

**MAUI PLANNING COMMISSION
SUMMARY MINUTES
MAY 28, 2019**

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

A. CALL TO ORDER

The regular meeting of the Maui Planning Commission was called to order by Chairperson Lawrence Carnicelli at approximately 9:12 a.m., Tuesday, May 28, 2019, Planning Conference Room, First Floor, Kalana Pakui Building, 250 South High Street, Wailuku, Maui.

B. REVIEW OF PROPOSED RESOLUTION AGREEMENT FOR ALLEGED SPECIAL MANAGEMENT AREA AND SHORELINE SETBACK VARIANCE VIOLATIONS

1. Proposed Resolution Agreement between the COUNTY OF MAUI and MR. WALTER HESTER for failing to construct a retaining wall as represented and approved by Special Management Area permit SM1 2009/0017 and Shoreline Setback Variance SSV 2009/0004 on property situated at 4855 Lower Honoapiilani Road, TMK: (2) 4-3-015:003, Lahaina, Island of Maui. SSV Notice of Violation issued as follows: NOV 2017/0009.

AN EXECUTIVE SESSION MAY BE CALLED IN ORDER FOR THE COMMISSION TO CONSULT WITH ITS ATTORNEY ON QUESTIONS AND ISSUES PERTAINING TO THE COMMISSION'S POWERS, DUTIES, PRIVILEGES, IMMUNITIES, AND LIABILITIES PURSUANT TO SEC. 92-5(a)(4), HRS.

The Commission may take final action on the proposed Settlement Agreement pursuant to the provisions of Section 12-202-23(d)(3) of the Maui Planning Commission's Special Management Area Rules and Section 12-203-17 of the Shoreline Rules for the Maui Planning Commission.

(Item B1 begins at 00:02:33 of the audio recording.)

(Motion was made at 00:24:50 of the audio recording.)

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

(Vote was taken at 00:25:25 of the audio recording.)

The Motion to Go Into Executive Session, FAILED.

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

(Motion was made at 00:55:55 of the audio recording.)

A motion was made by Ms. La Costa, seconded by Mr. Tackett to accept the Resolution Agreement with the amendment that the fine is increased from \$100,000 to \$200,000.

After further discussion:

(Amendment to Motion was made at 01:11:36 of the audio recording.)

Ms. La Costa amended her motion to accept the Resolution Agreement as stated and Mr. Tackett concurred with the amendment to the motion.

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

(Vote was taken at 01:22:50 of the audio recording.)

VOTED: To Accept the Resolution Agreement as presented.

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

(Excused – S. Castro, T. Gomes)

C. PUBLIC HEARINGS

1. LEW ABRAMS representing the SACRED EARTH ASSEMBLY, a non-profit interfaith church, requesting a State Land Use Commission Special Permit to utilize approximately 14.8 acres of the Ahimsa Sanctuary Farm and a 7,693 square foot two-story agricultural building for church-related activities at 4504 Hana Highway, TMK: (2) 2-8-003:075 (por.), Haiku, Island of Maui. (SUP2 2017/0011) (T. Furukawa)

(Item C1 begins at 01:24:00 of the audio recording.)

(Motion was made at 03:08:23 of the audio recording.)

It was moved by Mr. Robinson, seconded by Ms. Pali, then unanimously

(Vote was taken at 03:13:03 of the audio recording.)

VOTED: To Continue the Matter to the June 25, 2019 meeting in order to get clarification on the concerns discussed by the Commission.

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

(Excused – S. Castro, T. Gomes)

Upon returning from their lunch recess the Commission took up Item D before taking up Item C.2.

D. DIRECTOR'S REPORT

(Item D begins at 03:14:10 of the audio recording.)

1. Designation of the Hana Advisory Committee to conduct the public hearing and provide a recommendation to the Commission on the following applications:

GREGORY KOCH requesting a State Land Use Commission Special Use Permit in order to operate the Hana Panoramic Retreat, a two-bedroom STRH located in the State Agricultural and County Agricultural District at 630 Kapia Road, TMK (2) 1-4-011:041, Hana, Island of Maui. (STHA T2018/0008) (R. Quigless)

BRADLEY AND ROBIN NEWTON requesting a State Land Use Commission Special Use Permit in order to operate the Hana Nautilus, a three-bedroom STRH located in the State Agricultural District and County Agricultural District at 2575 A Hana Highway, TMK (2) 1-3-003:015, Hana, Island of Maui. (STHA T2019/0002) (R. Quigless)

The Commission may take action to designate the Hana Advisory Committee to conduct the public hearing and provide a recommendation on the subject application requests or take some other action.

(Motion was made at 03:15:20 of the audio recording.)

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

(Vote was taken at 03:15:26 of the audio recording.)

VOTED: To Designate the Hana Advisory Committee to Conduct the Public Hearing and Provide a Recommendation.

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

2. Designation of the Hana Advisory Committee to conduct the public hearing and provide a recommendation to the Commission on all future items for which a hearing is required, pursuant to State or County statute, ordinance or rule, and which pertains to a proposed land use action on real property located within the Hana Community Plan region.

(Motion was made at 03:15:58 of the audio recording.)

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

(Vote was taken at 03:16:39 of the audio recording.)

VOTED: To Designate the Hana Advisory Committee to Conduct the Public Hearing and Provide a Recommendation to the Commission on Future Items for Which a Hearing is Required.

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

3. MS. MICHELE MCLEAN, Planning Director, notifying the Maui Planning Commission pursuant to the provisions of the Maui Planning Commission's SMA Rules of the issuance of the following Special Management Area Emergency Permit:

Approval letter dated April 8, 2019 to MR. STEPHEN LEIS requesting a SMA Emergency Permit to implement temporary measures as three large sinkholes developed within eight feet of the residential structure mauka of the existing seawall at 1640 Halama Street, TMK (2) 3-9-011:014, Kihei, Island of Maui. (SM3 2019/0001) (K. Lau Hee)

The Commission was notified of the issuance of the SMA Emergency Permit.

4. SMA Minor Permit Report

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

5. SMA Exemptions Report

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

The Commission had no questions on the SMA Minor and SMA Exemption Reports.

6. Discussion of Future Maui Planning Commission Agendas

- a. June 10, 2019 (MONDAY) agenda items

Commission Pali will not be at the June 10, 2019 meeting.

The Commission then took up Item C.2.

C. PUBLIC HEARINGS

2. MS. AYAKO HASHIMOTO requesting a State Land Use Commission Special Permit in order to operate Zen Island Farm, a three-bedroom bed and breakfast home located in the State Agricultural District at 820 W. Kuiaha Road, TMK: (2) 2-7-008:137, Haiku, Island of Maui. (SUP2 2018/0008) (J. Burkett)

(Item C2 begins at 03:19:15 of the audio recording.)

(Motion was made at 03:47:00 of the audio recording.)

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

(Vote was taken at 03:48:04 of the audio recording.)

VOTED: To Approve the State Land use Commission Special Permit as Recommended by the Department.

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

(Excused – S. Castro, T. Gomes)

3. CARLOS AND ALEXA PENAVERGA requesting a Short-Term Rental Home (STRH) Permit in order to operate Hale Kai, a three-bedroom STRH located in the A-1 Apartment District at 51 W. Kapu Place, TMK (2) 3-9-009:016, Kihei, Island of Maui. (STKM T2018/0009) (L. Callentine)

The matter is being brought before the Maui Planning Commission for review because there are at least two permitted short-term rental home operations located within 500 feet of the subject property.

(Item C3 begins at 03:48:38 of the audio recording.)

(Motion was made at 04:25:35 of the audio recording.)

The Motion to Deny made by Mr. Robinson, DIED due to no second.

(Motion was made at 04:26:00 of the audio recording.)

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

(Vote was taken at 04:38:55 of the audio recording.)

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

**(Assenting – P D. La Costa, K. Pali, C. Tackett, L. Carnicelli)
(Dissenting – K. Robinson)**

(Excused – S. Castro, T. Gomes)

(Motion was made at 04:39:24 of the audio recording.)

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

(Vote was taken at 04:49:19 of the audio recording.)

The Motion to Defer the Short-Term Rental Home Permit, FAILED.

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

After further comments by Mr. Robinson, the Matter was deferred by Chair Carnicelli.

4. BRE ICONIC GWR OWNER LLC, requesting a Special Management Area Use Permit, Step 1 Planned Development Approval, and Step 2 Planned Development Approval for the Grand Wailea Resort to transfer “H-2 Hotel” and “OS Open Space” zoning designation areas, update facilities and create 224 new guest room units, renovate and expand the resort swimming pool and restaurant facilities, expand the parking structure from three to five levels to provide 316 additional parking stalls, removal of the Seaside Chapel Structure, addition of approximately 30 public beach parking stalls, and related landscape, utility, and infrastructure improvements at 3850 Wailea Alanui Drive, Wailea, Island of Maui, TMK (2) 2-1-008:109. (SM1 2018/0011) (PD1 2019/0001) (PD2 2018/0003) (A. Cua)

(Item C4 begins at 04:53:09 of the audio recording.)

(Motion was made at 06:08:54 of the audio recording.)

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

(Vote was taken at 06:09:15 of the audio recording.)

VOTED: To Defer the Matter.

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

E. NEXT REGULAR MEETING DATE: JUNE 10, 2019 (MONDAY)

F. ADJOURNMENT

The Commission lost quorum and meeting was adjourned at 4:40 p.m.

Respectfully Submitted by,

CAROLYN TAKAYAMA-CORDEN
Secretary to Boards and Commissions II

RECORD OF ATTENDANCE

Present

Lawrence Carnicelli, Chair
P Denise La Costa
Kellie Pali
Keaka Robinson
Christian Tackett, Vice Chair

Excused

Stephen Castro
Tina Gomes

Others

Michele McLean, Director, Department of Planning
David Galazin, Deputy Corporation Counsel, Department of the Corporation Counsel
Stephen Welling, Deputy Director, Department of Public Works