 50 feet of beach.
16 Now you see the pavilion and the sand is gone. But what has happened with who's doing the
17 prevention of having those wave actions break outside rather inside? And I haven't seen
18 anything that shows that we are doing a proactive kind of thing that would do that. Maybe you
19 can do some explanation. I might behind times.

20
21 Ms. Owens: Well Jim and I would agree with you 100 percent that our responses have not be
22 proactive. They have always been reactive. That's exactly the problem. We have some ideas
23 about that. Jim, in fact just did a presentation last week to a group of planners and attorneys on
24 Oahu where he's thinking about a concept of doing some sort of programmatic EAs,
25 environmental assessments. So one thing that stands in the way of us getting projects done,
26 we know these problems are coming, we know the erosion's not, you know, not gonna get
27 better. The beaches aren't gonna widen. They're gonna continue to become closer and closer
28 and closer to these structures. The one thing that it makes it hard to respond quickly is that the
29 permitting process is lengthy and challenging. It can take five years to get through and EA or an
30 EIS and then all the state and federal and county permits that come along with doing things like
31 beach restoration or offshore structures if you wanted to do offshore structures. Sometimes we
32 don't have five years. So proactive planning, maybe having some of these prebuilt problematic
33 EAs would at least help with that, that aspect of things. So we're working with our state partners
34 on those kinds of concepts.

35
36 The other thing that's really difficult in terms of being proactive is we can as practitioners and
37 people who understand coastal process we can see what's coming because we can start to see
38 the signs, you know, erosion is not eminent yet but it's coming in certain places. For example,
39 Napili Bay. There's still a nice beach there. The buildings are not eminently threatened but
40 we're really starting to worry about Napili Bay and it's probably only one bad winter away from
41 having some of these same eminent threats like we see at Kahana. But it's really hard to get
42 homeowners to be proactive with us and obviously that's a requirement we have to work with
43 the homeowners because they...it's these any of these types of projects are very, very
44 expensive and they're also difficult to conceive of. It's a lot easier to...for a homeowner to think
45 about building a wall. It's easy to understand. You hire an engineer, you build the structure and
46 it's done in a month and your property is protected even though it has all these other

1 consequences. It's a lot harder for folks to think about things like offshore structures or pumping
2 sand on beaches because it's not part of their...it's not in their wheelhouse, not something that's
3 easy to understand. So building awareness that these problems are coming and that there are
4 other, there are other alternatives besides what we've done in the past is a huge hurdle as well.
5 So permitting, EAs, awareness, cost, all of these are barriers to being proactive and I'm not sure
6 how to overcome all of them but we're trying and we're trying to set up some good examples so
7 I'd like to show good examples.

8
9 Chair Duvauchelle: Commissioner Higashi.

10
11 Mr. Higashi: Well, just one example. This is just one example. We had a permit for Kuau out in
12 Paia.

13
14 Ms. Owens: The Argyropoulos.

15
16 Mr. Higashi: That private property owner spent over \$400,000 on his property alone. Now why
17 can't the County take those kinds of funding for the complete community rather than having
18 individual homeowners spending that kind of money? Not everybody can spend \$400,000 to
19 protect his property but yet at the same time we're losing a lot of the coastal area. And that's
20 why it concerns me because we year after year hear in service activities on ocean currents and
21 erosion and yet I don't hear any positive side about appropriation of funds for proactive
22 prevention of erosion. That's, that's something that I think is a concern. And I would like to hear
23 what Jim what have to say about some of the suggested things that might be proactive.

24
25 Chair Duvauchelle: Director.

26
27 Mr. Spence: Actually we did approach the Council to provide money for sand studies for
28 Kahana and it was...you know it was suggestions from Jim and Tara sand studies off of Kahana
29 Bay to see okay, is there sand out there in order to rebuild the beach and it turns out there is.
30 Council had a very difficult time in approving that money. Now you have to ask what the cost
31 benefit is for actually going and constructing a project for T-groins and then you know restoring
32 the beach, you know building the T-groins out into the water and then pumping the sand up onto
33 the beach. You know that's we're talking about...how much did you guys figure like 30 million
34 or something like that?

35
36 Ms. Owens: This project is going to be somewhere in the neighborhood of \$10...maybe \$10
37 million is what we're projecting.

38
39 Mr. Spence: Yeah, so with all the competing issues that the County Council has between
40 nonprofits and paving roads and paying salaries and everything they try to...they go through
41 great, great deliberations every single year where our tax dollars are going to be spent.

42
43 Mr. Higashi: Well why isn't it that the Hotel Association who actually...(inaudible)...a lot of
44 Visitor Bureau coming in, visitors coming in spending that kind of money for prevention of
45 erosion along their shore rather than having the County be responsible for restoring a lot of that
46 kind of stuff.

1
2 Mr. Spence: Well, good question. Kaanapali...Kaanapali Hotel Association—

3
4 Ms. Owens: I was about to add that.

5
6 Mr. Spence: --is doing exactly that. They are developing their own fund and their own
7 agreements between all the hotels. Kahana is a little bit different because we're talking property
8 owners, we're talking condo owners with maybe a hundred owners within you know an
9 individual building or an individual project. So it's a little bit different. You're not talking big
10 corporations ponying up, each ponying up you know a million dollars or more. You're talking
11 about the individual taxpayers coming up with additional money. Actually...go ahead.

12
13 Ms. Owens: I would just...well, I was going to elaborate there are a lot of really good things
14 happening. The Kaanapali project is a partnership between the Kaanapali Operations
15 Association and the State, DLNR. So the Legislature actually appropriated funds this year for I
16 think \$7 million for Kaanapali to work on their beach restoration project. So it is a partnership,
17 public, private true and true, 50/50. That's a good thing and it probably does set a little bit of a
18 precedent for what might be to come for some of these other areas. And Kahana is a little
19 different as the Planning Director said because they're individual owners, but what they're
20 looking at doing which is new and unique is potentially establishing an improvement district.
21 We've been working on that with them which will allow them to essentially tax themselves to
22 fund the project. They may if they follow that path be able to get some support from the State
23 like Kaanapali and form a partnership. And we've never done that before on Maui but it's
24 looking like a promising approach and that way the County will be able to potentially float a bond
25 so they can get the project done and then it will be paid back via a special assessment on the
26 owners. And they're willing to do that. So we are really trying to find creative ways to be more
27 proactive but it's still not. You know it's a challenge. It takes a lot of effort.

28
29 Mr. Higashi: One more question. Is people like Jim Buika involved in this whole process of
30 resolving some of the problems that we have?

31
32 Ms. Owens: Yes. So Jim is the planner along with Keith Scott are the two primary shoreline
33 planners so they make all the final decisions with you, the planning commission on the big
34 projects. I'm just a technical liaison to Jim and Keith and the planning commission so I can help
35 understand these processes and the potential range of solutions and work on outreach, but Jim
36 is a crucial part of that and has put a lot of work into a lot of the projects that I showed here
37 today that are good examples.

38
39 Mr. Spence: And there's a lot of credit that goes to Jim and Tara and Keith and their supervisor
40 Jeffrey Dack, but ultimately the recommendations that come before you have to come from
41 ultimately from the Planning Director to you. So we work together with staff to come up with
42 those recommendations for...you know if it's a legislative act, it's you know you make a
43 recommendation to the County Council and if you are the final approving body for the SMA or
44 Shoreline Setback Variances or whatever the case may be, you know we work with you on
45 those things.

46

1 Chair Duvauchelle: Any other questions? Okay, thank you so much Tara.

2
3 Ms. Owens: Thank you.

4
5 Chair Duvauchelle: All right, Director what is next on our agenda?

6
7 Mr. Spence: Did Commissioner Robinson...

8
9 Chair Duvauchelle: Did you have a question?

10
11 Mr. Robinson: No, I was just going to respond to Mr. Higashi's comment. Is I think a lot of
12 times people look at hotels as they should foot the bill. And it's very easy to say that, they're
13 bigger corporations stuff like that. It's...I think it's...I think when it comes to the beaches, hotels
14 don't own the beaches and we don't want them to own the beaches. We don't want them to say
15 I just put \$7 million on this beach and you're telling me I can't put umbrellas on it. We don't
16 want them to, you know like at, on Honolulu when start having their own little marinas, so on
17 and so forth like Paradise Cove and you know things like that. And I think that's where our
18 Legislature, I think that's where State and our Federal need to get funding and need to look and
19 help protect these beaches. Iroquois was not a State project it was Federal, you know military
20 so they were able to do that. I mean, you know there's a lot of TAT. We talk about taxes in this
21 Commission about what it generates for our community, but a lot of this stuff is through not even
22 the Council, the Council has a different pot than the State Legislature does and I think that's
23 where the hopefully our State Legislators will start realizing that this is a state issue and there is
24 TAT money from tourists that help enjoy these beaches that we're gonna need to keep them
25 going to keep things going and that's where I think a lot of this funding. And being proactive is
26 much cheaper than being reactive. It's just so much cheaper and we just need somebody in the
27 Legislature that has some vision to understand what's going on and you know take it upon
28 themselves and do something about it.

29
30 Chair Duvauchelle: Commissioner Higashi.

31
32 Mr. Higashi: Let me take a poke at that one. I think this whole idea about it's like pointing the
33 finger at somebody else to doing the job and yet at the same time the tourists is paying a tourist
34 tax. Where is that money going in preserving our environment when they're coming to Hawaii to
35 spend vacation here using the hotel area, et cetera and the hotel are benefiting.

36
37 Mr. Robinson: State. That's the State Legislature. That's the TAT, that's you know GET.
38 That's State. County tax is different.

39
40 Mr. Higashi: So isn't our responsibility as a commission to be able to funnel some of those
41 recommendations to the County Council and then over to the State Legislature so that we can
42 get some of these funding to help get our beaches back to where it's supposed to be.

43
44 Mr. Robinson: We could or we could support candidates that support our agenda which is
45 usually the easier way.

46

1 Mr. Higashi: Thank you.

2

3 Chair Duvauchelle: Okay, thank you guys very much. Director, next on the agenda.

4

5 **G. ACCEPTANCE OF THE ACTION MINUTES OF THE JULY 11, 2017 MEETING AND**
6 **REGULAR MINUTES OF THE NOVEMBER 7, 2016 MEETING**

7

8 Mr. Spence: Okay, Commissioners Item G on your agenda Acceptance of the Action Minutes of
9 July 11, 2017 and the Regular Minutes of November 7, 2016.

10

11 Mr. Carnicelli: So move.

12

13 Mr. Castro: Second.

14

15 Chair Duvauchelle: Okay, moved by Commissioner Carnicelli, seconded by Commissioner
16 Tackett. All those in favor raise your hand. Thank you. All right next.

17

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

19

20 **VOTED: To Accept the Action Minutes of the July 11, 2017 Meeting and**
21 **Regular Minutes of the November 7, 2016 Meeting.**
22 **(Assenting – L. Carnicelli, S. Castro, K. Robinson, C. Tackett,**
23 **R. Higashi)**
24 **(Excused – T. Gomes, L. Hudson)**

25

26 **H. DIRECTOR'S REPORT**

27

28 **1. Designation of the Hana Advisory Committee to review and provide their**
29 **recommendation on the following request:**

30

31 **MS. BRIANNA EVERETT requesting a State Land Use Commission Special**
32 **Permit amendment for Hana's Tradewind Cottages to utilize two (2) two-**
33 **bedroom farm dwellings for short-term rental use on approximately 2.164**
34 **acres of land situated in the State Agricultural District at 143 Alahele Place,**
35 **TMK: 1-3-009: 107, Hana, Island of Maui. (SUP2 2012/0034) (R. Quigless)**

36

37 **The applicant currently has a State Special Permit and a Bed and Breakfast**
38 **Home Permit (BBHA 2013/0005) to operate a two-bedroom bed and**
39 **breakfast home on the property. The Applicant has also applied for a**
40 **Short-Term Rental Home Permit.**

41

42 **The Commission may designate the Hana Advisory Committee to the Maui**
43 **Planning Commission to conduct a public hearing and provide its**
44 **recommendation on the request.**

45

1 Mr. Spence: Okay, Director's Report. The first one we are asking that you designate the Hana
2 Advisory Committee to review and provide the recommendation on a Short-Term Rental Home
3 Permit...actually on a Special Use Permit for a short-term rental home on Ag land in Hana. So
4 you would be designating the Hana Advisory Committee to conduct the public hearing.

5
6 Mr. Higashi: So move.

7
8 Chair Duvauchelle: Moved by Commissioner Higashi.

9
10 Mr. Carnicelli: Second.

11
12 Chair Duvauchelle: Seconded by Commissioner Carnicelli. All those in favor, raise your hand.
13 That is...

14
15 Mr. Spence: That's four ayes.

16
17 Mr. Robinson: I don't know enough about it to approve it.

18
19 Chair Duvauchelle: Okay, and one abstain so that's five ayes. The motion carries.

20
21 **It was moved by Mr. Higashi, seconded by Mr. Carnicelli, then**

22
23 **VOTED: To Designate the Hana Advisory Committee to the Maui Planning**
24 **Commission to Conduct the Public Hearing and Provide Its**
25 **Recommendation.**
26 **(Assenting – R. Higashi, L. Carnicelli, C. Tackett, S. Castro,**
27 **K. Robinson- abstained)**
28 **(Excused – T. Gomes, L. Hudson)**

29
30 Mr. Spence: That's what the Hana Advisory Committee is for.

31
32 Chair Duvauchelle: Yes, it's their backyard.

33
34 Mr. Spence: I mean, just Commissioners on the Hana Advisory Committee that's exactly what
35 the Hana Advisory Committee is for is because most of the commissioners are from you know
36 at least the western part of Maui. Hana is a unique place. They're there to get into the
37 information and provide a recommendation to you. You don't need to know a whole lot about it
38 yet. You're final approval you know you're gonna get that information from them.

39
40 **2. SMA Minor Permit Report**

41
42 **3. SMA Exemptions Report**

43
44 Mr. Spence: Commissioners H.2 and 4 are your SMA Minor Permit Report and your SMA
45 Exemptions Report.

46

1 Mr. Higashi: Madam Chair?

2

3 Chair Duvauchelle: Yes.

4

5 Mr. Higashi: I would like to commend the Planning Department planners for having so many
6 approved projects which in the past we have had more with conditions.

7

8 Chair Duvauchelle: Thank you. So no questions on the SMAs.

9

10 **4. Discussion of Future Maui Planning Commission Agendas**

11

12 **a. August 8, 2017 agenda items**

13

14 Mr. Spence: Future Planning Commission Agenda items. Your next meeting August 11th, you
15 have one public hearing, Mr. Alan Berman requesting a Land Use Commission Special Use
16 Permit for a Short-Term Rental Home in Lahaina. You'll have Unfinished Business with
17 Ms. Debbie Mitchell requesting a Short-Term Rental Home Permits plural for the International
18 Colony Club in Lahaina. We'll also have a designation to the, proposed designation to the Hana
19 Advisory Committee for land use changes to the Nahiku Community Center and there'll be
20 Mr. Kaala Buenconsejo requesting a SMA Permit for that Nahiku Community Center.

21

22 Chair Duvauchelle: So August 11 is a Friday. Is that a typo?

23

24 Mr. Spence: Perhaps it's August 8. Yeah, okay that is a typo.

25

26 Chair Duvauchelle: Are we good? Any other discussion? All right, planning commission is now
27 adjourned.

28

29 **I. NEXT REGULAR MEETING DATE: AUGUST 8, 2017**

30

31 **J. ADJOURNMENT**

32

33 The meeting was adjourned at approximately 3:19 p.m.

34

35

Submitted by,

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37

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Carolyn Takayama-Corden

39

Secretary to Boards & Commissions II

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RECORD OF ATTENDANCE

Present

- Lawrence Carnicelli
- Steven Castro
- Sandy Duvauchelle, Chairperson
- Richard Higashi, Vice Chairperson
- Larry Hudson (excused at 1:04 p.m.)
- Keaka Robinson
- Christian Tackett

Excused

- Tina Gomes

Others

- Will Spence, Director, Planning Department
- James Giroux, Deputy Corporation Counsel, Department of the Corporation Counsel