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**MAUI PLANNING COMMISSION  
REGULAR MINUTES  
FEBRUARY 26, 2019**

**A. CALL TO ORDER**

The regular meeting of the Maui Planning Commission was called to order by Chairperson Keaka Robinson at approximately 9:06 a.m., Tuesday, February 26, 2019, Planning Conference Room, First Floor, Kalana Pakui Building, 250 South High Street, Wailuku, Maui.

Mr. Keaka Robinson: Good morning everyone. This is February 26<sup>th</sup>, Maui Planning Commission. Welcome all. I'd like to welcome our fellow Commissioners. Commissioner Larry Hudson.

Mr. Larry Hudson: Good morning.

Mr. Robinson: Good morning. Commissioner Kellie Pali.

Ms. Kellie Pali: Good morning Chair.

Mr. Robinson: I apologize Commissioner Kellie Pali.

Ms. Pali: Good morning Chair.

Mr. Robinson: Thank you. Commissioner Kahu Aulani Hill.

Kahu Aulani Hill: Aloha Kakahiaka Chair.

Mr. Robinson: Aloha. Commissioner Lawrence Carnicelli.

Mr. Lawrence Carnicelli: Good morning Chair.

Mr. Robinson: Good morning. Commissioner Stephen Castro.

Mr. Stephen Castro: Good morning Chair.

Mr. Robinson: And Commissioner Christian Tackett.

Mr. Christian Tackett: Good morning Chair.

Mr. Robinson: Good morning. We have a pretty quick Planning Commission today guys so we should be out of here before lunch hopefully. We have Corporation Counsel, David Lazan. Galazin. Does that sound like a basketball guy? Why did I say that? I don't know. Galazin. Sorry, David. That's the football coach at Auburn. That's why. I'm into football so I apologize. I apologize to all. And Director McLean.

Mr. Carnicelli: Chair, point of order, I'd also like to say there's a wonderful lunch slash breakfast that I'd like to say thank you for.

1 Mr. Robinson: It's, it's penance. But thank you for that and make you feel a little better from the  
2 last meeting. Director.

3  
4  
5 **B. PUBLIC HEARINGS (Action to be taken after each public hearing.)**

- 6  
7 **1. KATHERINE AND DEAN TROTZUK requesting a Bed and Breakfast Permit**  
8 **to operate Hale Laule`a, renting either three bedrooms in a main dwelling or**  
9 **two bedrooms in an accessory dwelling unit in the State Urban District**  
10 **located at 1710 Halama Street, TMK: (2) 3-9-011:005, Kihei, Island of Maui.**  
11 **(BBKM T2018/0011) (K. Wollenhaupt)**

12  
13 **There are two dwellings located on the property. There is a 3-bedroom**  
14 **main dwelling and a 2-bedroom accessory dwelling. Only one of the**  
15 **dwellings will be used at any one time for bed and breakfast use. The**  
16 **maximum amount of bedrooms used for bed and breakfast use at any one**  
17 **time will be three (3) bedrooms.**

18  
19 **The matter is being brought before the Maui Planning Commission for**  
20 **review because there is at least one permitted bed and breakfast home**  
21 **operation located within 500 feet of the subject property.**

22  
23 Ms. Michele McLean: Thank you and good morning Chair. You have one public hearing item  
24 today and that's a request from Katherine and Dean Trozduk for a bed and breakfast permit to  
25 operate Hale Laule`a renting either three bedrooms in a main dwelling or two bedrooms in an  
26 accessory dwelling in the State Urban District located at 1710 Halama Street, at TMK: 3-9-11  
27 parcel 55 in Kihei. And Kurt Wollenhaupt is the project planner.

28  
29 Mr. Kurt Wollenhaupt: Good morning Commissioners. It's a pleasure to be here.

30  
31 Mr. Robinson: Good morning.

32  
33 Mr. Wollenhaupt: It's been awhile. Today we have our public hearing. It's to obtain a review of a  
34 bed and breakfast home operation located at 1710 Halama Street in the R-3 Residential District  
35 on approximately a 20,000 square foot parcel of land. You know, we were here today to look at  
36 a project for a, we often say a short-term rental, but what we're really here today is we're looking  
37 at a limited duration of which there are three possibilities that can people apply for. A transient  
38 vacation rental, a short-term rental, or a bed and breakfast. And the way the code is written it  
39 sometimes create confusion about triggers for a public hearing. What we look for in each of  
40 these different applications. So today we're really focused on the bed and breakfast. It's a bit  
41 ironic that the trigger for a bed and breakfast is just one B&B within 500 feet, and yet for a short-  
42 term rental it's two within 500 feet. And there have been opinions with some people or some  
43 members that a bed and breakfast has a lower impact to the community.

44  
45 That being said, today we're going to be looking and there will be a presentation by Katherine  
46 and Dean Trozduk on their potential bed and breakfast operation. But we're going to be looking

1 at a main dwelling that contains three bedrooms, and then an accessory dwelling that contains  
2 two.

3  
4 Mr. Robinson: So Kurt, do I hear that you think we should change the restriction for a trigger to  
5 one for short-term rental?  
6

7 Mr. Wollenhaupt: Oh, I'm not going to make any recommendations up here. But it, but it does  
8 sometimes create -- there have been attempts that trying to make the qualifications of the  
9 B&B's, the short-term rental a little bit more congruent. Because people, they get confused  
10 about the trigger is 30 percent for B&B or is it adjacent neighbors or is it adjacent across the  
11 street. So it's just, it's just a note of, just to note that today we're looking at a bed and breakfast  
12 operation. And the trigger for today's hearing was because there is one within 500 feet. And  
13 that's just kind of an editorial point.  
14

15 So the applicant is requesting the use of their home and their cottage for a bed and breakfast  
16 operation. There's three bedrooms in the main house, and there's two bedrooms in the cottage.  
17 So they're either planning on only renting the main house for the B&B or renting the cottage. So  
18 at no time will there ever be more than three bedrooms rented. Were they to rent the main  
19 house, then they would be in the cottage and vice versa.  
20

21 The history of this property is somewhat important in the sense that this property was owned by  
22 Mr. and Mrs. Dean. The owners before did apply for a B&B operation identical to what the  
23 applicants today are requesting. They were granted a B&B permit on November 25<sup>th</sup>, 2015  
24 again to either rent the main dwelling or the accessory dwelling. As many of you know the  
25 ohana bill as we mystically call it did pass which then doesn't allow new applications in an  
26 accessory dwelling within an Urban District. However, the Trotzuks applied before that bill took  
27 effect. And in fact on a lot this big they could actually I believe have two dwellings as opposed  
28 to accessory and a main dwelling.  
29

30 There's some issues that I know the Commission has asked the planner to look at. One is how  
31 many bed and breakfast are within 500 feet. That would be one. Within the entire Kihei-  
32 Makena Community Plan region, there's 41 permitted B&B's. The cap is 100. You've also  
33 asked us to look at any open Request for Service, aka complaints. There are no complaints on  
34 this property. The applicants have not rented before. I know that you have asked us to people  
35 to consider a long term rental in one of the dwellings. This becomes problematic for a bed and  
36 breakfast especially when you have a large family that comes here quite often. You also have  
37 family members who come to the island and stay, parents of the applicants who come the island  
38 for a longer period of time. So renting the cottage out long-term becomes problematic for a B&B  
39 operation. Now the logic may be different for a short-term rental because they don't even like  
40 on property. For a B&B, they of course do live on property.  
41

42 The procedural matters have been followed. The notice of the mailing of the application, the  
43 notice of the public hearing, the review in the newspaper. Details of the compliance with the  
44 conditions are located in the staff report. And then it comes to testimony. An updated testimony  
45 map was left on each of your areas. Again, it's an interesting point that within the, within the  
46 short-term rental criteria, they say the degree of cooperation by the applicant to become  
47 compliant yet that's not, that's not part of the criteria for the bed and breakfast. However the

1 applicant in this case has worked extensively with the relatively few number of people that did  
2 have a protest. They were able to get two. One of these people did protest, and that would be  
3 --. If we go, if you go to the Exhibit-13, there's a map that has numbers, or the map that you just  
4 were handed out. In the upper right corner there was an objection letter. This person has now  
5 changed from an objection to a support letter, and their name was Kit Harland and their new  
6 support letter was just delivered on your desk. There was also a complaint letter in the bottom  
7 right corner, and they shifted their stance to neutral. So in the end we have 11 support letters,  
8 one opposed, and one neutral for this project. So the applicant did go out as requested by this  
9 Commission in the past to really work with the neighbors.

10  
11 That sort of sets the stage for the presentation that the applicant would like to do on their  
12 proposed bed and breakfast. If you have any questions at this point in time I can do that, or if  
13 you'd like them to give their presentation.

14  
15 Mr. Robinson: Thank you. At this time we'll take public testimony. People testifying in the  
16 audience, I'll ask you to verify that your testimony would be truthful. This is a contested case  
17 hearing. And I'll remind you that you have three minutes. First on top for public testimony is  
18 Joseph DeLucia. Is that it? DeLucia, I'm sorry sir. It's DeLucia. Joseph, do you promise your  
19 testimony will be truthful?

20  
21 Mr. Joseph DeLucia: Yes sir.

22  
23 Mr. Robinson: Thank you. Please introduce yourself, you have three minutes.

24  
25 Mr. DeLucia: My name is Joseph DeLucia. I live at 1745 Halama Street, in Kihei. I'm actually  
26 the neutral person but I'm actually now in support and I'll explain that to you in a minute. I  
27 support the project and I hope you approve it. We have lived on Halama Street since 2013,  
28 probably within two to three hundred feet of two B&B's and one short-term rental. One B&B is  
29 literally next door to me on the other side of the vacant lot, to the south of me. All three of these  
30 have been operating for approximately two years or so. And I'm here to attest to the fact that  
31 there have never, and I emphasize never, that any time when these have created any adverse  
32 impacts on our neighborhood. As a matter of fact I'm sure it will create much less impact that  
33 we've witnessed from some full-time residents and some long-term rentals while providing a  
34 much needed service and benefit to the County of Maui. I've attended two of these hearings and  
35 have supported in writing three previous applications for various B&B's and that short-term  
36 rental applications. And I firmly believe that this process works.

37  
38 Originally I mistakenly submitted a negative letter regarding the application. I was wrong,  
39 mainly because I didn't take the time to thoroughly investigate the specific project and to meet  
40 the applicant. Since then the applicants took assured measures to reach out to the neighbors,  
41 the owners, and the tenants in the neighborhood. They invited us to their house. Went through  
42 their whole review of their conditions. We looked at it and compared it to some of the issues I  
43 thought about relating to parking and everything, and none of them, all of them have been  
44 mitigated and none of them were a concern because I couldn't get into the property prior to that  
45 and it's quite a beautiful property.

1 Since then, Katherine and Dean have become friends that I feel good neighbors because they  
2 took the effort to really go down the street and beat on all of our doors. I thank you for your time  
3 and I hope you'll approve the application. Thank you.

4  
5 Mr. Robinson: Thank you. Do we have questions for the applicant? I mean, for the testifier?  
6 Seeing none, thank you Joseph. Next we have Mary Ann. Aloha.

7  
8 Ms. Mary Ann DeLucia: Aloha.

9  
10 Mr. Robinson: Do you swear that your testimony will be truthful?

11  
12 Ms. DeLucia: Yes.

13  
14 Mr. Robinson: Please introduce yourself, you have three minutes.

15  
16 Ms. DeLucia: Good morning Planning Committee member. My name is Mary Ann DeLucia. I  
17 live at 1745 Halama Street. I'm a little nervous. I become -- I come before you today to express  
18 my strong support to Trotsuk's bed and breakfast application. I live off and on Halama Street for  
19 over 58 years, and I've seen many changes to the neighborhood over the time, some good,  
20 some bad. Halama Street is indeed a special place, a group of unique individuals and housing  
21 situations. There was a time when loitering, drug dealing, and other anti-social behaviors were  
22 common. As we have had people move into the neighbor to live full-time there has been  
23 noticeable improvement. In addition to fulltime residents, part-time residents, and vacant  
24 houses, there are some short-term rentals and bed and breakfast in the neighborhood. These  
25 mixed use is part of what gives my neighborhood its unique special charms. What I'd like to  
26 emphasize to the committee is that if granted the Trotsuk's B&B would be a wonderful addition  
27 to our neighborhood. We and our other neighbors had no problems at all when there was a  
28 B&B before at 1710 Halama Street, and I feel there will absolutely no difference to our  
29 neighborhood in the future if the Trotsuk's are granted the privilege of operating a B&B. They  
30 are responsible, hardworking people who love the island, their community and their  
31 neighborhood. Dean and Katherine fit in very well and have become very good friends of ours  
32 as well as others on the street. Dean and Katherine will be living on the property at all times so  
33 will be aware of what's going on and ready to immediately address any issues. They've shown  
34 commitment to the area by agreeing to run the security patrol that helps to keep this such a  
35 special place to live and they always take the time to reach out to others around them. Thanks  
36 so much for your time and I ask that you look favorably upon their application.

37  
38 Mr. Robinson: Thank you for your testimony. Commissioners, any questions? Seeing none.  
39 Next we have Dennis. Is it Barger? Aloha Dennis, do you swear to have your testimony be  
40 truthful?

41  
42 Mr. Dennis Barger: I do.

43  
44 Mr. Robinson: Please introduce yourself. You have three minutes.

45  
46 Mr. Barger: Aloha Kakahiaka kako. Good morning to you all. I am the Reverend Dennis  
47 Barger, kahu of a local church nearby. Not close, but I'm also a homeowner, resident of Maui,

1 and have been for about eight years. Though I don't live in their immediate neighborhood I want  
2 to do what's best always for the community. I'm here to testify to the strength of character and  
3 their commitment to the community. I have no doubt that they would be a considerate and  
4 accommodating bed and breakfast operator.

5  
6 As I say I'm the pastor of Keolahou Hawaiian Congregation Church in Kihei. And our church has  
7 a small membership, but we're committed to serving the needs of the community and the  
8 members of those community, and the community at large. Our sunny worship is conducted in  
9 both Hawaiian and English, but has a strong sense of mission to the local people, the people of  
10 our community. That's basically south Maui. And a vital part of that service is the food pantry  
11 program, and the Trotsuk's have spent many, many hours in volunteer service to the church and  
12 to the community through this food pantry. We serve about 65 to 70 families every Friday. We  
13 give them food much like a supermarket and allow them to have choice. They've been, as I've  
14 say, very active volunteers. Dean, for instance, picks up the left over bread and pastries at  
15 Safeway and deliveries them early in the morning, and then on Friday we distribute them. And  
16 then he takes the left overs, if there are any of that, and some of the produce that sometimes  
17 there's left overs to Hale Kau Kau at St. Theresa's in Kihei. And then recycles the cardboard for  
18 us that we often generate in that process.

19  
20 So I want to emphasize to the committee that the Trotsuk's are very responsible, they're  
21 respectful, they're caring, they treat each other and our clients with the utmost courtesy and  
22 dignity. I know that these characteristics will guide how they run their proposed bed and  
23 breakfast. So I'm confident that they'll do everything necessary to make sure the operation of  
24 the bed and breakfast does not reduce the neighbor's quality of life in anyway. So I ask the  
25 committee to approve their application for a bed and breakfast permit. Mahalo.

26  
27 Mr. Robinson: Thank you. Any questions from the Commission? Seeing none. Mahalo for your  
28 testimony. Next we have Pauline Fitzgerald. Aloha Ms. Fitzgerald. Is you swear that your  
29 testimony would be truthful?

30  
31 Ms. Pauline Fitzgerald: Yes.

32  
33 Mr. Robinson: Thank you. Please introduce yourself and you have three minutes.

34  
35 Ms. Fitzgerald: Good morning. My name is Pauline Fitzgerald and I am here today to speak on  
36 in support of Katherine and Dean Trotsuk's B&B application. And thank you for the opportunity.  
37 I'm nervous. My late husband and I moved to Honolulu in the 1960's with our four children  
38 including Katherine. My husband was working there. I attended UH and in 1974 my husband  
39 had the opportunity for a promotion in Vancouver, Canada, and reluctantly we moved. However  
40 as soon the school vacation came, I came with the children so we flew to the islands and spent  
41 time. And then when Katherine met Dean in the 80's they continued and they visited the islands  
42 together so we have a long history with the island.

43  
44 It was very thrilling when we learned a few years ago that they were fulfilling their dreams,  
45 buying the Halama Street property and finally moving to Maui. I feel extremely fortunate to be  
46 able spend long stretches of time here on Maui, three months on this current visit. I stay, I'm  
47 staying in ohana allows me to be a part of their daily lives. I help with gardening that's why my

1 back is a problem today which I love and other household activities. While I can also entertain  
2 my own friends here. I have . . . (inaudible) . . . and we all have some privacy. They have their  
3 children, my grandchildren, four, three lovely son, well accomplished and family oriented. And  
4 we have lots of other families and many friends visiting regularly and enjoying the wonderful,  
5 welcoming home they've created.

6  
7 Katherine and Dean love sharing their home, and I think that that's it's an indication of their  
8 welcoming spirit that they hope to share the beauty of their home and neighborhood with island  
9 visitors. They are kind and very responsible and very hard working people. I ask that you look  
10 at their application with favor and grant them. Thank you all for your time. Mahalo.

11  
12 Mr. Robinson: Thank you for your testimony. Thank you. That will be all. Would anybody else  
13 like to testify at this time? No? At this time public testimony is closed. If we would like to have  
14 the recommendation of the Planning Department please. Oh, presentation? I thought you were  
15 the presentation, Kurt.

16  
17 Mr. Wollenhaupt: Well, the applicant has a few slides if you'd like to see it. It shows the house  
18 and --

19  
20 Mr. Robinson: It's up to them. If the applicant wants to show slides, they can show slides. It's  
21 up to them. It's up to you. Yeah. I'm good. You don't want to hear what we want so it's  
22 whatever you want, that's, it's up to you. Please introduce yourself.

23  
24 Ms. Katherine Trotsuk: Yes, of course.

25  
26 Mr. Robinson: I'm sorry public testimony is closed. Thank you. Please continue.

27  
28 Ms. Trotsuk: Good morning. Okay, thank you. My name is Katherine Trotsuk. I'd like to  
29 sincerely thank you for allowing my husband, Dean, and I the opportunity to present our  
30 application for a bed and breakfast permit. I know you're all volunteers or most of you are  
31 volunteers and really appreciate the time that you take to serve on this committee. If approved,  
32 our home, Hale Laule'a will be a quiet and restful place for visitors to Maui that does not impact  
33 any neighbors or the Halama Street community.

34  
35 We do live full-time on the property and will continue to do so either in the ohana or in the main  
36 house when guests are using the other dwelling. Our plan is really because when there are  
37 only two of us the ohana is certainly sufficient space. When we have our family or when we  
38 have my mom or Deans' parents staying with us, then we would be using the ohana. And so  
39 that's really the thinking behind the use of either or of the properties on the, on the home.  
40 There's plenty of space for parking which you'll see on another slide.

41  
42 The first time I remember Maui was around 1972 when we came to Maui from Honolulu for a  
43 vacation. Wailea, as a resort, barely existed and the roads at Makena ended at the landing  
44 where there was a little pig farm and lots of chicken. So in this case, in one of the pictures you  
45 see us at the cabins at Wainapapa which was also a part of that trip. We were living in Honolulu  
46 at that time and I went to elementary school there along with my brothers attending a very small  
47 school on University Avenue which unfortunately closed about five years ago. Although our

1 family was transferred to the mainland in 1974 my parents wanted to keep a connection to the  
2 islands and bought a condo at Hale Kamaole just as it was being built. So that's the  
3 construction photo back there. So we kept returning year after year through the remainder of  
4 my childhood, and then once I met Dean with our own family. So every summer I'd come with  
5 our kids and so they love Maui as much as we do. And then we were finally able to make the  
6 stay here full-time.

7  
8 We have a close and loving family who come to stay with us often. We're now four generations  
9 strong, and having such a long history with this island, also developed many long term  
10 friendships here. We love hosting local and mainland friends, enjoying our garden and the  
11 ocean, socializing with our neighbors, and hope that we'll be able to extend this spirit of aloha to  
12 new friends we make through our B&B.

13  
14 Dean and I do keep busy with a range of volunteer activities but I think we both agree we get  
15 more from than we could ever give. We've made some wonderful friends through these  
16 programs and we feel like we're always learning from the incredible people we have a privilege  
17 of working with. Mainly the organizations we work for, with for about 20 to 25 hours a week for  
18 each of us is the Food Bank that Pastor Dennis referenced, South Maui Clean Up, Dean's a  
19 coach with Special Olympics, Hawaiian Island Humpback Whale National Marine Sanctuary and  
20 the Maui Orchid Society. It's fun at the State Fair, signing up orchid land and working there;  
21 really just a wonderful group of people. We've also offered to take over responsibilities for  
22 organizing and overseeing the local Halama Street community security program, and those  
23 responsibilities will start next month.

24  
25 As you heard earlier from Kurt, we'll always be staying in one of the dwellings while the other is  
26 rented. We'll be there to personally check in every guest, showing them around the house, and  
27 ensuring they're very clear regarding the house rules including quiet hours, recycling  
28 requirements, parking arrangements, and we're even providing information on and samples of  
29 re-safe sunscreens. And being onsite during all rentals means we can regularly check in on  
30 guests to make sure both that they're following the rules but also that they're really enjoying  
31 their time here and helping them to, to be able see and enjoy all of the things of Maui that we  
32 do. And from here Dean is going to take over. Thank you. Any questions?

33  
34 Mr. Robinson: Yes, I have one question and I apologize. Is the testimony that was before you,  
35 do you have any comments or questions regarding that testimony?

36  
37 Ms. Trotzuk: No sir.

38  
39 Mr. Robinson: Alright thank you so much.

40  
41 Ms. Trotzuk: Thank you.

42  
43 Mr. Robinson: Aloha, please introduce yourself.

44  
45 Mr. Dean Trotzuk: Aloha, my name is Dean Trotzuk. Good morning members of the Maui  
46 Planning Commission. I'd like to thank you all so very much for allowing us to be here today . . .  
47 (inaudible) . . . our application for a bed and breakfast permit. I'd like to start out by saying that



1 Katherine and I are fully aware that a B&B Permit is not a right or entitlement but rather a  
2 special and unique opportunity to allow guests to share our home and experience the magic of  
3 Maui. Let's begin my portion of the presentation with a description of the main house, our pride  
4 and joy.

5  
6 The picture on the left-hand side of the slide is that of the entrance to the main house, and to  
7 the right is a view of the back of the house. There is just one story so there are no stairs for  
8 guests to contend with. There are three bedrooms and bathrooms built in 1957. The main  
9 dwelling is throw back in time and it has an understated old Hawaiian feeling that we're sure  
10 visitors will enjoy. The main house is powered by solar energy and uses very little and at times  
11 no electricity from the grid. We practice environmentally friendly activities: composting,  
12 recycling, water and energy conservation, and we'll strongly encourage our guests to do the  
13 same.

14  
15 Next slide please. This is the accessory dwelling, a.k.a. the ohana. It's separate from the main  
16 house as you saw before. As you can see from the pictures, it's a bright and cheerful place. It  
17 contains two bedrooms, small living room, a kitchen and a bathroom, plus the added benefit of  
18 an . . . (inaudible) . . . There's a grill and small lanai off the living room.

19  
20 Next slide please Kurt. This is the onsite parking schematics. The property will legally, easily  
21 and safely accommodate three vehicles. In addition the garage holds two cars. There will be  
22 absolutely no on-street parking. As we plan on renting to only one group of visitors at the time,  
23 it is very unlikely that more than one or two cars will ever be used by guests. It would be  
24 extremely rare that three cars will be needed. The effect of the B&B on Halama Street traffic will  
25 be . . . (inaudible) . . . No on-street parking and few additional cars adding traffic on the road.  
26 Halama Street is extremely quiet regarding vehicular traffic. In the mornings and in the  
27 evenings there are more pedestrians on the road than cars. In terms of traffic safety access to  
28 and from the property is very easy. There are no blind spots entering or exiting, and clear site  
29 lines are available. In any event we will reinforce with each and every guests the importance to  
30 be careful when leaving and exiting the property and driving along Halama Street with all due  
31 care and respect despite the lack of traffic.

32  
33 Next slide please. Responsible B&B operators. The narrative of this presentation is to show  
34 the Commission that Katherine and I will be responsible B&B operators and we never, ever  
35 compromise the quality of life with our neighbors. Our lives are deeply ingrained here. Our  
36 passions are for the island . . . (inaudible) . . . When not using the space for family, friends or  
37 people associated with all of our volunteer groups, we hope to welcome visitors to Maui who  
38 wish to have a personal home stay experience. We'll welcome every guest in person, and  
39 explaining clearly and forcefully the strict house rules which they must abide by. There will be  
40 an emphasis that this our home and under no circumstances do we expect neighbors  
41 inconvenienced in any manner, shape or form. We'll particularly stress the need to adhere quiet  
42 hours, respect for our neighbors, and respect for the land, off-street parking and traffic  
43 awareness. We've earned the trust of many of neighbors and feel blessed to have developed  
44 so many meaningful friendships and relationships. With this trust comes the responsibility to  
45 operate a B&B with no impact on the neighborhood. We have wholeheartedly embarked and  
46 engrained ourselves in to the community and have shared our willingness to respond and  
47 address any concerns our neighbors have. We have committed to various non-profit

1 organizations which we volunteer for, make the ohana available for use by those visiting Maui  
2 and need a place to stay in conjunction with their efforts. We're also exploring the interest of  
3 groups such as visiting doctors and other medical professionals for limited term visits under 180  
4 days as it is increasingly difficult to find legal rentals for a month.

5  
6 Next slide. Our dear neighbors have genuinely supported our application some with a great  
7 deal with enthusiasm. Since Kurt's report was sent out and this is an old copy. You have an  
8 updated copy of the locations of these support letters on your desk I believe. So since Kurt's  
9 report was sent out we received two additional letters. One of them is a letter of support from  
10 an owner of two properties located within the 500 foot boundary. This was emailed to you  
11 yesterday. And the other is from a neighbor who initially sent a letter of objection and now has  
12 moved to supporting our application and that is in the upper right hand corner of the diagram.  
13 So with the addition of the two letters, our application has received 11 letters in support, one  
14 opposed, and one neutral. We'd like to point out that the neighbors immediately to the north  
15 and directly across the street presumably those would be most impacted by the proposed B&B  
16 has supported our application with great conviction. The one letter of objection is from a  
17 neighbor five houses away and located at the periphery of the 500 foot zone. As Kurt  
18 mentioned before we have taken any objections to our proposed B&B most seriously. I think it  
19 says something about our intent. We reached out immediately to those objecting, attempted to  
20 address and clarify any concerns that our neighbors have. Emails were followed up with a few  
21 attempts to meet in person. In two instances we were able to convince an initial objector to  
22 become a supporter after we discussed the issues at hand. One of those household is here  
23 today. Thank you very much Joe and Mary Ann.

24  
25 As you can see from this slide there are a number of properties in the area that are either  
26 vacant or occupied part-time. We know it's important to our neighborhood to maintain its  
27 character and vigor through occupied homes. If look at the ocean side of Halama Street, most  
28 of our oceanside neighbors are part-time residents with many of whom are on Maui only a few  
29 weeks a year. Vacant or seldom used properties are a source of many of the relatively slash  
30 minor problems arising on Halama Street. Empty homes can contribute to increase vandalism.  
31 Having more people in these homes is important vitality of the area as well as minimizing  
32 criminal opportunities. As you can see from your report it's not people using rentals causing  
33 crimes or other nuisances, but the issues are caused by others taking advantage of unoccupied  
34 homes.

35  
36 And finally we respectfully and humbly request permission to operate our B&B. Mahalo and  
37 thank you so very much.

38  
39 Mr. Robinson: Thank you so much. At this time can we hear the recommendation of the  
40 Planning Department please?

41  
42 Mr. Wollenhaupt: Good morning again Commissioners. After looking at the completed  
43 application, the applicant meeting the notification requirements both for the notice of the mailing  
44 application and the notice of the public hearing, the applicant meeting the criteria that are  
45 required in the Maui County Code Section 64.060, the Department recommends approval of the  
46 bed and breakfast subject to the 16 conditions outlined on the green pages in your pamphlet

1 today. That the B&B home will be valid until February 28, 2022, and recommends approval  
2 today. Thank you.

3  
4 Mr. Robinson: Thank you. Commissioners do we have any questions for the Planning  
5 Department or, or the applicant? Commissioner Carnicelli.

6  
7 Mr. Carnicelli: Thank you Chair. I don't know if this is for the Director or Corporation Counsel. I  
8 know that last year there was an ordinance passed regarding the use of accessory dwellings in  
9 STHR's and B&B applications. Does that take into effect on everything or since they got their  
10 application in ahead of time, then it is --? Okay, you're nodding, so we'll put that on the record.

11  
12 Ms. McLean: You're correct that it allowed existing operations to continue and for those permits  
13 to be renewed, and also applications that were in process, applications that were complete, and  
14 that were being processed that included the accessory dwelling could also continue.

15  
16 Mr. Carnicelli: Great, thank you. And then one follow up question then, Director, is I believe the  
17 last one that we approved, it may not have been the last, but B&B that is, it was the one in  
18 Lahaina, and we put the condition on there about education on the reefs and impacts,  
19 environmental impacts. I didn't see that in the conditions here. I would just like to add whatever  
20 verbiage, you know, we kind of wanted to, to this, please.

21  
22 Ms. McLean: Okay, Kahu Hill and I have been back and forth on the wording of the condition.

23  
24 Mr. Carnicelli: Okay.

25  
26 Ms. McLean: But I was able to find a most recent email exchange so I can read that into the  
27 record if the Commission wants to add that.

28  
29 Mr. Carnicelli: Okay.

30  
31 Mr. Robinson: Seeing that's not on the paperwork, have we expressed that with the applicant?  
32 Kurt?

33  
34 Mr. Wollenhaupt: The applicant, while I was down doing the site visit, did indicate acceptance,  
35 and in fact an enthusiasm acceptance of talking to the guests about re-safe. In fact, I was just  
36 handed a brochure that they're going to be handing out and just briefly, please use re-safe  
37 sunscreen and be careful not to touch damaged coral, stay in an appropriate distance away  
38 from marine life, conserve water and energy, we have finite resources, always recycle, use as  
39 little plastic packaging as possible, and review the house rules and carefully follow them. So  
40 they were enthusiastically embraced the condition that would require notification on appropriate  
41 behavior.

42  
43 Mr. Robinson: Thank you. Commissioner Kahu Hill.

44  
45 Kahu Hill: Mahalo. I just wanted to mention on what we have been going over in those final  
46 words, and that applicants can also understand that in this future that is coming that it would be  
47 -- what you just said as far as house rules, but also would be a condition to be educated about

1 Maui Nui or about the areas, historically, culturally, and that we come to understand the oceans,  
2 and there would be people that would share that because there might be a 20 minute thing to  
3 watch or a DVD or something to welcome them, and let them know the ahupua'a or the mokua  
4 however it's going to be and wherever's going to --. That would be great if it could be a part of  
5 this one if they'd like that to introduce that condition. Would do you want to read that one?  
6

7 Mr. Robinson: Please.  
8

9 Ms. Michele McLean: Sure, the applicant shall educate all guests about Maui Nui history and  
10 culture, and about potential detrimental impacts to natural and cultural resources particularly to  
11 the coastal environment and near shore waters. Evidence of such an education program shall  
12 be provided to the Planning Department prior to operation.  
13

14 Kahu Hill: And just to say in follow up that we can't be expected to understand what that could  
15 look like. So, in that, I'm sure an invitation will go out Na kupuna, and those that . . . (inaudible)  
16 . . . marine sanctuary and different ones that are protecting to be able to provide this information  
17 as it moves forward and educational program that can have so they know to go to and which  
18 areas of . . . (inaudible) . . .  
19

20 Mr. Robinson: Thank you. Commissioner Carnicelli.  
21

22 Mr. Carnicelli: Yeah, and Chair, is just for the record, the applicant has nodded in agreement to  
23 the language just read into the, read into the record by the Director.  
24

25 Mr. Robinson: Thank you for that. Commissioner Pali.  
26

27 Ms. Pali: Hi. This is a question for the applicant please. Okay. I don't know exactly where this  
28 is, but I'm very familiar with Halama Street. My question to you is, is there access nearby for  
29 locals to access the beach at the, behind your property?  
30

31 Ms. Trotzuk: Yes.  
32

33 Mr. Robinson: And please introduce yourself again. I'm sorry.  
34

35 Ms. Trotzuk: Katherine Trotzuk. Yes, so you see Kuala Place and Keolaiki Place.  
36

37 Mr. Robinson: Yes, Kurt, do you have a map by chance on top the big screen?  
38

39 Ms. Pali: Yes, I got it here. So Keolaiki Place and then Kuala Place. Okay. So those are the  
40 access for the locals for the beach?  
41

42 Ms. Trotzuk: That's absolutely correct.  
43

44 Ms. Pali: And so one of the Council Members recently felt that Maui Planning Commission could  
45 potentially be a little bit more aware of native Hawaiian rights. And that's saying it a little more  
46 eloquently than I believe it was actually stated. However, trying to find the good in the  
47 statement, I guess my question to you would be, have you had an opportunity to educate

1 yourself in some of our rituals or rites or customs that have been passed down to generations.  
2 And are you going to be able to respond if any type of that activity ends up behind your  
3 household, on these beach and would you also be open to educating your visitors about that?  
4 Because I will tell you in all fairness, a lot of the property owners that have owned property that  
5 sits on or is beach fronting, they almost feel like that they have the right also to the beach in  
6 front of their home. And I also can have, can say that I have experienced with my children that  
7 they kind of want to shoo us away from behind their house. Go put your tents, or not your tents,  
8 but your fishing poles or whatever it is on behind their neighbor's home because you're  
9 obstructing my view and I just want to make sure that the homeowners have a right and truthful  
10 way of looking at the situation. And the situation is your ownership stops at the end of the  
11 property line, and that the beach then, to the ocean is public access, and therefore native  
12 Hawaiians and anybody, anybody in the community, and we're not going to have to deal with  
13 rude visitors think that they own that, that right-of-way.

14  
15 Ms. Trotzuk: Yes. Thank you for the question. I wholeheartedly agree with you. One of the  
16 things that I absolutely love about Hawaii as the public access beaches that no beach is no  
17 private. And I have certainly visited places in the mainland and elsewhere where you cannot  
18 get to the water, and I find that really offensive. So, so that as an issue is not something that we  
19 -- it is something that we will advise any guests to our home. We have friends who, you know,  
20 come and fish often, you know, or they're out getting fish, or getting octopus and they'll come up  
21 for coffee and banana bread or whatever. Just because you know we're a part of the  
22 community and I think it's wonderful that can have a hot shower after going out fishing. So we  
23 will certainly convey that message to others.

24  
25 Mr. Robinson: Thank you. Commissioner Kahu Hill.

26  
27 Kahu Hill: Mahalo for answering that. I also had a couple where Kellie is speaking. In front of  
28 your property, some of these properties, I mean, go absolutely straight to where DLNR would be  
29 or state land. There's not so much beach as there was in the older days because of the sea  
30 levels rising. So in front of your house where you are, where it goes from the grass to the rocks,  
31 is that yours or is that part County or State?

32  
33 Ms. Trotzuk: About halfway down the rocks is where our property line ends.

34  
35 Kahu Hill: Okay, so all of the grass is in your property?

36  
37 Ms. Trotzuk: All the grass is on our property.

38  
39 Kahu Hill: So people could walk on the beach or on the walkway.

40  
41 Ms. Trotzuk: That's correct. Yeah.

42  
43 Kahu Hill: Yeah, and in front of your house, I've noticed over the years that sometimes they're  
44 building out all the way to the road, and taking any parking where people . . . (inaudible) . . . use  
45 their rights to take their one man to go fishing out there. So is there parking in front of your  
46 house?

1  
2 Ms. Trotzuk: There is. There's grass, but some properties have big rocks on their grass, we  
3 don't have that. It's just grass in front.

4  
5 Kahu Hill: Okay, mahalo. The last question I just had was I was noticing in the  
6 recommendations, number five. And it says that the B&B Home Permit is limited to a maximum  
7 occupancy of two adult guests and two minors. So I just wanted to clarify that it would only be  
8 one or the other. If you rented the main house, the max could have six adults and then six  
9 children under that age of 18?

10  
11 Ms. Trotzuk: I think technically so. It's our house, so I doubt we would ever let that happen  
12 because I'm not sure I want 12 people, whether they're kids or adults in there. And I think kids,  
13 six kids is more impact than six adults.

14  
15 Kahu Hill: Okay. And then lastly I heard about possibly having doctors there or having groups  
16 like that. Would you be having weddings on your property?

17  
18 Ms. Trotzuk: No. No, we have told our neighbors that is not something that we will do. That was  
19 one of the things that a couple of neighbors said. You know, unless maybe our kids want to get  
20 married there in which case, I think, that would be a little different. But, but not, no, I think we,  
21 we told them, and we live by our word that we're, we're not going to be renting it out to people  
22 for big gatherings or events like that because that is disruptive for others.

23  
24 Kahu Hill: Mahalo for sharing Katherine.

25  
26 Ms. Trotzuk: Thank you.

27  
28 Mr. Trotzuk: Excuse me, may I make a comment?

29  
30 Mr. Robinson: Yes you may. Please introduce yourself again.

31  
32 Mr. Trotzuk: My name is Dean Trotzuk. Yeah, and just with respect to access to the beach  
33 from our property, and you know, Katherine and I have been in areas before where public  
34 access is not an option. We encourage people to take advantage of our area. And she started  
35 the fact that we developed some really good friends, through the community, to come over. And  
36 they teach me and my children actually how to go tako hunting, octopus hunting. So they'll  
37 come over and they will use our property, and park their cars there, and we'll get a group of six  
38 or seven young men, you know, locals over there and it's a great place for them to hang out.  
39 And it's equally at least as much beneficial for us because we get to take part in this event  
40 which is very, very cool. We learn a lot about it.

41  
42 Mr. Robinson: Thank you. Commissioners, any other questions or comments? Kurt, I have a  
43 question regarding the recommendations. One is is you want to make sure that it's stated in  
44 the...in one of the 16 that only unit can be used at a time as a rental. And we know that's  
45 implicated because with this permit. But can you show us where it says that or if we could add  
46 that in? Please.

47

1 Mr. Wollenhaupt: I guess where it would say it would be in the heading to the recommendation  
2 report. Probably we would want to then add the condition that would just highlight essentially  
3 the language, the bed and breakfast home renting either of the three bedrooms in the main  
4 dwelling or two bedrooms in the accessory dwelling with a maximum of three bedrooms. That  
5 condition then probably would be wise to be specifically added into the recommendation  
6 conditions because the letter of approval should that be granted today will just cite the  
7 recommendation conditions.

8

9 Mr. Robinson: Commissioners, are we okay with that? Okay. Thank you.

10

11 Mr. Wollenhaupt: So it would be conditions would be added. The one that the Director  
12 proposed and then this new one.

13

14 Mr. Robinson: We're not done yet.

15

16 Mr. Wollenhaupt: Okay.

17

18 Mr. Robinson: Okay, thank you. And Kurt, we have another, we have another question. And if  
19 you can't answer it, then I'll turn to the Director. And the question is seawall, is it permitted, is it  
20 not permitted? It's not a trick question, it's just, do you know if it is or not?

21

22 Mr. Wollenhaupt: That's probably best for the Director or the applicant, so I, I --

23

24 Mr. Robinson: No, that's fine.

25

26 Mr. Wollenhaupt: I actually think it is because I think we discussed --. I think that was  
27 discussed. Because when I did the site inspection it was really old, and there was an old  
28 revetment there but I haven't talked to the DLNR.

29

30 Mr. Robinson: So Commissioners is in looking at this application I noticed how close it was to  
31 the ocean, I noticed the setback has to be grandfathered in and there's seawalls next to it. But  
32 this has a rock wall, it has some beach, and so I went to the Director is that we couldn't verify it,  
33 or we have a condition that we'd like you guys to think about, and Director if you could.

34

35 Ms. McLean: Prior to operation, the applicant shall work with the Planning Department to either  
36 determine that the existing rock wall or bank is lawful, non-conforming or permitted, or shall  
37 obtain necessary after-the-fact permits.

38

39 Mr. Robinson: Commissioner Kahu Hill?

40

41 Kahu Hill: I do have some limited information from blessing our property there and then helping  
42 them to sell it. That rock wall was built by an accumulation of people, a lot in that area, on  
43 Halama Street in the 70's. And so now when they go back that I've heard to look at the wall to  
44 see who could repair it after these big waves, who's responsible? Is it the people that own the  
45 homes or the rocks right in front because it actually created. And then the records of that wall  
46 doesn't exist now somehow I've heard in our records department that they don't have who's  
47 responsible for the wall so they were told that they could touch, you know, move it, and some

1 were told not. So they did when their property line was looked. It used to be way out front and  
2 they pulled it back behind the rocks where the vegetation line was on because some of it needs  
3 repairing to go to the future but no one was willing to take responsibility, if it was State or County  
4 because it happened in the 70's. If that helps at all.

5  
6 Mr. Robinson: So I think, I think what we're seeing and again it's with the condition, and we'll  
7 ask the applicant too is that we work to clarify that, you know. I mean, is we don't want to be, or  
8 at least I don't think we, we should be giving out permits for operation without, without ambiguity  
9 being cleared especially when it comes to the ocean and the, and you know, access, and to  
10 make sure. Because I guess is -- and applicants we go back to you before we agree to this.  
11 But that's my thing. Commissioner Pali, you want to comment before we let the applicant  
12 speak?

13  
14 Ms. Pali: Yes please. Is, is that going to be conditioned, this last one we're talking about so we  
15 can clarify and make that, that, their edge of their property? We want it conforming and right  
16 standing one way or another so I agree with that. But is that going have to be completely  
17 resolved before they operate? Because I think that might be an unfair condition because we  
18 know offensive, but that could take a really, really long time. And I don't think, personally that's  
19 fair for that to be contingent before they operate, but maybe there and it's being worked at while  
20 they operating. And then in the meantime, they can instruct their people that stay not to utilize  
21 that as a path. Maybe can do a special path around that area so that we don't have a problem. I  
22 don't know, just a thought.

23  
24 Mr. Robinson: And let me get the applicant a chance to respond because they might already  
25 have the answer here. We'll talk and then we can go back to what we're comfortable with.  
26 Would you like to reply if you have any knowledge of this or do you want us to keep on going  
27 and . . . (inaudible) . . . Of course, please. And please introduce yourself.

28  
29 Ms. Trotzuk: Katherine Trotzuk. I just would humbly ask that, that this not be a condition. I do  
30 agree that I think it's unfair. And the reason why is because we asked a lot of these questions  
31 too before we purchased the house, and we were given all of the history that the prior owners  
32 have been able to collect. And they had done a lot of work to try to get to the bottom of the  
33 same questions, and basically we have also learned that those records do not exist. So we  
34 have a series of letters that sort of indicate some of the history, but not all of it. We also did, you  
35 know, try to do some work ourselves to understand whether we could get anything, and we  
36 were told this is going to take tens of thousands of dollars, and multiple years, back and forth to  
37 Oahu, to you know, to ever resolve this issue. So I really would ask because you know this is  
38 not a condition that all B&B's would be asked to comply with, and we are following all of the  
39 rules and we are, you know, really trying to operate this in a very responsible way. But it does  
40 seem to me that this is sort of an extra request that is, is above and beyond what other B&B  
41 operator would be asked to do. The cost involved are just extraordinary. So I humbly request  
42 that you do not include that as a condition.

43  
44 Mr. Robinson: Okay, thank you. Commissioner Carnicelli.

45  
46 Mr. Carnicelli: Thank you Chair. I'm glad I heard the applicant because I kind of agree. I want to  
47 start by saying, sea level rise is a real thing. Shoreline erosion, you know, manage retreat, all of



1 these things that we're talking about is a really serious issue and there's going to have to be  
2 some very tough decisions made by this body regarding SMA and shoreline setbacks in the  
3 very, very near future. And they're policy decisions that are going to impact the entire County,  
4 and I think all nine of us take that very, very seriously.

5  
6 But when we start getting into certification of seawalls for a B&B permit it just seems though  
7 when I look at the criteria for with what a B&B permit has to operate and the use of the property  
8 versus the shoreline itself of the property, it seems just, for me is straying a little bit. Is it  
9 something that needs to be addressed and talked about, seawalls? Absolutely. Move, not  
10 moved. You know, even now we've got this whole, this, the State changed the laws as far as  
11 the DLNR claiming high water mark, things of that nature. So I don't want to skirt the issue of  
12 the importance of the seawalls and sea level rise, but within the context of a B&B permit I'm not  
13 comfortable with making that a condition of a B&B permit.

14  
15 Mr. Robinson: Commissioner Kahu Hill.

16  
17 Kahu Hill: I agree with Commissioner Carnicelli, and I was always hoping that possibly in  
18 Halama Street that there could be a not necessarily an association, but that everyone on  
19 Halama Street especially on the makai side could come together. Because some of the building  
20 of the rocks or that part of that was actually the County was involved in that a long time ago, and  
21 there are properties near you that were even cemented with more rocks to have a farther and  
22 longer property. So there are properties that are setback, going, oh can we do rocks and be set  
23 out more. But they've been gone away with water erosion so I think it's very fair that we don't  
24 include the rocks and hopefully that they as a street can look more into this and who's  
25 connected to this and it shouldn't be a part of the approval or a condition, the rocks.

26  
27 Mr. Robinson: Thank you Commissioner. Corporation Counsel?

28  
29 Mr. Galazin: Thank you Chair, and appreciate the opportunity to speak to both to Commissioner  
30 Carnicelli and Commissioner Kahu Hill's comments. When you look at the approval criteria that  
31 are within 19.64.030 (s), subsection (s), the Director or the Commission whichever body is going  
32 to be, or whichever person is going to be approving it, may impose conditions on the granting  
33 request for a bed and breakfast home but only if the conditions are reasonably conceived to  
34 mitigate the impacts emanating from the proposed land use. In other words to put in layman's  
35 terms if granting of this permit is going to cause some potential impact but you think you can  
36 mitigate it though an imposition of a condition, then you can, you can make that part of the  
37 approval, the condition of approval. But if there's going to be an impact on something whether  
38 or not the permit is there, if it's just a condition of how the land is, then it's good to recognize it,  
39 but you cannot address it in terms of making it a requirement. You could certainly speak to it,  
40 urge, you know, action on it, but you don't want to go too far out of bounds of you authority.  
41 Thank you Chair.

42  
43 Mr. Robinson: Commissioners, anything else? I have a comment. My comment is and it's not  
44 really towards this permit, it's towards any special permit, you know. And the permit is if, if, if  
45 you don't have a clear identity of what a seawall is or where the setback is, or, and we know the  
46 problems we're going to have with the shoreline and we're renting beach front property, but yet  
47 it's ambiguous. You know, it's not that people can't live there. It's not people can be buyer

1 beware, like you guys did. You guys bought a property without any clear definitions. But now  
2 we're going to have a permit that the County is, is allowing, you know, to have our tourists stay  
3 at some place that we're not even sure that it's done properly, that it's even safe. I mean I'm not  
4 asking, I don't want somebody to spend \$20,000 on anything. But if you're going to ask for a  
5 permit, you should get some things cleared up. I mean if you have a, if you have a, if you have  
6 a property line, your property lines have to be defined. I mean, this is just real estate. To me,  
7 it's not a, it's not a, oh because we're trying to make you guys do anything extra. It think it's  
8 something that is just everybody should have. Everybody should have definition of their  
9 property. And if they're going to come to the County and ask for a permit to run a commercial  
10 business which is a bed and breakfast is where you're going to make a profit off it, that's a  
11 commercial enterprise. No, I have to follow rules at my business. You know, I can't say, well,  
12 you know, can I not do this rule? Well, it's ambiguous and it's going to cost so much, so do I  
13 really have to go get that permit? I have to get every permit, you know. And I don't know the  
14 answer to it, but I know that shoreline which is what the Maui Planning Commission is here for.  
15 SMA's come to us. We're here to protect it. We're here to protect the people that we're giving  
16 permits to that are going from this house, to the beach, through this property. And you know, it  
17 looks like the best place. There's sand there. It looks like the wall is done correctly and I don't  
18 necessarily know that if it's going to have to spend money. But I think if we're in the process to  
19 where we're working with the County to try to resolve an issue, you know, and I think that's  
20 where the letter is. As long as we're looking, even after-the-fact, you know. But if at some point  
21 the County deems that it's not safe, what's going to matter if we decide this now or if we decide  
22 this later? But it's never been looked at. And this isn't a homeowner with homeowner's  
23 insurance. This is a commercial property that's coming in front of us and we're seeing this  
24 issue. And for us to say, well, we don't want to, we don't want to put any hoo-hoo on top of the  
25 applicant, I think it's on top of the applicant to clear up any ambiguity to do it that way. And of  
26 course, you know, and I do want to hear from you. Again, I'm not trying to --. I mean, I wish this  
27 wasn't an issue. I wish this was a permit and we can move on, but again, it's shoreline, you  
28 know. And, and I don't even have the answer on how to fix this to tell you the truth guys. I  
29 really don't. And there's a Commission, there's a vote, and everybody votes and then we see  
30 what the recommendations are, and there's always different things. But what I would like to do  
31 and I'll let you speak again, but I'd like to hear from the Director and just, you know, hear your  
32 thoughts because I know you deal with this more than we do. Thank you.

33  
34 Ms. McLean: Thank you Chair. I've been texting with our shoreline team and with Tara Owens,  
35 and they've been researching this while we've been meeting. We're not finding any permits in  
36 the KIVA system, but that doesn't go back very far. That's what Jim looked up for us and he's  
37 still looking. Tara noted that some seawalls along Halama Street are old, non-conforming.  
38 Meaning that they're lawful. They were lawful when they were built. Some were permitted later  
39 in the 80's. Her guess is that this one is permitted, but they're checking. If it is lawful, non-  
40 conforming, then we wouldn't have records on it. If it was permitted in the 80's our system  
41 doesn't go back that far so as the applicant was describing, you know, you can find whatever  
42 information is out there, but there just may not be the information out there.

43  
44 I'm somewhat torn. I understand the applicant's predicament. Maybe the condition could be re-  
45 worked in such a way that if we can work with the applicant and find evidence that it's lawful and  
46 we can establish that, then great. And then if not, then find a way, you know, for the applicant to  
47 work toward that but without it being, preventing them from operating or being, being punitive

1 because we, we do want to establish what's lawful and what isn't because when we have  
2 enforcement action to take, we need to be consistent with how we, how we treat all properties.  
3 Thank you Chair.

4  
5 Mr. Robinson: So Director I have a question. So our Commission says, okay, we think this is  
6 cumbersome on top of the applicant, it's not fair, we think in favor to operate, we give them the  
7 permit, and then later on a neighbor or an activist, you know, says that well, they don't have the  
8 permit and they go ahead and ask for an RFS and they get an NOV. Could they lose their  
9 permit off of that? Or if they get an NOV can they --? I mean, again, I know there's permit  
10 restrictions. Are they able then to start working with the, with the department to try to rectify the  
11 situation? How does that work?

12  
13 Ms. McLean: I don't think an NOV for that violation would be basis to revoke a permit. It's  
14 violating permit conditions would be a reason to revoke. But that would be something that the  
15 applicant would then have to reconcile at that time.

16  
17 Mr. Robinson: Corporation Counsel.

18  
19 Mr. Galazin: Yeah, thank you Chair. One of the things when you talk about the revocation or  
20 non-renewal procedures and that's in 19.64.060. For non-renewal there is -- so it's going to be  
21 subsection (G)(1)(i) -- if there's non-compliance with other governmental requirements that  
22 could be a basis for non-renewal. So if the Department determines that there is a, you know, a  
23 statute, ordinance, rule, what have you that does pertain to anything on the property, if they find  
24 that there's non-compliance with that, that could be a basis for non-renewing the permit. So  
25 that's another, that's another thing to consider. It wouldn't necessarily be a condition of  
26 approval, but it's just to note that that's a power that the Department does have.

27  
28 Mr. Robinson: Commissioner Pali.

29  
30 Ms. Pali: I have a question just to clarify. Corporation Counsel, so you read two definitions prior  
31 to this time speaking and you mentioned that while that they're going to use the permit for B&B  
32 or came for a permit request for B&B, if the existing situation was there, no matter what permit  
33 they were seeking. So that's why I feel like this happening. I don't think that we're dealing with  
34 a permit issue. I think that we're just dealing with an existing issue. So whether they get a  
35 permit or not, we all agree that there's an issue still here. I believe that was the second  
36 question you read. So are you saying that this condition exists whether they want the permit or  
37 not. And we know it does and we have to rectify it. Then are you saying that we then could not  
38 impose because this is a condition that needs to be dealt with no matter what, whether they get  
39 the permit or not? It's just a clarification on that. That's question one.

40  
41 And then question two is for the Director, the Planning Director. If we decide to separate it and  
42 issue the permit, and then as Carnicelli said, Commissioner Carnicelli said that we are going to  
43 be addressing much more heavily and in the very near future shoreline, and setbacks and these  
44 things. When we put new policies, would that then apply and everybody is sort of is reassessed  
45 that have property on the shorelines, and it's kind of like a blanket. Now here's the new rule,  
46 everyone has to aspire to this new rule. And could we still address the existing issue with these  
47 folks as well? Are we -- is that a happy medium or no? I don't know. Question. Sorry.

1  
2 Ms. McLean: With the proposed shoreline rule changes, existing lawful development will  
3 certainly be able to remain as is. We have ongoing discussion of whether the Department  
4 wants to propose how much that existing development could be renovated, improved, restored,  
5 expanded, so we're still having discussion about that. But what's there and is lawful can stay  
6 there. If it's something that's not lawful, it's not allowed now, it's not going to be allowed under  
7 the new rules either. But again, what we're talking about here is something that potentially, you  
8 know, was, was constructed before we even had permits for this kind of thing. And that's often  
9 hard to figure out. Sometimes aerial imagery helps a lot if we can find out imagery from pre-  
10 SMA and see that it's there, then we can establish that it's lawful, non-conforming. But yeah I  
11 don't think the rules would change it. If it's not lawful now, it won't be lawful under the new rules  
12 either.

13  
14 Mr. Galazin: Thank you Chair. Just to speak to your question Commissioner Pali. There are  
15 two things that apply here. One is the your discretionary review of the permit, and what impacts  
16 it may cause and your ability to say, okay, there's no law that says that you have to have a  
17 fence in your yard. But we think that, you know, there's going to be so many people here, you  
18 really should, otherwise it's going to have a negative impact on the neighborhood, or the  
19 neighbors, or what have you. That might be something you could impose, as an example,  
20 depending on the circumstances, but wouldn't be required by law.

21  
22 However, apart from that, the applicant does have to be in compliance with all other, you know,  
23 applicable rules and regulations generally speaking. And the Department's analysis, you know,  
24 they went through it, and the staff report, it was on page seven there's a requirement that the  
25 B&B home shall be in compliance with all other applicable Federal, State, and local laws. The  
26 response is to the best of -- the best knowledge of the Department, the B&B home is in  
27 compliance with Federal, State, and local laws. That's a determination the Department makes.  
28 And then again on renewal, they look at that again. So, that is not something that you have  
29 discretionary power over. If the Department finds that they are not in compliance with every  
30 applicable regulation, they can't issue the permit. And then upon renewal if they find, you know,  
31 an application for renewal, they find it's not in compliance they won't renew it. So that's, that's .  
32 different and apart from what conditions that you could impose that aren't a requirement of law,  
33 but are mitigating factors that you reasonably can put on there. So they're related, but they're  
34 not exactly the same.

35  
36 Mr. Robinson: Corporation Counsel, I have a question. We have seawall which we don't know if  
37 it's permitted or not permitted at this juncture. A person who we give a permit to to operate a, a  
38 commercial enterprise crosses from that area on to the rock and gets injured. Does the liability  
39 that we have on this permit cover that or does it become on County, does it become on State?

40  
41 Mr. Galazin: Thank you Chair. The -- one of the reason for having an insurance requirements is  
42 to address situation like that, you know, where that would be the primary source that somebody  
43 would look to. It could potentially be a State issue, but this granting of the permit, it would allow  
44 somebody to have the potential to allow people on their property, you know, on temporary basis  
45 for commercial uses. It doesn't mandate that. We're not requiring that somebody do that.  
46 We're saying you can use your property for this. If they choose to do that, they need to exercise  
47 their reasonable care and known hazards and compliance with everything. So it wouldn't be

1 making the County more liable. But one thing you could do if there is an ability for the Planning  
2 Department to research this issue further, you know this body could always say that the permit  
3 could be granted, you know, pending approval from the Planning Department that it is in  
4 compliance with all existing, you know, Federal, State, local regulations. That way the  
5 Department would have a chance to go ahead and make sure they review this and find out the  
6 information whether it's an existing non-conforming use, or whether it's something that isn't  
7 permitted and needs to be before a permit, before this permit would be effective. That would be  
8 one way to address it.

9  
10 Mr. Robinson: Yeah, and I don't see, I don't hear our Commissioners wanting that on the  
11 applicant's shoulders and the length of time it's on it. But I think one thing that is available to us  
12 is a, is a deferment for the Planning Department to see if they could rectify this. And, and when  
13 I look at this, I'm not just looking at this applicant, I'm looking at all applicants. There's always  
14 precedent. There's always --. If we know something is ambiguous and we allow it, and the next  
15 time another permit comes up and something like that, how do we --? You know, we gotta be  
16 consistent of how we, of how we grant things. And, and, the applicants seems like great people  
17 and, and that's a concern that, that I have is try to resolve this. And it might already be  
18 conforming. See that's the thing, we just don't know, right. We haven't researched it. I think if  
19 the Planning Department had, you know, had six hours they probably could have, you know,  
20 dug a little bit deeper and have a different day, and maybe in the future we'll get that. I'll let the  
21 applicant to speak, Director, but would you like to chime in before that?

22  
23 Ms. McLean: Sure.

24  
25 Mr. Robinson: Okay, thank you.

26  
27 Ms. McLean: I've been reworking this condition and this might help bridge the gap. Prior to  
28 operation the applicant shall work with the Planning Department to determine whether the  
29 existing rock wall or bank is lawful, non-conforming or permitted. If it is not, then prior to  
30 renewal which is proposed to be three years from now, the applicant shall demonstrate to the  
31 satisfaction of the Planning Department reasonable effort toward obtaining necessary after-the-  
32 fact permits.

33  
34 Mr. Robinson: Director, I guess the question is, being the Planning Department, is that  
35 something that you're more comfortable with as, as, you know, precedence when going forward  
36 with other properties, or is that something that you want to leave, leave towards the Commission  
37 to decide and setting this precedent? What I'd like to do is I'd like to take a quick recess. I'd  
38 like to see if you guys can talk with the applicant too because I think this has more ramifications  
39 as we're going down the whole coast line. Is that something you're open to?

40  
41 Ms. McLean: Sure.

42  
43 Mr. Robinson: At this time we'll take we'll take a five minute recess.

44  
45 *(The Maui Planning Commission recess at 10:20 a.m. and reconvened at 10:43 a.m.)*

46

1 Mr. Robinson: Planning Commission now back in session. After, after discussion again,  
2 Commissioner, this is up to us. We, we do get to vote on how we feel this should go, but the  
3 Planning Department would like to read us something that we can consider. I guess that was  
4 me.

5  
6 Ms. McLean: Thank you Chair. A revised proposed additional condition. That prior to renewal,  
7 the applicant shall work with the Planning Department to determine whether the existing rock  
8 wall or bank is lawful non-conforming or permitted.

9  
10 Mr. Robinson: And Director, what are the ramifications to the applicant in three years?

11  
12 Ms. McLean: In three years they either shall, they will either have worked with us to determine  
13 whether or not it's permitted or lawful, or, if they have not worked with us at all then they could  
14 be considered in violation of that condition.

15  
16 Mr. Robinson: Is, if the applicant's working with your as in, you know, giving information and  
17 doing that, and say we still don't have a determination yet because there is still things that we  
18 haven't have answers for, maybe DLNR, how would that affect the permit? Would they be  
19 allowed to get their renewal?

20  
21 Ms. McLean: Under the wording that I just read, yes, they would be able to. They would have  
22 satisfied the condition if they demonstrated that they have been working with us to make that  
23 determination.

24  
25 Mr. Robinson: Commissioners, do we have any questions for the Department at this time?  
26 Commissioner Pali.

27  
28 Ms. Pali: Can you read the wording one more time? And my question would be has the  
29 applicant agreed to that?

30  
31 Ms. McLean: I think this is agreeable to the applicant. They would have to say for themselves.  
32 But again, prior to renewal, the applicant shall work with the Planning Department to determine  
33 whether the existing rock wall or bank is lawful non-conforming or permitted. So we just have to  
34 work together for the next three years to come up with a final answer, and that's the extent of  
35 the condition.

36  
37 Ms. Pali: It was a question directed to you, Chair.

38  
39 Mr. Robinson: Yes. So, again, it's what I'd like to do is I'd like to go ahead and if we could have  
40 a motion to, to discuss this, this one condition because this is, this is something I think we all  
41 want to put our two cents into. Commissioner Carnicelli.

42  
43 Mr. Carnicelli; Well, Chair, I mean, it's your, your call. But I think maybe the way to address this  
44 is to have a motion. Maybe what we should do is have a motion to approve as recommended  
45 by staff. And then we can have an amendment with this particular thing that we're talking about  
46 so then that way we can, I'd say, have it official whether we want to amend it to include that or  
47 not. I think that might be a good way of handling it.

1  
2 Mr. Robinson: I'm open to that. Do we have a motion?

3  
4 Mr. Carnicelli: Sure. I would like to make the motion to approve the permit as recommended by  
5 staff with the condition stated earlier, the environmental, quote on quote, condition that that  
6 Director McLean had stated into the record. So motion with that particular amendment. But  
7 otherwise, as recommended by staff.

8  
9 Mr. Robinson: And, do we have a second?

10  
11 Kahu Hill: I'll second. I just want to be clear because the Director said two conditions.

12  
13 Mr. Robinson: Yes, and so actually is how we have it right now is we have, we have two  
14 conditions. One is that we're going to add the conditions that one unit be used at a time. It was,  
15 it was in the first part. We have to put that the conditions. The other condition was to make  
16 sure that we have the, the education, right, a part of that. And then, and then, and then the third  
17 condition which the Director just talked about. Is that something that you're wanting to, to table  
18 or --?

19  
20 Mr. Carnicelli: That one we'll exclude from the main motion. Unless you want to have an  
21 amendment to the main motion, and then we can discuss that separately.

22  
23 Mr. Robinson: Okay, thank you. Would you like to speak to the motion?

24  
25 Mr. Carnicelli: Sure, thank you Chair. You know, as we go through these things, one of the  
26 biggest things, especially on Halama Street because we've denied a couple on Halama Street,  
27 is neighbor outreach and understanding. These guys have gone over and above on neighbor  
28 outreach and understanding. The fact that somebody who wrote a protest letter actually  
29 changed their mind after going and visit -- not being coerced but actually physically going to the  
30 property and seeing it. I just think that they're doing it the right way and they meet all of the  
31 criteria with which, you know, is, is -- the criteria with which we have to follow. And so then  
32 therefore I will be supporting the motion. Thank you Chair.

33  
34 Mr. Robinson: Anybody else would like to have a discussion on the motion? Seeing none, we  
35 would like to --. So how do you want to propose this amendment now Mr. Carnicelli?

36  
37 Mr. Carnicelli: Well, if somebody would like to amend the main motion to include the language  
38 that was just brought up, then somebody can make a motion, or make an amendment to the  
39 main motion. So that's where we are now is if someone chooses to amend what's on the floor,  
40 then they can do that.

41  
42 Mr. Robinson: Okay, so as part of the recommendations, the, is the Department wants to  
43 recommend this as part of the conditions. So it's not a condition from the Commission, it's a  
44 condition from the Department.

45  
46 Mr. Carnicelli: No. It's not part of their original --

1  
2 Mr. Robinson: Well, well --

3  
4 Mr. Carnicelli: I'm just telling you what my motion was. My motion was to include the two  
5 original ones. And so if somebody wants to further amend it then they can.

6  
7 Mr. Robinson: Okay. Would anybody like to make a motion to have a discussion on the  
8 amendment? Okay, seeing none, Corporation Counsel, would you like to chime in?

9  
10 Mr. Galazin: Yeah, thank you Chair. So right now you've got, what's recommended by staff and  
11 stated into the record those two extra conditions. I want to make sure it's clear for everybody if  
12 you're not going to speak to the validity or the lawfulness of the rock wall, I believe it's  
13 something that the Planning Department is still going to look into. And if it is the case that the  
14 applicant is not in compliance with some applicable law that, that pertains to that specifically,  
15 then that would be a condition for non-renewal. So I would --. Regardless of whether you want  
16 to put that in there as a condition, it doesn't negate the fact that compliance with something like  
17 that is still a general requirement. Thank you.

18  
19 Mr. Robinson: Commissioner Pali.

20  
21 Ms. Pali: Clarification. Corporation Counsel, just, sorry, one more time. So if I'm stating back to  
22 you what I just understood, whether we put the condition in there or not, it's already sort of there  
23 with the language of complying with all State, Federal and local ordinances, laws, and so forth.

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

26  
27 Mr. Robinson: I don't think it is, and the reason why I don't think it is because, because the  
28 applicant doesn't have to do anything. It can be status quo. So it's been ambiguous for 30-  
29 years and it's going to continue to do that. So the only way somebody is going to find out is that  
30 somebody has to be pro-active. And with the, with the docket and being pro-active and with  
31 them having a permit it's going to be precedence setting to that. Well, they got a permit. We  
32 talked about not having clarification. We talked about not having any clear path so when there's  
33 the next door neighbor, somebody else has a crack on their wall, how can we say they need to  
34 get a permit when these people didn't have to? That's not going to be our jurisdiction. We  
35 hoped that the Planning Department which wanted to do today add it as a condition. But if they  
36 do add it as a condition on the next application which could be around any coast, is that an  
37 applicant being treated unfairly because prior, prior applicants didn't have to go. Because in  
38 fact, this Commission ruled that they shouldn't have to go through this. Because that's what  
39 we're actually ruling. Because it's already been stated that the, the Planning Director wants to  
40 add a condition to the report for the recommendation that they want us to approve and we're  
41 not, we're not even willing to even put it up for a vote. Commissioner Pali.

42  
43 Ms. Pali: So going back to my first clarification question Corp Counsel. I understood that  
44 whether these people were in front of us or not, whether they wanted to do the B&B and asked  
45 for the Special Use Permit, Planning still has things in place protecting the shoreline, managing  
46 it, and dealing with these things even if they weren't coming to the Commission. The question  
47 would be for you, Director, what do we have in place that manages the shoreline now? How



1 would we have found out that this particular property was an issue if they had not come and ask  
2 for the permit?

3  
4 Ms. McLean: There are a few ways that we could have found out. There could be a complaint  
5 filed. If there's a storm event and the walls --. I hesitate to call this wall because it's not a  
6 vertical wall. It's more of a bank. But the walls and banks in that area could have been  
7 damaged by storm events so we would have been called out to that. And just on our ongoing  
8 shoreline protection efforts, you know, we could have proactively looked at this area. So there's  
9 a number of ways this would have come to us.

10  
11 Ms. Pali: One more question Chair.

12  
13 Mr. Robinson: Commissioner.

14  
15 Ms. Pali: Do we have people that maybe once a month or every six months or once a year, do  
16 they actually go and walk the shorelines to just kind of do their own, like, like --? I own a  
17 property a Kihei Commercial, with my business and so I joined the board recently a couple  
18 years back. And I walk my perimeter of my property just to see what maintenance issues and  
19 things arise because I wouldn't know if I don't walk it monthly. Do we have something like that  
20 here where the DLNR whoever it is, are they walking the shorelines weekly, monthly, annually,  
21 to, to report sort of these kinds of things? Is that happening yet or --?

22  
23 Ms. McLean: Not the entire shoreline area. Our shoreline team is aware of several hot spots,  
24 and they regularly monitor those. But areas that aren't on our radar because they're not  
25 undergoing notable change, we do not regularly survey. I can't speak to DLNR, but I'm not  
26 aware that they do that. It's just a manpower limitation.

27  
28 Ms. Pali: And so Chair Keaka, one more question for you. So since the applicants have come  
29 here now requesting a permit, and now we see that there is something that potentially could be  
30 maybe not recorded, not lawful, not grandfathered in, what your position is that you think  
31 through this permit we can just kind of manage that portion. Is that --?

32  
33 Mr. Robinson: It's, it's -- I think we all agree that, I think, we like the applicant. I think we think  
34 the applicant is going to be good stewards of the bed and breakfast and, you know, the rules  
35 are. But I think this is not about the applicant. This is about the shoreline. This is about our  
36 Planning Commission. This is about our --. When things come to us and the Planning  
37 Commission, we can't, we can't put our blinders on and say we didn't see this, let's let it go  
38 because it should be okay because nobody else has to deal with it. When it comes in front of  
39 us, and when a Planning Director tells us this is something that needs to be addressed and  
40 we're not sure how to address it yet. We can either, one, defer this and get it done right, but  
41 that kind of lies the applicant, or two, we could try call what I did, call a time out, have the  
42 Planning Director and applicant talk, and try to get something that is amicable between the two  
43 of them to where as long as they're participating in trying to figure out the problem and, and it  
44 doesn't really put the onerous on them except to participate. It doesn't put any dollar amounts  
45 on them. It doesn't, doesn't say they have to follow these guidelines. It's just participate which  
46 is an easy work, right. I mean, can we have access to survey your land? Of course you can,  
47 you know. Do you have your paperwork? Of course you can have all the paperwork I have. I

1 don't have any, you know. But, what it does is it protects us, and it also holds a precedent as  
2 we go to other properties to where people might not be the same as these applicants to where  
3 we might have different infractions. But again in the law everybody has to have be good will  
4 and treated fairly. And that's all my concerns. I mean, if this doesn't pass and goes the way it  
5 is, then it's just going to be status quo which means we're not going to get anything resolved.  
6 And Maui's --. You know, like I said, we've all these questions on our shoreline, and to me,  
7 when I'm on the Planning Commission, it's SMA, it's shoreline, it's these are the one things that  
8 if we have this as an opportunity to start asking people when they're asking us for something  
9 that can you work with us on this, I think it's a good opportunity. And if we don't do that, then I  
10 think it's an opportunity wasted. But I'm not at all thinking that I want to be punitive to these  
11 applicants. And I don't think --. I think helping them solve the wall might actually help them in  
12 the long run in case they ever want to sell because, like, all you guys know, real estate, the  
13 more clear of everything, the easier it to sell. But that's not my decision, and that's why we have  
14 the Commission. Commissioner Pali.

15  
16 Ms. Pali: So since it's been brought to our attention is there a way we can still address it?  
17 Because we all need to -- I agree with you -- we need to address it, we cannot turn a blind eye.  
18 But does it necessary have to be attached to this particular thing? Would you now send a  
19 notice to the owners and say, hey, we know now that this exists in your property and would you  
20 still, is it in your jurisdiction to still now deal with it, but separately and in any form that you would  
21 normally do it, does it have to then be coupled into the permit? That's my final question, I  
22 promise.

23  
24 Mr. Robinson: That's fine. We've got plenty time today.

25  
26 Ms. McLean: It doesn't have to be a permit condition for us to continue to work with the  
27 applicant to get to the bottom of, whatever records may be available.

28  
29 Mr. Robinson: Okay. No, you know, and you know, and I'm not lawyer, I just, you know, is once  
30 you do a condition or allow a condition, you know, that just opens the door but maybe the next  
31 guy won't, you know, have the same problem. Seeing no other comments. You have a  
32 comment, Commissioner Carnicelli.

33  
34 Mr. Carnicelli: So Chair, since we have a motion on the floor, I'll speak to the motion second and  
35 final time.

36  
37 Mr. Robinson: I was going to call for a vote.

38  
39 Mr. Carnicelli: I get it. Okay, we get two turns to speak to the motion that's on the floor. So  
40 second and final time speaking to the motion which is on the floor is there's no one person on  
41 this Commission that is more concerned about shoreline or SMA than any other person. So we  
42 all understand what our job is here. We all understand what our duty is here. But yet there is  
43 always laws and rules with which we have to operate within. The motion or the amendment that  
44 was floated with which no one made regarding that was not generated and not a  
45 recommendation by the Director. It was something that was requested by you during the time  
46 out to go try to figure out language. So to say that was a recommendation from the Department  
47 with which we are not taking, I disagree with. Again, shoreline, seawalls, it's a serious issue.

1 We have to address them. We have to do things to address them. Will a bed and breakfast  
2 permit affect the shoreline is, you know, this rock wall, is what we're -- is the question before us.  
3 So, that is where the rubber meets the road. I'm still going to support the motion. And there's  
4 one other point that I had that I'm missing right now in my brain. And it didn't pop back in so  
5 that's all. Thank you Chair.

6  
7 Mr. Robinson: Okay. Alright, any more comments? And that's what I mean about this  
8 Commission, we can agree to disagree, and that's why we have more than just one person  
9 making the rules. Commissioner Kahu Hill.

10  
11 Kahu Hill: Mahalo Chair. I just wanted to put out there if there was a way to actually put it out to  
12 the owners or renters on Halama Street and those kupuna, those of those areas that would  
13 actually know about the wall and when it came in the 70's and what's happening, any records  
14 that they hold. Because I think together that small community of Halama Street may be able to  
15 unveil a lot of this that we may not find since there's not the record department to even be able  
16 to define those. Because that wall connects all of those houses. So I don't know how that  
17 would be done. But just a thought if there was a way to do that.

18  
19 Mr. Robinson: Well, I think we heard testimony today that said it's too expensive and didn't want  
20 to do it. So it wasn't that the information wasn't out there. That it would be expensive and  
21 cumbersome.

22  
23 Kahu Hill: Like a letter? Like a letter of, you know . . . (inaudible) . . .

24  
25 Mr. Robinson: I'm, I'm, I'm --. Is, is, it was just a --

26  
27 Mr. Carnicelli: Point of order Chair, we have a motion on the floor that we need to discuss.

28  
29 Mr. Robinson: Point of order, Commissioners are allowed to talk okay. You can be frustrated all  
30 you want to be Commissioner Carnicelli. I'll give all kinds of talk as long as you want to talk as  
31 well as the other Commissioners. As fine as that. I was going call for the vote, but you wanted  
32 to speak so it's kind -- we're all, we're all the same here. Okay. Seeing that there's no other  
33 comments, Director would you like to, to read the -- to approve the recommendations and call  
34 for the vote?

35  
36 Ms. McLean: Thank you Chair. The recommendation is to approve the B&B Permit subject to  
37 the 16 conditions that are in the staff report, plus the condition related to the natural and cultural  
38 resources education programs, and the addition or clarification that the permit will allow the use  
39 of only one dwelling at a time.

40  
41 Mr. Robinson: Okay. All those in favor please raise your right hand. That's six, motion has  
42 passed. Director, Item C.

43  
44 **It was moved by Mr. Carnicelli, seconded by Kahu Hill, then**

45  
46 **VOTED: To Approve the Bed and Breakfast Permit as Recommended by the**  
47 **Department with the 16 Conditions in the Staff Report with the**

1                   **Addition of the Condition Related to the Natural and Cultural**  
2                   **Resources Education Program and the Addition or Clarification that**  
3                   **the Permit Will Allow the Use of Only One Dwelling at a Time.**

4  
5                   **(Assenting – L. Carnicelli, A. Hill, K. Pali, L. Hudson, C. Tackett,**  
6                   **S. Castro)**

7                   **(Excused – P D. La Costa)**

8                   **(Absent - T. Gomes)**  
9

10  
11   **C.   ADOPTION OF WRITTEN DECISION AND ORDERS**  
12

- 13           1.   **Proposed Findings of Fact, Conclusions of Law and Decision and Order**  
14           **denying the request for a Bed and Breakfast Home Permit by Tien Doan to**  
15           **operate Maui Paradise, a three bedroom Bed and Breakfast located on**  
16           **approximately 10,630 sq. ft. of land in the R-2 Residential District at 372**  
17           **Front Street, TMK 4-6-005:006, Lahaina, Island of Maui, (BBWM T2016/0002)**  
18           **(T. Furukawa) (Action on application taken at the July 10, 2018 meeting)**  
19

20                   **The subject application was heard by the Maui Planning Commission**  
21                   **because there were at least one permitted Bed and Breakfast operations**  
22                   **located within 500 ft. of the subject property.**

23                   **The Commission may take action to adopt, adopt with modifications, or**  
24                   **take some other action regarding the proposed Findings of Fact,**  
25                   **Conclusions of Law and Decision and Order.**  
26

27  
28   Ms. McLean: Thank you Chair. Next the Commission has two written Decisions and Orders to  
29   adopt or to consider for adoption. First, are proposed Findings of Fact, Conclusions of Law and  
30   Decision and Order denying the request for a bed and breakfast home permit by Tien Doan to  
31   operate Maui Paradise, a three-bedroom bed and breakfast located on approximately 10,630  
32   square feet of land in the R-2 Residential District at 372 Front Street, at TMK: 4-6-5 parcel 6 in  
33   Lahaina. You have in your packet the proposed Decision and Order. If the Commission  
34   decides to adopt this today we can circulate it for signature. And I don't know if Deputy  
35   Corporation Counsel has any comments on this. No?  
36

37   Mr. Robinson: Commissioners, do we have any comments regarding the adoption of, of Item C-  
38   1? Do we need a vote?  
39

40   Ms. McLean: Yeah.

41  
42   Mr. Robinson: Okay. All those in favor of adopting C-1. Oh, sorry, I apologize. Would anyone  
43   like to give a motion to adopt C-1?  
44

45   Mr. Hudson: So move.

1  
2 Mr. Robinson: Commissioner Hudson has moved. Second by Commissioner Pali. Any  
3 discussion on the motion? Seeing none. Director?

4  
5 Ms. McLean: The motion is to adopt the Findings of Fact, Conclusions of Law, and Decision and  
6 Order denying this bed and breakfast home permit.

7  
8 Mr. Robinson: All those in agreement please raise your right hand. That's six. Director, C-2.

9  
10 **It was moved by Mr. Hudson, seconded by Ms. Pali, then**

11  
12 **VOTED: To Adopt the Findings of Fact, Conclusions of Law and Decision and**  
13 **Order Denying the Bed and Breakfast Home Permit.**

14  
15 **(Assenting – L. Hudson, K. Pali, L. Carnicelli, A. Hill, C. Tackett,**  
16 **S. Castro)**

17 **(Excused – P D. La Costa)**

18 **(Absent -- T. Gomes)**  
19  
20

21 **2. Proposed Findings of Fact, Conclusions of Law and Decision and Order**  
22 **denying the request for a Short Term Rental Home Permit by Mr. Byron**  
23 **Knight, in order to operate Kubu Santi, a one-bedroom short-term rental**  
24 **home located in the R-3 Residential District at 24 Emi Place, TMK 2-6-**  
25 **004:020, Paia, Island of Maui, (STPH T2017/0006) (J. Burkett) (Action on**  
26 **application taken at the May 22, 2018 meeting)**

27  
28 **The subject application was heard by the Maui Planning Commission**  
29 **because there were at least two permitted short-term rental home**  
30 **operations located within 500 ft. of the subject property.**

31  
32 **The Commission may take action to adopt, adopt with modifications, or**  
33 **take some other action regarding the proposed Findings of Fact,**  
34 **Conclusions of Law and Decision and Order**  
35

36 Ms. McLean: Thank you Chair. Similarly you have before you proposed Findings of Fact,  
37 Conclusions of Law, and Decision and Order denying the request for a short-term rental home  
38 permit by Mr. Byron Knight in order to operate Kubo Santi, a one-bedroom short-term rental  
39 home located in the R-3 Residential District at 24 Emi Place, at TMK: 2-6-4 parcel 20 in Paia.

40  
41 Mr. Robinson: Any discussion on the, on C-2, or a motion?

42  
43 Mr. Carnicelli: Move to adopt.

44  
45 Mr. Robinson: We have a move for adoption. Do we have a second?

46  
47 Kahu Hill: Second.

1  
2 Mr. Robinson: Second by Kahu Hill. Anybody would like to speak to the motion or anybody  
3 discussion on the motion? Seeing none. Director?

4  
5 Ms. McLean: Chair, the motion on floor is to adopt the Findings of Fact, Conclusions of Law,  
6 and Decision and Order denying this STRH Permit.

7  
8 Mr. Robinson: All those in favor please raise your right hand. That is six. Director, Item D.

9  
10 **It was moved by Mr. Carnicelli, seconded by Kahu Hill, then**

11  
12 **VOTED: To Adopt the Findings of Fact, Conclusions of Law and Decision and**  
13 **Order Denying the Short-Term Rental Home Permit.**

14  
15 **(Assenting – L. Carnicelli, A. Hill, K. Pali, L. Hudson, C. Tackett,**  
16 **S. Castro)**  
17 **(Excused – P D. La Costa)**  
18 **(Absent -- T. Gomes)**

19  
20  
21 **D. DIRECTOR’S REPORT**

22  
23 **1. SMA Minor Permit Report**

24  
25 **This is for notification and review purposes. No action is anticipated.**

26  
27 **2. SMA Exemptions Report**

28  
29 **This is for notification and review purposes. No action is anticipated.**

30  
31 Ms. McLean: Thank you Chair. And again I ask Commissioners not to leave until they’ve signed  
32 these documents. Next is the Director’s Report. Attached to the agenda is the SMA Minor  
33 Permit report and the SMA Exemption reports. Are there any questions?

34  
35 Mr. Robinson: Any questions Commissioners? Seeing none.

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

39  
40 **a. March 12, 2019 agenda items**

41  
42 Ms. McLean: Okay, then lastly you have before you a memorandum from Ann Cua for the  
43 March 12<sup>th</sup> regular meeting agenda. It’s a very light agenda. If the Commission wishes we can  
44 used the balance of the time to continue with the proposed SMA Shoreline Rules or if the  
45 Commission prefers we could cancel the March 12<sup>th</sup> meeting.

46

1 Mr. Hudson: Personally I think we combine and proceed with the shoreline at that time. We  
2 have a very small agenda so, yeah, use the time wisely.

3  
4 Ms. McLean: Okay.

5  
6 Mr. Robinson: Commission, we will proceed unless we have emails of people not able to come  
7 and not having quorum. Until then we will continue on with March 12<sup>th</sup> Planning Commission.  
8 Commissioner Pali.

9  
10 Ms. Pali: I don't know the protocol so excuse my ignorance. But since we have a light agenda, I  
11 made some notes in some other meetings and I would like to address them at that time too. Is  
12 that how we get things on our agenda? Chair Robinson at one time talked about when people  
13 apply for permits, B&B, vacation rentals, and then people in the 500-foot radius gets these  
14 letters. Can we, if it's okay with you, revisit that process? Because I think you may have  
15 mentioned that until you got yours, you know, it was difficult to get, you kind of got it last minute,  
16 and you may have had limited access as a receiver, and I would just like to work more on that  
17 complaint and maybe see how we can make it more transparent since you personally  
18 experienced it and it may not have been -- it could have been better. We could have done a  
19 better job. And so I made a note that I would like to tackle that in my possible short term here.

20  
21 Mr. Robinson: Would you like to make a motion to put it on the agenda?

22  
23 Ms. Pali: Is that how we do it? Okay.

24  
25 Mr. Robinson: Yeah.

26  
27 Ms. Pali: I would like to make a motion to revisit the process of people within a 500 -- what is it --  
28 feet, radius?

29  
30 Mr. Robinson: Notice. I think we're talking about the notice that people receive and how it's --

31  
32 Ms. Pali: Yes. Just revisit it to see how we can improve it so that way people aren't with 24-  
33 hours, like, trying to get to here to testify. Make it more transparent and easier to do.

34  
35 Mr. Robinson: Do we have a second to add that to the agenda.

36  
37 Mr. Castro: Second.

38  
39  
40 **E. NEXT REGULAR MEETING DATE: MARCH 12, 2019**

41  
42 **F. ADJOURNMENT**

43  
44 Mr. Robinson: Second by Castro. Okay. Is that all I need. Don't need to vote on that, right. As  
45 long as we have a second, we're good right? Okay, thank you. Anyone else, on that light day,  
46 is there anything we would like to bring up while we have an open agenda? Seeing none,  
47 aloha.

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The meeting was adjourned at 11:09 a.m.

Respectfully Submitted by,

LEILANI A. RAMORAN-QUEMADO  
Secretary to Boards and Commissions II

**RECORD OF ATTENDANCE**

**Present**

Lawrence Carnicelli  
Stephen Castro  
Kahu Alalani Hill  
Larry Hudson, Vice-Chair  
Kellie Pali  
Keaka Robinson, Chair  
Christian Tackett

**Excused**

P Denise La Costa

**Absent**

Tina Gomes

**Others**

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