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**MAUI PLANNING COMMISSION
REGULAR MINUTES
MARCH 25, 2019**

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A. CALL TO ORDER

The regular meeting of the Maui Planning Commission was called to order by Acting Chairperson Larry Hudson at approximately 9:05 a.m., Monday, March 25, 2019, Planning Conference Room, First Floor, Kalana Pakui Building, 250 South High Street, Wailuku, Maui.

Mr. Larry Hudson: Good morning everybody. This is the Maui County Planning Commission meeting for March 25th in the year of our Lord 2019. I'm Acting Chair Larry Hudson. Establish quorum. Commissioner Carnicelli.

Mr. Lawrence Carnicelli: Good morning Chair.

Mr. Hudson: Commissioner La Costa.

Ms. P. Denise La Costa: Aloha Chair.

Mr. Hudson: Commissioner Castro.

Mr. Stephen Castro: Good morning Chair.

Mr. Hudson: And Commissioner Gomes.

Ms. Tina Gomes: Good morning.

Mr. Hudson: We have the Director.

Ms. Michele McLean: Aloha Chair.

Mr. Hudson: And Corporation Counsel.

Mr. David Galazin: Good morning.

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B. PUBLIC HEARING

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1. **MR. ROBERT JUDD requesting a Short Term Rental Home Permit in order to operate Hauoli Keiki Seaside Villa, a four bedroom STRH located on .2127 acres of land in the County R-2 Residential District at 25 Kai Pali Place, Lahaina, Island of Maui, TMK (2) 4-5-003: 037. (STWM T2017/0032) (R. Quigless)**

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There are already two existing permitted STRHs within 500 feet of the proposed STRH property.

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Mr. Hudson: Okay, having established quorum. Director?

1 Ms. McLean: Thank you Chair. There's one public hearing item on the agenda today, and this
2 is a request from Mr. Robert Judd for a short-term rental home permit in order to operate Hauoli
3 Keiki Seaside Villa, a four-bedroom STRH, located on 0.2127 acres of land in the County R-2
4 Residential District at 25 Kai Pali Place in Lahaina. And this is coming to you because there are
5 already two existing permitted STRH's within 500-feet of the proposed property. Ryan Quigless
6 is the project planner.

7
8 Mr. Hudson: Thank you. Before we get started Ryan, as a friendly reminder if you have cell
9 phones, please put them in silence. Ryan.

10
11 Mr. Ryan Quigless: Aloha. Good morning Commissioners, Chair, Counsel. My name is Ryan
12 Quigless with the Maui Planning Department, and we meet here this morning as stated by the
13 Director to discuss the request for a short-term rental home permit from property owner Robert
14 Judd to operate a four-bedroom short-term rental home in the County R-2 Residential Zoning
15 District and State Urban District on approximately 0.2127 acres of land located at Maui tax map
16 key 2-4-5-003-037. Address is 25 Kai Pali Place, Lahaina, Island of Maui, Hawaii. At this time
17 I'm going to pass the microphone to the consultant, Debbie Mitchell, to further discuss the
18 details of the property and application.

19
20 Ms. Debbie Mitchell: Good morning Commissioners. Could we have someone dim the lights
21 please? Thanks Ryan. My name is Debbie Mitchell and I am here today representing
22 Mr. Robert Judd in his application for a short-term rental home at 25 Kai Pali Place in Lahaina.

23
24 The location of the application is directly at Keiki Beach in Lahaina. And as you can see the
25 surrounding area there are the Front Street Apartments, the new Kahoma Village development
26 is in the vicinity as well as other commercial enterprises.

27
28 Here's the overhead pictorial view. It basically -- there's a path to the -- it's a public access to
29 the beach and that is located just directly south of the property. Moving right in you can see the
30 location of the blue roof is the house under submission. And the public beach access just runs
31 directly to the south of it. This is Kai Pali Place. This is the street that the house is located on.
32 It ends in a cul-de-sac, and you can see from the red arrow where the property is located.

33
34 Just to take you a little bit through the house itself, there is more than adequate parking per the
35 requirement of the ordinance. There are four-bedrooms total, and we do have four parking
36 places; two in the garage and two outside. So we have more adequate parking. So no off-
37 street parking will occur.

38
39 The exterior of the house. And the views from all four sides of the house. You can see to the
40 west is the Baby Beach itself.

41
42 The floor plan of the main residence. It's set up, it's one structure, but it has a main residence
43 below and accessory dwelling up above. They both have separate entrances. But it will only be
44 rented to one party. This is the second floor building plan. Inside the house, the entry way. The
45 kitchen in the main house, and the accessory. Living rooms, likewise. Dining areas. There are
46 four-bedrooms; two in the main house and two in the accessory dwelling. And three baths; two
47 in the main, and one in the accessory. Some additional features are laundry room and pool.

1
2 On the administrative side, all four, all of the neighbors were notified at least twice about this
3 application. The first was the notification of application and then the second was the notification
4 of this public hearing. Two support letters were received from neighbors within the 500-foot
5 radius. One is two lots to the north, and the other is from an adjacent neighbor to the south.
6 Those were handed out to you in your packets this morning. Three protest letters were received
7 from neighbors within the 500-foot radius. One was just basically protesting because his
8 application was denied and he didn't feel that anyone should have theirs. The other is a
9 protestor in the Kanoa Beach Estates which is a large condominium complex to the north. And
10 he does not live there, he lives in Washington state. And the third actually protested traffic, but
11 actually does not live in Kai Pali Place itself. He lives on Puunoa which is to the north.

12
13 There are six other permitted homes within 500-feet and two bed and breakfast homes are
14 additionally located on Front Street to the east of the home. And as I mentioned, the home is
15 located just next to the public beach access path. So here's a little bit better eye view of what's
16 happening. The dark-purple -- it's a little difficult to see -- are the protests, and then the blue are
17 the B&B's and the short-term rentals. And the green dots represents the support letters that you
18 see in your packet. Here's an aerial view again where you can see the one gentleman what did
19 protest because he was denied also has a bed and breakfast permitted that is active and it's just
20 next door to him, so that explains that a little more. We have actually several neighbors that are
21 here today to testify as well so they would like to be allowed to do that. The applicant has
22 complied with all of the regulations and at this point, we ask that you consider our application
23 and hope for your approval. We do have Mr. Craig Gay who is the Gay Family Trust who owns
24 the property. And although Mr. Judd is the trustee, he is a member of the family that owns the
25 property, and he's here to say a few words to you and we do have some public testifiers as well.
26 Thank you so much.

27
28 Mr. Craig Gay: Hi. My name is Craig Gay. I am a member of the Gay family. I am a teacher.
29 And you would think that after teaching for almost 30 years I wouldn't be nervous doing
30 something like this, but I really am, and it's amazing. But thank you so much for considering our
31 application. You can see from the pictures just how simple and comfortable and how perfectly
32 situated this house is for vacationing families on Baby Beach, especially families with small kids.
33 And for almost 40-years now when they weren't using the house, my parents who built the
34 house made it possible for families from staff members of their church in California to use the
35 house for extended periods of time. And since my parents died just not quite two years ago
36 we've been trying to do the same and so we've had a whole series of staff members from the
37 college where I teach using the property and enjoying it. And we would very much like to
38 continue being able to make the property available for families to use. That's one of our, one of
39 our hopes. And of course the property has been a huge gift to us and to our family over the last
40 40-years. It's my parent's legacy, one that they wanted to leave to us and to our children, and
41 hence the Gay Family Trust. And we would very much like to keep it in our family for as long as
42 we possibly can. And for these reasons we respectfully request that you approve our
43 application. Thank you very much.

44
45 Mr. Hudson: Thank you Mr. Gay. Ryan, does that concludes your presentation?

46
47 Mr. Quigless: Yes.

1
2 Mr. Hudson: Thank you Ryan. We're going to open the floor up for public testimony. Before we
3 get started we'll go over a couple of rules about public testimony. First rule is three minutes.
4 It's not four minutes, it is three minutes. The second rule is be truthful. I will ask you if you're
5 going to be truthful. The next one is be relevant. Speak to the issue, speak to the agenda item
6 and be relevant. And while opinions are important, the job of the people giving testimony is to
7 make us make the best decision possible. So when you come up here and you don't like
8 something explain why don't like it. Or if you do like something explain why you do like it. It's
9 not just your opinion, but back it up with something. Okay, and then after you get done
10 speaking, the applicant will have an opportunity for cross examination. . . . (inaudible) . . . close
11 enough. Alright, nobody signed up for this. Does anybody in the audience wish to speak? Step
12 up to the mic please and identify yourself. Step up to the mic please and identify yourself.

13
14 Mr. Justin Brunold: I'm Justin Brunold. I'm representing for 35 Kai Pali Place.

15
16 Mr. Hudson: Justin, do promise to tell the truth?

17
18 Mr. Brunold: Yes.

19
20 Mr. Hudson: Thank you. Please proceed. You have three minutes.

21
22 Mr. Brunold: It's just that I'm here in support. I'm actually the manager of a house two doors
23 down, and I just see all the positives of actually having a working house like that with the
24 amount of employees that kind of come and go. It really does help support, you know, people
25 that do work in the community. So I'm just here to be in support of the Gay residence. I'll kind
26 of keep it simple. Thank you.

27
28 Mr. Hudson: Commissioners, you guys have any questions? Okay none, thank you.

29
30 Mr. Brunold: Thank you.

31
32 Ms. Gomes: I'm sorry Chair, I did have a question.

33
34 Mr. Hudson: Justin, could you please return.

35
36 Ms. Gomes: Justin, I'm sorry. Are you family?

37
38 Mr. Brunold: I am not family.

39
40 Ms. Gomes: You're not family. You are two neighbors?

41
42 Mr. Brunold: I'm not even --. I manage the house two doors down.

43
44 Ms. Gomes: Oh, you're a property manager?

45
46 Mr. Brunold: Correct.

1
2 Ms. Gomes: For two houses down?
3
4 Mr. Brunold: Correct.
5
6 Ms. Gomes: Okay, so you're able to observe --
7
8 Mr. Brunold: Yes.
9
10 Ms. Gomes: -- the --
11
12 Mr. Brunold: We're in and out of that neighborhood weekly.
13
14 Ms. Gomes: I see. So you're in support.
15
16 Mr. Brunold: Absolutely.
17
18 Ms. Gomes: Okay, thank you. And I'm sorry, your last name?
19
20 Mr. Brunold: Brunold.
21
22 Ms. Gomes: Brunold.
23
24 Mr. Brunold: Yes.
25
26 Ms. Gomes: Thank you. Thank you Chair.
27
28 Mr. Hudson: Anybody else wishing to testify?
29
30 Mr. Bill Countryman: Aloha. I'm Bill Countryman. I'm a resident of Kai Pali Place. 20 Kai Pali
31 Place. We built our home on Baby Beach on 20 Kai Pali Place about 30 years ago, and it looks
32 like we're the last real family on Baby Beach and we are supporting our neighbors. The Gay
33 family has been a wonderful family over the years. They've supported the local churches here
34 and in California as well, Kumulani Chapel here on Maui. So we're in support of it. We're
35 directly across the street from it. We're impacted by it, but we've been impacted by all of the
36 other short-term rentals that are on the cul-de-sac now as well, but we are in favor of it.
37
38 Mr. Hudson: Could you please repeat your name?
39
40 Mr. Countryman: Bill Countryman. C, O, U, N, T, R, Y, M, A, N. We've been a resident over 30
41 years. I'm the general manager of the Marriott's Maui Ocean Club Kaanapali.
42
43 Mr. Hudson: A little bit late, but do you promise to tell the truth?
44
45 Mr. Countryman: I always do.
46
47 Mr. Hudson: Okay, thank you.

1
2 Mr. Carnicelli: Just for clarification. Bill, since you live there, you know, the concern and I get
3 that the people that live on Kai Pali Place from the support letters don't have the same concern.
4 But as someone that uses this beach, yourself and me and my two-year old and my family, what
5 do feel the impact of having vacation rentals on Kai Pali Place is to the local beachgoer on Baby
6 Beach?

7
8 Mr. Countryman: Like I said we've been a resident for over 30 years, the biggest impact on
9 Baby Beach is Google maps. They put Baby Beach on the map and ever since then the beach
10 has been somewhat overcrowded. Another house on the street is not going to impact what
11 Google has done to our private local beach that we've had and enjoyed for many, many years.
12 We actually go down to the Mala side. There's virtually no -- everyone looking for the beach
13 path stays right by the beach side and we go down to the Mala side. Google maps, some of the
14 visitors' channels, some of the Snorkel Bob's have had much bigger impacts on the usage of
15 the beach, and there will be more impacts from the development across the street. So one more
16 house I don't think is going to -- it's negligible.

17
18 Mr. Hudson: Denise.

19
20 Ms. La Costa: No sir.

21
22 Mr. Hudson: Stephen?

23
24 Mr. Castro: No questions.

25
26 Mr. Hudson: Tina.

27
28 Ms. Gomes: I'm good, Chair. Thank you.

29
30 Mr. Hudson: Thank you very much.

31
32 Mr. Countryman: You're welcome.

33
34 Mr. Hudson: Please state your name.

35
36 Mr. Tom Croly: Aloha Chair, I'm Tom Croly, speaking on my behalf.

37
38 Mr. Hudson: Mr. Croly, do you promise to tell the truth?

39
40 Mr. Croly: I do.

41
42 Mr. Hudson: Thank you.

43
44 Mr. Croly: I first want to introduce why I am I speaking on this matter. I don't have anything to
45 do with this applicant at all. However I'm involved in this process, okay. I've been involved in
46 this process from the very beginning. And my involvement in this process primarily is to help
47 educate people on what do they have to do to comply with the laws of the Maui County. A lot of

1 the folks call me and they say, I want to get a permit, can I get a permit? And I would say about
2 50 percent of the time I have to say to the person, no, you don't qualify. Your property is not
3 going to meet the code, you haven't own the property long enough, whatever the situation is. At
4 least half of time people can't make it through just qualifying and can I do it. And then I explain
5 the process and just how vigorous that process is in terms of what it will take to get through it
6 and some people don't even want to go that far. And then there's that percentage that say, hey,
7 I want to go forward, and some of those folks will have someone like me help me through the
8 process and some people will do it on their own and so forth. And then they send out their
9 notice to their neighbors, and then the neighbors may, you know, complain or not. And then
10 eventually they may make it their way to you guys. By the time they make their way to you guys
11 I want to make clear that we're probably down to about 20 percent of the people who initially
12 wanted to do this that didn't, at some point, drop out of the process by the time they get here.
13 So I hope that the Commission understands that it's a long road before someone makes their
14 way before this Commission, and they have to meet a lot of standards before that has occurred.
15

16 In this case, the applicant is before you because there are several other short-term rentals on
17 this street, and I was actually involved in two of the permits for people on this street, helping
18 them get through, through the process. And the question might come up, are there already too
19 many on this street? I suppose that would be the biggest question in your mind at this point.
20 And I want to take this back to when the ordinance and bed and breakfast ordinance was
21 originated, and that was there was an expectation that there would be areas on the island where
22 these things would congregate. The center of Paia is one of those areas that they would
23 congregate. This particular street was noted specifically when they were coming up with
24 ordinance as there's already all these off island ownership of these homes in this, in an area like
25 this. So the fact that these folks have now come forward and said, hey, I want to get a permit I
26 think is a good thing. And unless there was a whole post of people from the neighborhood
27 saying these other folks that have short-term rentals are causing an impact on me, I can't see a
28 reason for the Commission to say no.
29

30 Mr. Hudson: Please conclude.

31
32 Mr. Croly: And that does conclude my remarks. Thank you Chair.

33
34 Mr. Hudson: Thank you. Mr. Carnicelli? Tina?

35
36 Ms. Gomes: No.

37
38 Mr. Hudson: Thank you. Anybody else wishing to testify? Seeing none, public testimony is
39 closed. Ryan?

40
41 Mr. Quigless: I would like to note one update to the reports that you all have. It's exhibit five is
42 showing four existing short-term rentals, and it's now currently five.

43
44 Mr. Hudson: I see six. But this one is more accurate then right? And the handout today is
45 accurate.

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47 Mr. Carnicelli: Yeah.

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Mr. Hudson: Okay.

Mr. Carnicelli: The one in the staff report is not.

Mr. Hudson: Wait, I see six, though.

Mr. Quigless: Are you including the subject property?

Mr. Hudson: No I'm not.

Mr. Quigless: No.

Mr. Galazin: Ryan, what the Commissioners are looking at is the applicant's presentation.

Mr. Quigless: That might be the current, the most current then.

Mr. Galazin: Correct. And then, and so if, I don't know if you want the applicant's representative to speak to that. Also, the other thing I would note is the representative mentioned letters of protest which weren't included in your report, but I need to know if we have copies of those for the Commission to view.

Mr. Quigless: I'll allow her to answer that. Also, there's a 45-day window when the notice of application goes out, and then also when the notice of public hearing goes out, so there could have been protest letters and support letters that came in beyond that 45-day window.

Ms. Mitchell: This is Debbie Mitchell. Yes, we received at, gosh, last week, last Thursday, we received three letters of protests that we had not been given the entire history. In fact, for a long time I kept checking to see if there were protests and there were none. It looks like one came in on -- it was dated the 26th of February and then two in March. As I've described before, they are Mr. Walkus who owns a B&B on Front Street which is indicated on my diagram, and he was solely protesting because he had applied for a short-term rental on his home next door, and had been denied. And that was his sole reason for protesting.

The second one was Mr. Cook. He owns two units in the Puunoa Beach Estates which is just directly to the north which is a large condominium complex. And he protested. He had protested the usual, the increase traffic and the number of short-term rentals in the area. He lives in Hoodspout, Washington. And then the third one was Mrs. Constance Sutherland who protested again noise and traffic which are usually the items mentioned, and she actually live on Puunoa. There's no access from Kai Pali to the street that she lives on. So someone would actually have to cross other people's property to reach her home. She doesn't have any access to that area. We did in the limited time that we had, we did send out letters of explanation telling them -- explaining the house rules, the quiet hours, that there's no off-street parking. But it's very likely that they did not have a chance, since we received them late, it's likely that they did not have a chance to reach the, reach the protestors.

Mr. Hudson: Okay, I'm going to open up for questions now. Mr. Carnicelli?

1
2 Mr. Carnicelli: No questions sir.

3
4 Mr. Hudson: Denise?

5
6 Ms. La Costa: Thank you Chair. I'd like to direct this please to Mr. Gay. Good morning.

7
8 Mr. Gay: Good morning.

9
10 Ms. La Costa: I have two questions for you. First of all you said you had allowed people to use
11 the residence. Were you charging rent when they were there?

12
13 Mr. Gay: No.

14
15 Ms. La Costa: Okay. My second question is why are you not the applicant? Why is Mr. Judd
16 the applicant?

17
18 Mr. Gay: Well the Gay Family Trust which is set up for the benefit of the Gay Family, I was
19 initially the trustee for that. In fact, for many years, I was the trustee, the sole trustee of the Gay
20 Family Trust until about four or five years ago when we were advised by --. Well, a couple of
21 things came up and it turns out the way this trust was set up you needed to be a U.S. citizen
22 living in the United States to be the trustee for it. And I'm a U.S. citizen, but I live in Canada, so
23 I could no longer function as trustee, so I asked my best friend, Rob Judd, if he would be willing
24 to do this for us, for our family and he agreed. And so that's the story there. Rob is a close
25 friend. We communicate daily, and he's doing this basically as a favor to us and our family.

26
27 Ms. La Costa: So he's the current trustee of Gay Family.

28
29 Mr. Gay: He is trustee of the Gay Family Trust.

30
31 Ms. La Costa: So he would be responsible if there were anything to go on with the home?

32
33 Mr. Gay: Correct.

34
35 Ms. La Costa: Thank you.

36
37 Mr. Hudson: Any follow up questions? Mr. Castro?

38
39 Mr. Castro: No questions.

40
41 Mr. Hudson: Ms. Gomes?

42
43 Ms. Gomes: So, yes, I do, thank you. So Mr. Gay, so just to try to understand this. So
44 Mr. Judd is not family. He is -- is he part of the --? But he's not part of the trust or he is part of
45 the trust? Just, just to try and understand this.

46
47 Mr. Gay: The trust is --

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Ms. Gomes: Because trusts are very important docs.

Mr. Gay: Right, it's a legal entity. And a trust in this case has one trustee, and Rob is the trustee for the trust. Now it's true Rob is not family although we've known each other since we were three years old. He's close to family as you'd get, but yeah he's not a direct member of my family. He's doing this as a favor to us and it's solely because of the fact that I live in Vancouver, in British Columbia and can't continue to serve as the trustee.

Ms. Gomes: I don't know if this would be appropriate, but is there any monetary compensation in regards to this? I'm curious to this because --

Mr. Gay: Well --

Ms. Gomes: This is a trust.

Mr. Gay: When my parents died and the trust was triggered, the house was included in this trust as well as the remaining assets that they still possessed.

Ms. Gomes: And this is an asset.

Mr. Gay: Those had to be -- the liquid assets had to be distributed to various charities primarily, and then also to my kids. And for that, yeah, there was a formula for determining for some compensation for the trustee. Now we haven't, we haven't really decided that going forward if that will continue to be the case or not. I serve as the executor of a, of a trust for friends in Canada. It's the same thing, it's kind of a formula. And you are compensated for the work you do because it's a fair amount of work.

Ms. Gomes: Right.

Mr. Gay: So, yeah.

Ms. Gomes: Right.

Mr. Hudson: Okay, so I have a question for the Director. There was a considerable amount of work put into getting the verbiage just right for the clause in the conditions regarding training for people who are going to be accessing our oceans. Could you please speak to that?

Ms. McLean: Thank you Chair. At the last meeting as you know, the Commission voted to add as a standard condition to STRH permits a condition about having to provide education to guests on Maui nui's culture and history and particularly being friendly to the ocean environment. That action was taken after this staff report was prepared and signed. So the timing that we have for our internal reviews and staff reports, also before the protest letters came as Ryan mentioned. So that package is put together, and so this was prepared before the Commission took that action and so that's why it's not included in the recommendation. But certainly if the Commission were to approve this today you could add that condition.

1 Mr. Hudson: Ryan, would you like to speak with the applicant because we would like this
2 condition added?

3
4 Mr. Quigless: The applicant is okay with that condition.

5
6 Mr. Hudson: Thank you. Mr. Carnicelli.

7
8 Mr. Carnicelli: Thank you Chair. So my question is for Mr. Galazin. Just as clarification if I
9 understand the Code correctly, the trustee of a trust that owns a property is allowed to be the
10 applicant and hold the permit for an STRH? Is that a correction assumption Chair?

11
12 Mr. Hudson: Go ahead Corp Counsel.

13
14 Mr. Galazin: Thank you. Yes, Mr. Carnicelli, that is correct. The trustee of family trust can be
15 the applicant. Provided if there are multiple trustees then there are more factors you need to
16 consider. But as the applicant represented there is one trustee so.

17
18 Mr. Carnicelli: Okay, so then just to follow up with that is Mr. Gay had indicated that it is possible
19 that his best friend no longer becomes the trustee. Like if they changed trustees, this
20 application that we're potentially going to approve today is not transferrable to the new trustee.
21 Is that correct?

22
23 Mr. Galazin: Thank you Chair. That would be correct in so far as an application is generally
24 supposed to be in the name of a natural person. However because the owner of the property is
25 a family trust, I think it would behoove the Department to approve any kind of transfer of an
26 application in that circumstance, if that situation were to arise. But that would be something the
27 Department would deal with down the road. But it would not be transferrable automatically with
28 whoever the trustee is. It's within the name of that specific person. So if that person is no
29 longer the trustee, then they would need to transfer that -- request to transfer that permit to
30 another person.

31
32 Mr. Carnicelli: Thank you.

33
34 Mr. Hudson: Denise? Stephen?

35
36 Ms. La Costa: Good.

37
38 Ms. Gomes: So, yes, just to piggy back on Commissioner Carnicelli. They would in the event if
39 that was to occur apply for a request to transfer the name of the, I guess, trustee. So Mr. Judd -
40 - Gay, I apologize, you understand that? Yes? Should your best friend --? That's what I'm
41 trying to understand. That is correct...that it just doesn't automatically.

42
43 Ms. McLean: That's correct that it doesn't automatically transfer. As Corporation Counsel said
44 the permit is in the name of a natural person and so you folks decided who that person would be
45 on the application. But I would have to check the Code to see what the transfer process is. It
46 may have to come back to the Commission in the event that you wanted to transfer.

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Mr. Gay: Okay. Yeah, understood.

Mr. Hudson: Mr. Carnicelli.

Mr. Carnicelli: No questions.

Mr. Hudson: Stephen.

Mr. Castro: Chair, yes, maybe the, to the applicant. I'm just a little confused right now. Mr. Judd is your trustee, and what I'm reading here is designating him as the property is owned by Robert L. Judd.

Mr. Gay: That is not strictly speaking true. The property is held by the Gay Family Trust for which Rob Judd serves as the trustee.

Mr. Castro: So perhaps maybe there needs to be a correction on here, the document, Chair?

Mr. Hudson: Go ahead please.

Mr. Galazin: Thank you Chair. Commissioner Castro, the way in which, you know, trust in State law works generally speaking is a person will hold a title to a property as a trustee. They would hold it as in fiduciary capacity for the benefit of somebody else. I don't think we need to change the staff report or anything in that sense to say that the owner is this person as trustee of the trust. I think that's, that's well understood, and that although it is a trust that owns the property, the application, the applicant has to be a natural person. And in that sense the, in that situation the code requires that it be one of the trustees, in this case, the sole trustee. So wouldn't worry about any of the wording and the way the report is written.

Mr. Castro: Okay, thank you for the explanation.

Mr. Hudson: Ms. Gomes.

Ms. Gomes: Thank you Chair.

Mr. Hudson: Okay, seeing no further discussion. Ryan. Let's take a two minute recess.

(The Maui Planning Commission recessed at 9:41 a.m. and reconvened at 9:44 a.m.)

Mr. Hudson: We going to take a recess from the public hearing items, and we're going to skip agenda, unless there's any protests from the Commissioners, I'm going directly to the Director's Report and we'll come back to the other items on the agenda.

Mr. Carnicelli: No objections.

Ms. La Costa: No objections.

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2 Mr. Castro: No objection.
3
4 Ms. Gomes: No objections.
5
6 Mr. Hudson: Alright. Director?
7

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9 **E. DIRECTOR'S REPORT**

10
11 **1. SMA Minor Permit Report**

12
13 **This is for notification and review purposes. No action is anticipated.**

14
15 **2. SMA Exemptions Report**

16
17 **This is for notification and review purposes. No action is anticipated.**

18
19 Ms. McLean: Thank you Chair. Commissioners, you have in your packets the SMA Minor
20 Report and SMA Exemption Reports. Do you have any questions on any of those . . . (inaudible)
21 . . . Are you sure?
22

23 Ms. La Costa: Gives us a minute.
24

25 **No questions or comments from the Commission on the SMA Minor and SMA Exemption**
26 **Reports.**

27
28
29 **3. Discussion of Future Maui Planning Commission Agendas**

30
31 **a. April 9, 2019 agenda items**

32
33 Ms. McLean: And then there's also the next regular meeting date is April 9th. You have
34 distributed in front of you the memorandum for the items coming up for the April 9th meeting.
35 Those are two public hearing items and a communication item so it looks like we will probably
36 have a full day on April 9th. Any questions on the next agenda?
37

38 Ms. Gomes: Where's that?
39

40 Ms. McLean: Right here.
41

42 Ms. Gomes: Thank you.
43

44 Ms. McLean: Okay, that's all I have Chair.
45

46 **No questions or comments from the Commission.**
47

1
2 **D. Workshop on the Planning Department's proposed amendments to the Maui**
3 **Planning Commission's Special Management Area Rules conducted by Planning**
4 **Department Staff. (M. McLean)**
5

6 **This workshop is for information purposes; no action is anticipated.**
7

8 Mr. Hudson: Thank you for your Director's Report. Okay, as long as there's no dissent, I'd
9 like to proceed to item delta, (D) as in delta. Commissioners?

10
11 Mr. Carnicelli: Sure.

12
13 Mr. Castro: No objections.

14
15 Ms. La Costa: No objections.

16
17 Ms. Gomes: No objections.

18
19 Mr. Hudson: Okay. Thank you. Director.

20
21 Ms. McLean: Thank you Chair. You have in your packet excerpts from the proposed draft
22 amendments to the SMA Rules, and so continuing with our process of taking small bites out of
23 these proposed rules, the ones put together in this excerpt looks like this. It has draft written
24 right across the page. It has to do with amendments to SMA Permits, and relating to
25 enforcements and penalties and appeals. So looking at that first page. Chair, do you want to
26 continue with this? Ryan just returned with copies before we get too far with this.

27
28 Mr. Hudson: Negative, we'll go back to Ryan's presentation.

29
30 Ms. McLean: Okay, so we'll pick up this after the next two items.

31
32
33 **B. PUBLIC HEARING**
34

- 35 **1. MR. ROBERT JUDD requesting a Short Term Rental Home Permit in order**
36 **to operate Hauoli Keiki Seaside Villa, a four bedroom STRH located on**
37 **.2127 acres of land in the County R-2 Residential District at 25 Kai Pali**
38 **Place, Lahaina, Island of Maui, TMK (2) 4-5-003: 037. (STWM T2017/0032) (R.**
39 **Quigless)**
40

41 **There are already two existing permitted STRHs within 500 feet of the**
42 **proposed STRH property.**
43

44 Ms. McLean: Chair, for the record, Ryan provided the Commission with copies of the protest
45 letters that were received for this application since those were not provided in the packets.

46
47 Mr. Hudson: Thank you. La Costa.

1
2 Ms. La Costa: Thank you Chair. I did have one other question for Mr. Gay that just occurred to
3 me, if I might.

4
5 Mr. Hudson: Okay.

6
7 Ms. La Costa: Thank you. Mr. Gay, who will be the manager of the property? Is that Mr. Judd?
8 Does he live on island or what?

9
10 Mr. Gay: The manager will be Justin Brunold and KBM Maui.

11
12 Ms. La Costa: And where does Mr. Judd live please?

13
14 Mr. Gay: Mr. Judd lives in Danville, California.

15
16 Ms. La Costa: Okay, thank you.

17
18 Mr. Hudson: Okay, we're going to take another five minute recess while we get a chance to read
19 the letters.

20
21 *(The Maui Planning Commission recessed at 9:48 a.m. and reconvened at 9:51 a.m.)*

22
23 Mr. Hudson: Back from recess. You guys had a chance to read the letters?

24
25 Mr. Carnicelli: Yes Chair.

26
27 Mr. Hudson: Thank you. Okay, before we continue just for clarification, owners of property can
28 write letters of protests whether they reside on the island or not. Ryan, recommendations
29 please?

30
31 Mr. Quigless: One quick note I'd also like to add that the most current map of inventory for the
32 short-term rental is six within the 500-feet.

33
34 Ms. La Costa: I beg your pardon, Chair, may I ask a question of the property manager being
35 that he's here?

36
37 Mr. Hudson: Sure.

38
39 Ms. La Costa: Thank you.

40
41 Mr. Hudson: Please identify yourself.

42
43 Mr. Brunold: Justin Brunold.

44
45 Ms. La Costa: Thank you Mr. Brunold. Are you a licensed relator?

46
47 Mr. Brunold: I am.

1
2 Ms. La Costa: Okay. And which company?
3
4 Mr. Brunold: KBM Hawaii.
5
6 Ms. La Costa: Thank you very much.
7
8 Mr. Hudson: Mr. Carnicelli. Ryan.
9
10 Mr. Quigless: The Maui Planning Department recommends approval of the short-term rental
11 home permits subject to the standard 22 conditions. Would you like me to go over those at this
12 time Commissioners?
13
14 Mr. Hudson: Ryan, it would be the 23 conditions. The one that we'll be adding in that should
15 have be added in.
16
17 Mr. Quigless: That is correct.
18
19 Mr. Hudson: So it's 23 conditions.
20
21 Mr. Quigless: 23 total.
22
23 Mr. Hudson: Thank you Ryan. Mr. Carnicelli.
24
25 Mr. Carnicelli: Move to approve as recommended by staff.
26
27 Mr. Castro: Second.
28
29 Mr. Hudson: Moved and seconded. Discussion. Mr. Carnicelli.
30
31 Mr. Carnicelli: Thank you Chair. You know this is one of those, one of those and I'll use air
32 quote, neighborhoods. And we've talked about this on a number of occasions, the clustering
33 effect. Some people don't like the clustering effect, some people do. I'm one of those people
34 that kind of feel as though I would rather have this house, in this location, have an STRH Permit
35 than scattering, scattering them say up Lahainaluna Road as an example. I think it's just more
36 appropriate. You know, I definitely have concerns about the impacts of the neighborhood,
37 though. You know, especially when we've got a housing project going on right across the
38 street, and all of those local families that live here are going to be using that same exact beach.
39 You know, the character of this particular neighborhood, I guess, it depends on where you draw
40 the circle. You know, because if you take this particular cul-de-sac, this is absolutely the
41 character of this neighborhood. So, I'm going to go ahead and support the motion and the
42 approval of the STRH permit even though I do have some concerns and some reservations.
43 But I just feel as though they've met the criteria and...that's it. Thank you Chair.
44
45 Mr. Hudson: Thank you. Ms. La Costa.
46
47 Ms. La Costa: Yes, I will also speak in favor of the -- sorry I just I got my damage of sudden.

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Ms. Gomes: Brain fart.

Ms. La Costa: Sorry, I had something flashed in my head. Approval of the Department. I did however -- sorry.

Mr. Hudson: Would you like a recess?

Ms. La Costa: I do expect that the owner to have posted the ecological concerns for the ocean and the reef.

Mr. Hudson: Thank you. Mr. Castro.

Mr. Castro: I too will be supporting this with the added condition of the educational process.

Mr. Hudson: Ms. Gomes.

Ms. Gomes: I agree with Commissioner Castro in regards to the educational process. I am in support of this so --. Yes, I believe that --. I do have some concerns in regards to the trust issue, but that's a personal family matter, and in the future I hope that they take the natural steps that they need to do in the event something changes. But other than that, I am in support of this. Thank you.

Mr. Hudson: Thank you. Any further discussions? Seeing none, discussion is closed. We have a motion on the floor. Director?

Ms. McLean: Thank you Chair. The motion is to approve the application subject to the conditions in the staff report and with added conditions about the cultural education program.

Mr. Hudson: All those in favor signify by saying aye. Motion carries. Congratulations. We'll take a 10 minute recess.

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

VOTED: To Approve the Short Term Rental Home Permit as Recommended by the Department.

(Assenting – L. Carnicelli, S. Castro, T. Gomes, P D. La Costa, L. Hudson)

(Excused – A. Hill, K. Pali, K. Robinson, C. Tackett)

(The Maui Planning Commission recessed at 9:56 a.m. and reconvened at 10:06 a.m.)

C. COMMUNICATIONS

- 1 **1. ROBERT AND ERICA REYNOLDS requesting a State Land Use Commission**
2 **Special Use Permit in order to operate a five bedroom STRH in the County**
3 **Agricultural Zoning District and State Agricultural District on approximately**
4 **6.81 acres at 110 Maia Road, Hana, Island of Maui, TMK (2) 1-3-009:076.**
5 **(SUP2 2012/0022) (R. Quigless)**
6

7 **Hana Advisory Committee voted to recommend approval of the SUP2 to the**
8 **Maui Planning Commission. STRH can be approved administratively.**
9

10 Mr. Hudson: Planning Commission meeting is back in session for item (C) as in Charlie,
11 Communications. Director?
12

13 Ms. McLean: Thank you Chair. This is a request from Robert and Erica Reynolds for a State
14 Land Use Commission Special Use Permit in order to operate a five bedroom short-term rental
15 home in the County Agricultural District and State Agricultural District on approximately 6.81
16 acres at 110 Maia Road in Hana. And this is a communication item because the Hana Advisory
17 Committee conducted the public hearing on this matter as so delegated by this Commission.
18 And once again Ryan Quigless is the project planner.
19

20 Mr. Quigless: Aloha, and good morning again Commissioners, Director, Chair. We meet here
21 this morning as Michele just stated to discuss the request for the State Land Use Commission
22 Special Permit from property owners Robert and Erica Reynolds to operate the Hana Estate a
23 five bedroom short-term rental home located in the County Agricultural District and State
24 Agricultural District on approximately 6.81 acres of land, 110 Maia Road, TMK: 2-1-3-009-076 in
25 Hana, Island of Maui.
26

27 Now as you may have already read the information in the report is before you for final decision
28 today. It's a communication item as stated, based on the recommendation from approval from
29 the public hearing that was held at the Hana Advisory Committee. Now we also understand that
30 there's a duration of time that lapsed between the public hearing and the final decision today, so
31 the property manager is here with the slide show, video of the property if you need more
32 information and visual to wrap your head around the final decision.
33

34 Mr. Hudson: Thank you. Sir, could you please identify yourself?
35

36 Mr. Brett Christenson: Hi. My name is Brett Christenson.
37

38 Mr. Hudson: Thank you Brett.
39

40 Mr. Christenson: There's some good audio. You'll hear the chicken in the video audio. I think
41 the audio works this time. I'm sorry.
42

43 Mr. Hudson: Sir, could you please identify yourself?
44

45 Mr. Robert Reynolds: We're planning on narrating this. Robert Reynolds, the owner. We
46 purchased this property 10 years ago. It had all types of weed trees and African tulips and
47 invasive species. We spent seven years working the grounds, have somebody full-time there,

1 and we've got sought the greatest bio-diversity. These are chickens. Now we have about three
2 or four different varieties of chickens. We sell our eggs and bananas to Hana Farms. We're
3 obsessed with biodiversity out there. We love, we love what you can grow in Hana. And so our
4 plan has always been to have it be an agri-tourism short-term rental. So guests sample all
5 different types of fruits in season and we've got, the person that works on the property there,
6 helps them gather eggs, and try the different fruits, and we give them baskets. That's the whole
7 plan we've had. I don't know. I guess the rest is self-explanatory.

8
9 We've got the cacao. Actually they make chocolate. What's the one in Hana? What's it called,
10 the chocolate company? They use our cacao as well, but small amount. We only four trees of
11 cacao. A lot of bananas.

12
13 Yeah, some of the paperwork explains the varieties, if you have questions about all of the
14 different plants. Hana cares very much that an agricultural area we use over 50 percent. We
15 sought very, very hard to do that. Thank you.

16
17 Mr. Hudson: Thank you.

18
19 Mr. Quigless: Commissioners do you have any questions for either myself or the property
20 owners that are here from Las Vegas as well?

21
22 Mr. Hudson: Ryan, are you done with your presentation?

23
24 Mr. Quigless: Aye.

25
26 Mr. Hudson: Thank you. We're going to open up the floor for public testimony. Anybody wishing
27 to testifying on this agenda item please step forward.

28
29 Ms. Erica Reynolds: Erica Reynolds. Hi, I'm just bringing up 19 letters that we have --

30
31 Mr. Hudson: Ms. Reynolds?

32
33 Ms. Reynolds: Yes?

34
35 Mr. Hudson: You promise to tell the truth?

36
37 Ms. Reynolds: I do.

38
39 Mr. Hudson: Please proceed.

40
41 Ms. Reynolds: My husband forgot the 19 letters that we have from our neighbors and business
42 associates out there in Hana of support for our property and our short-term rental. I just wanted
43 to --. And just tell you guys how much we, we love it up there and we bring our family and we
44 spend a lot of time. We have five children and we just have enjoyed Hana, and we love it so
45 much we want to share it with everyone. Thank you.

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47 Mr. Hudson: Commissioners, do you have any questions?

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Ms. Gomes: I do.

Mr. Hudson: Ms. Reynolds, do you want to submit those?

Ms. Reynolds: I do. Thank you.

Mr. Hudson: Please stay at the podium for a second. Ms. Gomes.

Ms. Gomes: Thank you. Erica, Mrs. Reynolds, I --

Ms. Reynolds: Erica is fine.

Ms. Gomes: I'm sorry?

Ms. Reynolds: Erica is fine.

Ms. Gomes: Erica, thank you. You stated that you guys want to share the property but it's an -- you guys are requesting a STR, a short-term rental.

Ms. Reynolds: Right.

Ms. Gomes: Rather than a B&B.

Ms. Reynolds: Exactly.

Ms. Gomes: Can you explain?

Ms. Reynolds: Absolutely. So because we have five children and we live in Las Vegas, when I share, I meant we wanted to let everyone else, tourists, experience, have the same kind of experience we have when we're there with our family. When we, when Robert and I first came to Hana we just fell in love. I mean, it's --. You've all been to Hana, I'm sure. It's incredible. There's just no words to describe it the feeling that you find there. And we love bringing our family out. We try and come out for a month or two during the summer if we can. As our kids have gotten a little bit older sometimes sports and things like that interfere but we do our best. So we just love it so much. Robert comes from a big family. We try and get --. He's the oldest of nine kids and -- I know -- his family comes out, my family comes out. We just love it and we think that it's got --. Hana has so much to offer. We want -- we love the community. We want to bring in business. We want to support the community and tourism is a great way to do that. Thank you.

Ms. Gomes: Yeah, I just needed you to clarify that because I --

Ms. Reynolds: Sure.

Ms. Gomes: It was a little bit conflicting. When you said shared I thought you were on property and sharing. Right, so, it was --

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Ms. Reynolds: I wish we could be on property all year.

Ms. Gomes: I see. Thank you.

Ms. Reynolds: Thank you.

Mr. Hudson: Ms. La Costa.

Ms. La Costa: Thank you Chair. Thank you for such a beautiful property and how wonderfully you have kept it up. Who is going to be the manager of the property please?

Ms. Reynolds: A property manager? We, because we haven't been in operation for a few years we're still trying to decide that. Right now we have a full-time employee on the property that does the farm and everything so we have a couple of options right now so.

Ms. La Costa: Thank you for that.

Mr. Hudson: Mr. Carnicelli. Thank you very much.

Ms. Reynolds: Thank you.

Mr. Hudson: Ryan? Hold on one second. Is there anybody else wishing to testify? Seeing none, public testimony is closed. Ryan.

Mr. Quigless: Okay the Department recommends to the Commission approval of the SUP2 subject to seven conditions. Would you like me to go over those at this time, Commissioners? They're standard conditions.

Mr. Hudson: No, thank you.

Ms. La Costa: I do have one thing.

Mr. Quigless: Then that's a recommendation for approval from the Department.

Ms. La Costa: Thank you. Even though this is Special Use and not an STRH I would hope that the owners, if this is approved, would post the ecological information at the property.

Mr. Quigless: Would you like me to ask the property owners if they're willing to do that?

Mr. Hudson: Yes, please.

Mr. Quigless: I got a confirmation that they're willing to do that. So we'll add the condition when the short-term rental home permit is approved administratively.

Ms. La Costa: Thank you.

1
2 Mr. Hudson: Thank you. Okay, we have a recommendation or a motion?
3
4 Mr. Carnicelli: Move to approve as recommended by staff and the Hana Advisory Committee.
5
6 Ms. La Costa: Second.
7
8 Mr. Hudson: It's been moved and seconded. Discussion? Mr. Carnicelli.
9
10 Mr. Carnicelli: Thank you Chair. As you know, I've discussed before when things come before
11 us that are Hana related I really weigh very heavily on the Hana Advisory Committee and their
12 recommendation and what it is that they want to see. They know Hana better than we do. They
13 live there. They did the, you know, public hearing there. And so when they come back with an
14 affirmative recommendation then I don't even remember ever going against the Hana Advisory
15 Committee. I mean, we have them for a reason, and so then therefore I really rely on their
16 knowledge and expertise, and so then therefore I'll be supporting the approval which was
17 recommended by the Hana Advisory Committee. Thank you.
18
19 Mr. Hudson: Ms. La Costa?
20
21 Ms. La Costa: I concur.
22
23 Mr. Hudson: Mr. Castro?
24
25 Mr. Castro: I also concur.
26
27 Mr. Hudson: Ms. Gomes?
28
29 Ms. Gomes: Just a clarification purpose. Is the Hana Advisory Committee report, to my
30 understanding, I mean I don't see --. Is it --? I do see some information that is put into this
31 report. Did they submit something completely separate that I have missed?
32
33 Mr. Quigless: Ryan Quigless with the Maui Planning Department. So the Hana Advisory
34 Committee was supplied a report that was similar to this for the public hearing, and there were
35 some changes to address the Maui Planning Commission. So the information is the same.
36
37 Ms. Gomes: And it's --. I mean I read some stuffs in here, but they didn't submit something
38 completely separate.
39
40 Mr. Quigless: No. Not different as far as information goes.
41
42 Ms. Gomes: I'm trying to think because I --. Okay.
43
44 Mr. Quigless: Other than the procedural for this communication.
45

1 Ms. Gomes: Corp Counsel aren't they --? Because I, you know, investigated, I mean, the
2 Planning Commissions. Are they...I don't think they're required to but with the Hana Advisory,
3 wouldn't it be best for them to submit their own report?
4

5 Mr. Hudson: Please.
6

7 Mr. Galazin: Thank you Chair. So Commissioner Gomes, the Hana Advisory Committee is an
8 extension of this Commission, and they're designed to hold certain delegated duties which has
9 to be approved by this Commission. So sometime back in the past this body tasked the Hana
10 Advisory Committee with making a public hearing and making a recommendation. Now there's
11 no specific form that recommendation has to take. I think you've seen it in the past where
12 sometimes there is something that looks more like a separate staff report, sometimes it will have
13 minutes depending on the complexity of the issues involved. I'll let the Director speak to the
14 specific one because I don't have the knowledge of it personally, but what you need to know,
15 the base information is just that they make a recommendation and I think as Commissioner
16 Carnicelli said in absence of any evidence to the contrary you should probably give that some
17 difference. But if the Director wants to say why not there was a report in this instance, she may
18 or may not know.
19

20 Mr. Hudson: Director.
21

22 Ms. Gomes: Thank you. Okay. I mean, I don't want to interrupt. But it's only because you
23 know I've investigated three commissions including Hana, you know, while I was Chair of Cost
24 of Government. So, I mean I understand that there is various ways of doing it already. So that
25 in itself I'm fully aware in regards to how it works. They, they just --. In this case they didn't
26 though that's all. They didn't submit their own report.
27

28 Ms. McLean: The --. For the Hana Advisory Committee to submit a report, our staff would
29 prepare that report on their behalf so they themselves don't have different staff other than the
30 Planning Department staff. It's similar to when this Commission makes a recommendation to
31 the County Council. We don't prepare a recommendation specific to the Commission. We do a
32 cover letter to the County Council and we send the staff report that we prepared for the
33 Commission just with a transmittal letter that describes the public hearing date and some of the
34 pertinent facts related to the application. So it's, it's not a report from the Commission when this
35 Commission makes a recommendation to the Council so Hana Advisory is a similar way. We,
36 we package it in a report to you.
37

38 There was also, as Ryan noted in the beginning, this application was pending for quite some
39 time. I don't recall the date of the public hearing. Actually, it was a couple of years ago, and so
40 a new staff report was warranted because of issues that arose after the public hearing. So it
41 needed a fresh report for the Commission.
42

43 Ms. Gomes: Correct. Okay. Thanks for the clarification. Thank you.
44

45 Mr. Hudson: Any further discussion? Seeing none, I will call for the vote. All those in favor say
46 aye? Aye. Motion carries, approved. We will take another 10 minute recess.
47

1 **It was moved by Mr. Carnicelli, seconded by Ms. La Costa, then**
2

3 **VOTED: To Approve the State Land Use Commission Special Use Permit as**
4 **Recommended by the Hana Advisory Committee and the**
5 **Department.**
6

7 **(Assenting – L. Carnicelli, P. D. La Costa, T. Gomes S. Castro,**
8 **L. Hudson)**

9 **(Excused – A. Hill, K. Pali, K. Robinson, C. Tackett)**
10

11 Mr. Quigless: Thank you Commission.
12

13 *(The Maui Planning Commission recessed at 10:22 a.m. and reconvened at 10:32 a.m.)*
14
15

16 **D. Workshop on the Planning Department’s proposed amendments to the Maui**
17 **Planning Commission’s Special Management Area Rules conducted by Planning**
18 **Department Staff. (M. McLean)**
19

20 **This workshop is for information purposes; no action was taken.**
21

22 Mr. Hudson: Director?
23

24 Ms. McLean: Thank you Chair. Coming back to this, these are excerpts of your, of staff
25 proposed revisions to your SMA Rules, and we have sections on amendments, enforcements,
26 penalties and appeals in front of you today. And these are not for your adoption. This is just for
27 staff to get feedback from the Commission so as we continue to work on the draft, hopefully by
28 the time we do bring it to you for adoption we’ll have a, a much improved version that will be
29 easier for your review and hopefully approval.
30

31 On the first page begins revisions to the amendments section, and most of this mostly this is
32 really just cleaning it up. I did put in to strike through larger sections that are going to be
33 deleted. I didn’t do every single deletion in the strike through just the large sections because
34 those can sometimes get lost. But this first page is, is really a cleanup so that it reads a little
35 more clearly so that it essentially applies any kind of an amendment an applicant wants to make
36 to a SMA Permit whether it’s a transfer, a time extension, or a changing the terms.
37

38 And then down at the bottom there’s a large section that’s being proposed to be deleted and
39 that’s actually just getting moved to another area of the rules. It’s not being deleted all together.
40 So on that first page there is really not a whole lot of substantive change.
41

42 On the second page you’ll see about almost halfway down a paragraph that begins, the Director
43 shall notify the Commission at the Commission’s next regularly scheduled meeting of the
44 issuance of any permit transfer receipt of which shall be acknowledged by the Commission.
45 That’s the process that exists today and we are not proposing to change that. So that would
46 allow again the Department to approve transfers and then notify the Commission at the next
47 hearing. So we’re not proposing any changes to that.

1
2 Next however just about halfway down, time stipulation. The time stipulations right now it's if
3 someone if an SMA Permit holder wants a time extension the process is for up to two years the
4 Department can approve that time extension except we'll bring it the Commission first for you to
5 waive your review. Then if you waive your review, we can process it administratively. If you
6 don't waive your review then it comes to you for approval.

7
8 What we're recommending here, and this again is a big difference is to allow the Department to
9 approve time extensions of up to five years without coming to the Commission for the waive
10 review first. So I wanted to get your thoughts on that. And I believe Commissioner Hudson
11 would not be too keen on that provision from previous feedback that we've gotten, but we
12 wanted to put the idea out there to get your feedback on that.

13
14 Mr. Carnicelli: So I mean what's, what's the rationale? Because we knee jerk is the same as,
15 you know, Chair Hudson's in that if this is just as simple as a stop, do we want to review or not?
16 Okay we don't. Proceed. I'll say this very selfishly, why would give up that right?

17
18 Ms. McLean: Yeah, that's good question. The vast majority I can think of one or two occasions
19 in the time we've been here where you have not given the waiver. So it's, it's just streamlining
20 proposal. I'll just leave it at that. We just wanted to put it out there and see what you folks think.

21
22 Mr. Hudson: I would still like to keep the two years so when you're doing that keep in mind that
23 timeline.

24
25 Ms. McLean: Okay. Two years and for the waive review. You want to keep the waive review for
26 two years.

27
28 Mr. Hudson: Ms. Gomes?

29
30 Ms. La Costa: I concur.

31
32 Ms. Gomes: I'm sorry. Chair, I just want to say this is just -- we're not voting on this.

33
34 Ms. McLean: Correct.

35
36 Ms. Gomes: Okay. Thank you.

37
38 Ms. McLean: Correct. But it's important for us to get your feedback because from what I'm
39 hearing we're certainly not going to go greater than five years. So we'll see it in the draft that
40 we ultimately present to you if we do want to continue proposing something like this.

41
42 Okay moving on to the next page that begins with underline text that says if a petition to
43 intervene was granted. This ties into the time extension provision. And the way the process
44 works now and there are two areas where this comes into play. If a petition to intervene was
45 granted for an SMA Permit for amendments and other changes the way the rules read now is
46 that the applicant has to get the consent of the intervener to not have the item come to the
47 Commission as a public hearing item. It could still come to the Commission as a

1 communication item, but whether it has that higher level of public hearing, the intervener has to
2 consent to say no need for a public hearing. And we've run into situations where interveners
3 are entities that no longer exists, or are individuals who have passed away, or individuals who
4 no longer on island, and so it's difficult to get in touch with them to get their consent or
5 impossible to get their consent. And so we're turning that around so that the applicant has to
6 prove to us that they have made their efforts to notify the intervener and is letting the intervener
7 know if you want a public hearing you need to notify the Department. So it, it switches it around
8 from how it is now where the burden was on the applicant to get the intervener's consent. And
9 now the burden would be on the intervener to say I want a public hearing. So that's the concept
10 there.

11
12 Mr. Hudson: Anybody want to weigh in? People don't want to weigh in.

13
14 Ms. McLean: Any thoughts on that?

15
16 Mr. Hudson: This obviously has to go to Corporation Counsel anyway.

17
18 Ms. McLean: Of course. Of course. And the Commission. And it also specifies that the
19 interveners can raise concerns that would get forward to the Commission. So it's not just public
20 hearing or no public hearing, it's are there issues that should be brought to the Commission.

21
22 And then towards the bottom of the page if the Director finds that there have been changes
23 within the SMA since the granting of the permit. This is similar to language now...forwarding it
24 to the Commission. So that all ties in to the time extension provision. So obviously if the
25 Commission is going to waive review you'll be seeing that. Or if the time extension still has to
26 come to the Commission to waiver review you will have been able to make that determination
27 yourself.

28
29 At the bottom of the page, subsection (E), talks to amendments or determinations other than a
30 transfer time extension. So this is changing the project itself or changing one of the conditions to
31 the project itself. And what this says, what this puts into writing is a very long standing practice
32 of the department that non-substantive changes can be approved administratively. We recently
33 came across one that was a multi-family development in Kihei and they wanted to switch the
34 location of the pool, cabana, and barbeque and the pool itself on the site plan. They just wanted
35 to switch them. And so that was something that we felt comfortable approving administratively
36 because there weren't issues relating to that, concerns relating to that. That has long been the
37 practice for the Department to approve those kinds of changes, but it was never specified in the
38 rules, so we wanted to make that clear.

39
40 Mr. Carnicelli: Could you just go into non-substantive? I mean I read this, but it says, not
41 discernibly different. Moving a pool and a cabana is discernibly different. So, I mean, I'm just
42 trying to, you know, fair out kind of --.

43
44 Ms. McLean: That phrase actually starts with non-substantive means that any impact to the
45 SMA or to the condition --

46
47 Mr. Carnicelli: This is talking about impacts.

1
2 Ms. McLean: -- or to the condition or capacity of infrastructure is not discernibly different.

3
4 Mr. Carnicelli: Right.

5
6 Ms. McLean: We've also had circumstances where they want to reduce the number of units or
7 lower the height. Things like that, we perceive less as of an impact.

8
9 Mr. Hudson: But switching one building from one location to another that's definitely substantial
10 because that impacts the views and everything like that.

11
12 Mr. Carnicelli: Drainage.

13
14 Ms. McLean: If it were --. The example I gave of the pool cabana and the pool, so that's a
15 single-story structure. If they wanted to relocate, you know, a three-story building, we would
16 bring that to the Commission. That would be significant.

17
18 Mr. Hudson: Okay.

19
20 Ms. McLean: And we struggled with how to word this. It is a long standing practice and I think
21 the judgment has been pretty good over many, many years. But we wanted to try to find words
22 to describe it and if you have suggestions we would welcome them. Because it is difficult to say
23 this okay for you to approve and these are what we want to see. But that's what the, that's what
24 the goal is, is for us to make those minor changes administratively.

25
26 Next on that page, subsection (F), that's the intervention language that I was talking about.
27 Similar to the existing language but it puts the burden on the intervener. So let's see...so the
28 applicant shall provide the Department with evidence of notification including proof of mailing
29 which shall be verified by the Department. So that's what we're requiring the applicant to do
30 that they can verify that they've notified the intervener and then if an intervener requests a
31 public hearing then it will be, it will be conducted.

32
33 Any questions on that? Okay moving on to the next page, enforcement. On this first page a lot
34 of that is clarifying language. What was important to us is to establish that violations are
35 considered cured if applicable fines have been paid, the use activity or operation has ceased,
36 unpermitted construction has been removed, a permit has been issued, or other means to
37 establish that the violation can be closed. Because we have had situation where someone pays
38 the fines, and says, oh, I'm all good. It's like, well no, you're an illegal construction is there. Or
39 the other way around, oh, I removed the, I removed the illegal construction. Well, you haven't
40 paid the fines yet, so, you know, both of those things have to happen for us to be able to close
41 the file and say that the violation has been cured.

42
43 Subsection C makes it clear that -- and we come into this more often than you might think -- but
44 if a structure is partially within an SMA and partially outside of the SMA, we consider the entire
45 thing to be subject to the SMA Rules. So it's like if you put an additional . . . (inaudible) . . . of
46 the house, you don't need an SMA permit, but if you put it on the other side of the house, you
47 do. The whole thing is considered to be subject to the SMA.

1
2 Mr. Hudson: Director, I have a quick question.

3
4 Ms. McLean: Yeah.

5
6 Mr. Hudson: It says the violation shall be corrected by requiring the owner or the violator to pay
7 all applicable fines and take the following corrective actions, dotty, dot, dot. Does this take
8 away your ability to negotiate with people the who have violations? Because the operative word
9 is "shall."

10
11 Ms. McLean: I don't think it takes away our ability to negotiate because ultimately it's, it's -- we
12 have to determine that these things have been accomplished. And how they get accomplished
13 is where we have judgment. There is another section on appeals and fines, and appeals of
14 violations. That might --. Are you talking about negotiating the fines?

15
16 Mr. Hudson: . . . (inaudible) . . .

17
18 Mr. Galazin: Thank you Chair. I would just point out the way it is worded right now and all of
19 this, you know, is for your information and feedback. As the Director stated some of these may
20 change before it comes to the public hearing. But that phrase right now is means to pay all
21 applicable fines could read all assessed fines, but it doesn't. So I wouldn't make it applicable in
22 that situation as what the Department determines would be appropriate taking all of the factors
23 and considerations that they are required to by statutes in order to assess an administrative
24 fine. So applicable would just be whatever the Department has determines has been assessed,
25 what should be paid as a monetary sum to the County.

26
27 Mr. Carnicelli: Thank you. So Director, to make this even more complicated, I want to bring the
28 dynamics of shoreline setbacks, right. Because, you know, high water mark, and shoreline
29 setbacks, so as we all know we have this moving high water mark, and some of this stuff might
30 end up in State jurisdiction right? So you got to say an illegal seawall. Because we know there
31 are people out there that have built seawalls and they're going to beg for forgiveness rather than
32 ask for permission. So now suddenly that seawall is actually on State land. You know that's
33 DNLR's jurisdiction not SMA jurisdiction, and maybe when it was originally erected it was SMA
34 and you know. So, I mean, how, because we have this moving target, how does that play into
35 this?

36
37 Ms. McLean: We also have companion to these amendments to the shoreline rules which gets a
38 lot more particular into things like seawalls and things in the shoreline setback. Those are the
39 rules that establish the shoreline setback, and what you can and cannot do in the shoreline
40 setback and penalties. A lot of times we end up with things that are both SMA and shoreline,
41 and so those go hand in hand. You have something that's a violation of shoreline setback rules,
42 and of SMA. But this is just looking at the SMA part of that. So it could be that there are other
43 factors that are covered under the shoreline rules in addition to what the SMA rules call for. But
44 the same things still apply. If it's, if it's unpermitted, we can say --. Generally if it's unpermitted
45 construction, you would either need to get an after-the-fact permit if it's permissible, or you need
46 to remove it if it's not permissible. So that's really the, the only way to go if you have
47 unpermitted construction. And that's done on a, on a case by case determination depending on,

1 you know, in the example that you gave on where is the shoreline setback, getting feedback
2 from the State if it involves State jurisdiction.

3
4 Mr. Carnicelli: But even like, you know, last meeting it came up with say the revetments or rock
5 walls or whatever it is on Halama Street, they were saying okay these are grandfathered, non-
6 conforming, maybe, not maybe. I mean, it just becomes such a mish gosh and the fact that,
7 that, you know, if that sea wall is now on State jurisdiction, it's actually owned by the DNLR, not
8 by the applicant, you know, not by the homeowner. So now suddenly are we going to fine the
9 State for having this illegal thing there? And I don't know. That's --. I mean, that is a question, I
10 guess. You know, do we fine the State?

11
12 Ms. McLean: In a, in a case where --. Or let's look at it the opposite way. If for some reason
13 you have a shoreline area that's accreting, and you had something that was on State land that
14 was unlawful, and suddenly now it's not in State jurisdiction anymore, are we going to site the
15 private entity that's now responsible for that?

16
17 Mr. Carnicelli: Well, what I understand though is that high water mark as it moves inland, it, you
18 know, is we take away private rights. If it's accreting that person doesn't get new land, so that's
19 not on their land as I understand it. You know, so that example, it's like even though the land is
20 accreting it still State, as I understand it.

21
22 Ms. McLean: I don't know.

23
24 Mr. Carnicelli: For the record, Corporation Counsel nodded that I'm absolutely right.

25
26 Ms. McLean: I don't --. It would be hard for me to imagine the situation where we would site the
27 State for a violation that used to be on private property that now is on State property due to
28 erosion or sea level rise. But we could work with the State to correct the violation in some way
29 whether it's removing it or, or getting permitted.

30
31 Mr. Carnicelli: And I would think that's the intent of this, right? The intent is we don't want to just
32 use fines as we want you to fix the problem. I get that's the intent, and maybe I'm going into a
33 one and 1,000 case, you know, of like what ifs and hypotheticals that's not relevant. But
34 anyways, so, okay, I get it. Thank you.

35
36 Ms. McLean: Okay, on the next page that's headed 202-6, what this language adds is giving the
37 Department options for issuing notices of warning or notices of violation. Currently the rules, I
38 believe, don't allow this kind of flexibility. So it's establishing that we can do certified or
39 registered mail, regular mail with delivery confirmation, personal service, posting on the
40 property, or publishing notice in the newspaper. That all of those would constitute adequate
41 service to the alleged violator. We generally do it by certified mail now, and often times those
42 get returned to us unclaimed. And so then we post on the property which we've done now. We
43 post it, we take pictures of it being posted physically on the property, but we, we would like to
44 have other options available for, for issuing notices. And the main thing is not, it's not to make it
45 easier for us. It's to make sure that the alleged violator actually gets the notice so that they can
46 respond to it. Let's see.

47

1 Mr. Hudson: Ms. Gomes?

2

3 Ms. Gomes: I just have a comment, Director, and this is just my experience with being
4 on...campaign spending which for the State, which we had difficulties chasing after, you know,
5 those who would not shut down their accounts when they were candidates, etcetera, etcetera,
6 etcetera when they would lose an election. You know, first you start off with going after a
7 certified mail, can't find them, their PO box is closed or however, the address is not accurate.
8 I'm looking at this, this is 30, you're trying to reach this person within 30 days? Is that correct?
9 Am I reading this right? 30-days? If requested by any person within 30-days a public --? And
10 I'm just --

11

12 Ms. McLean: Different page.

13

14 Ms. Gomes: I'm sorry. I mean if we're looking at timelines, and you're trying to reach this
15 intervener, or are you looking at a timeline in regards to reaching the person? Because certified
16 mail, and then you post, and then you want to put in the newspaper, and the person is still not
17 responding. I mean, this all takes just time. I have --. Is there a timeline you guys have?

18

19 Ms. McLean: Well you're, you're looking in the section where it's notifying potential, or notifying
20 interveners. And that one is the applicant has to demonstrate that they've made a good faith
21 effort to notify the intervener and then the intervener has 30-days from the date of the notice to
22 respond back.

23

24 Ms. Gomes: Throughout all of those four that you mentioned? . . . (inaudible) . . .

25

26 Ms. McLean: No. We're -- with the intervention we're not talking about different methods of
27 notifications. That's up to the applicant. For intervention it's up to the applicant to do whatever
28 they need to do to notify interveners. We're not prescribing that.

29

30 Ms. Gomes: Okay.

31

32 Ms. McLean: In the enforcement side where we are now is the Department can employ a
33 number of methods of notifying.

34

35 Ms. Gomes: Right.

36

37 Ms. McLean: And there's not a timeline for that.

38

39 Ms. Gomes: I guess that's --. I mean, that's why my question still stands though. I mean, what
40 is the timeline? That is --

41

42 Ms. McLean: There isn't a timeline with that. When we notify someone that they have a
43 violation, we want to make sure that they've received that notification --

44

45 Ms. Gomes: So it could be --

46

47 Ms. McLean: -- whether it's certified mail, posting on the property, in that violation itself or in the

1 notice of warning or in the notice of violation, it tells the alleged violator how much time they
2 have to come into compliance.

3
4 Ms. Gomes: But there's no timeline on reaching them so --

5
6 Ms. McLean: No because we --

7
8 Ms. Gomes: We need confirmation that they've received it though.

9
10 Ms. McLean: We need to...we need to have as much --

11
12 Ms. Gomes: . . . (inaudible) . . . just take action.

13
14 Ms. McLean: We need to have as much, we need to have whatever evidence or confirmation
15 we can have, whatever reassurance we can have that the alleged violator received the notice.
16 And so our main way again is certified mail. If we get the card back, then we know they've
17 received it.

18
19 Ms. Gomes: Correct.

20
21 Ms. McLean: If it comes back unclaimed, we can post on the property, but a lot of times that's,
22 that's not effective so we can publish in the newspaper. That's another way. If these other
23 methods fail, then we can publish in the newspaper. And then after we know that that notice
24 has been received, then we can proceed with our next steps.

25
26 Ms. La Costa: Excuse me, Chair?

27
28 Mr. Hudson: Yes.

29
30 Ms. La Costa: I have a question. It talks about appeal. Is there a fee to appeal, and if so what
31 is that please?

32
33 Ms. McLean: There is a fee to appeal. I believe it's \$550. But I can, I can double check that
34 and get back to you.

35
36 Ms. La Costa: Thanks very much.

37
38 Ms. McLean: Okay, so we can go ahead to the --. Well on that page that we were on it doesn't
39 change the fines. Your existing fines now call for an initial fine not to exceed \$100,000 and daily
40 fines not to exceed \$10,000. We're not proposing to change those. Same on the next page
41 under penalties. We're not proposing to change the fines. Then appeals that you were just
42 asking about, the language in here again just clean up the language from the existing rules.

43
44 On the back page, the rules right now, it's a little bit unusual. The rules right now allow for
45 someone to appeal an SMA violation and have a hearing by the Director, but it doesn't explain
46 how that hearing is supposed to be conducted, what the procedures are for it. It doesn't really
47 give us much guidance on how to conduct that hearing. And so what we're spelling out instead

1 is what we believe the intent of that hearing is which is to negotiate some kind settlement. And
2 so that's what we are proposing on that last page, (B), (C), (D), and (E) which would allow the
3 Director to negotiate a settlement that involves a waiver of fines up to \$50,000. If it's more than
4 \$50,000 then that would have to come to the Commission. And so that's --. And right now all
5 settlements have to come to the Commission, so we're proposing to allow the Department to
6 discuss that up to a waiver of \$50,000. So that's what we're putting on . . . (inaudible) . . .

7
8 Mr. Hudson: That's cumulative or that's each individual people?

9
10 Ms. McLean: That would be total.

11
12 Ms. La Costa: Excuse me, question please. I don't see any kind of percentage. So if someone
13 were fined XYZ and they have up to \$50,000 that could basically wipe out any fine. And I don't
14 see a percentage up to 50 percent of the fine. It says to whatever.

15
16 Ms. McLean: And when we have had discussions -- I'm thinking more of non-SMA settlements -
17 - it isn't typically percentage based. A lot of times there's disagreement on when the violations
18 were actually cured, so we have daily fines that rack up to very, very high amounts and --. Or
19 those daily fines do get very, very high but all along the way the violator is endeavoring to
20 correct them. Maybe they need after-the-fact permits that are taking a long time to get, and all
21 the while those fees are racking up. So those are the things that we take into consideration. So
22 it's not a percentage because something like that can be a very, very high percent if a --. If
23 someone gets the notice of violation, they have an unpermitted construction. What they have
24 there is permissible and so they want to get an after-the-fact permit. That process takes a while,
25 but all that time those daily fines are accruing. And they're, you know, they're working hard on
26 it, they're doing a good job getting there. But until that permit is issued, that violation isn't cured,
27 and so those fines total up to be an exorbitant amount even though they've been working
28 diligently to correct it.

29
30 Ms. La Costa: So there is no stay suspension of daily fines while the process is going on?

31
32 Ms. McLean: Correct.

33
34 Ms. La Costa: Would that be easier to calculate not only for the County, but also take less stress
35 off the homeowner knowing that every day \$1,000 or however much is assessed goes on and
36 on because they have no control. Once they submit their paperwork to the Planning
37 Department, they have no control over the time frame. So assessing them daily for something
38 under which they have no control doesn't seem very pono.

39
40 Ms. McLean: Yeah, on the other hand it holds their feet to the fire, and makes them endeavor to
41 do it. Because we have people who just are dismissive, yes, I'm going to do that. I'm going to
42 take care of that. And they may submit for a permit, they may not, and if they do, you know,
43 they're shotty plans and they're not following up on things, and they're just hoping that it will fall
44 through the cracks.

45
46 Mr. Hudson: Ms. La Costa, do you want that put in as a recommendation?

1
2 Ms. La Costa: I would like that, yes, to, to let the Director's discretion to evaluation whether the
3 fines are suspended during the application process.

4
5 Mr. Carnicelli: If I could?

6
7 Mr. Hudson: Mr. Carnicelli.

8
9 Mr. Carnicelli: I'm going to go ahead and disagree because, is because for me on this one --. I
10 get where you're coming from, because there is that one that maybe it's an oops, and then
11 they're doing the best that they can, and it's okay. But there are people out there that do this
12 intentionally, right. There are. You know, there aren't the fairest people out that that build sea
13 walls or do whatever it is that they do, and specifically you know, looking to get one over. And I
14 think to have this type of a stick, you know, there's carrot and stick, right. There's the carrot,
15 like, hey listen, we want to really work with you and to try to fix this. But the stick of going, hey
16 listen you put that there in the first place. You know, it's not like, you know, okay and even if,
17 you know, we both are relators. You know, even if you bought and it was there, you should
18 know whether that's, you know, legal or not. So even if you didn't do that there. So for me, I
19 look at this in a way of saying, daily of fines are a manner, and especially when we're talking
20 about SMA, right, which is our kuleana. I want there to be a stick. I want there to be like, okay,
21 if I do this, it's not just a cost of doing business that I'm going to write checks for. I want it to be
22 where it's like, no, this isn't a cost of business, this is a deterrent. And that's just where I'm
23 coming from.

24
25 Mr. Hudson: Okay, we have two different recommendations. It will be determined by a vote
26 later on. Let's move on.

27
28 Ms. La Costa: Excuse me Mr. Chair, the wording that I wanted to bring to the attention is "at the
29 discretion of the Director." So if someone is truly working really hard and doesn't have to be
30 beaten with that stick to do what they're supposed to be, that should be the Director's decision,
31 whether it's suspended or not.

32
33 Mr. Hudson: Thank you.

34
35 Ms. La Costa: Thank you.

36
37 Ms. McLean: Corporation Counsel just gave me a very important reminder which is fines only
38 start accruing if somebody gets a notice of violation. The first thing we do is issue a notice of
39 warning saying we think you have unpermitted construction. If they respond to us and say, oh,
40 you know, we just bought the property, we didn't know, what do we need to correct it? We
41 would say you would need to get permits or tear it down. They say we want to get permits. We
42 say okay. And we will give them time to do that. They won't even get a notice of violation and
43 the fines starting to accrue.

44
45 Ms. La Costa: Got you.

46

1 Ms. McLean: If we issue the notice of warning and don't hear a thing, then we issue the notice
2 of violation and often time don't hear a thing. And after time we send it up to Corp Counsel for
3 them to investigate. Once they get contacted by Corporation Counsel, then they start paying
4 attention. Oh, now what do we have to do? And so, you know, that's --. You know once the
5 fines start accumulating and they get contacted by the County attorneys they start paying more
6 attention. But if they are diligent and respond to that notice of warning, then, you know, our goal
7 is compliance. And if they start, if they respond to us and say, okay, this is our plan, then we'll
8 give them the time they need to implement that plan.

9
10 Ms. La Costa: Thank you for the clarification. Thank you David.

11
12 Mr. Hudson: Ms. Gomes.

13
14 Ms. Gomes: Chair, I just want to make a comment that I --. I mean, I understand giving, and it's
15 only because I, I know exactly the differences between Maui Planning, Lanai, and Molokai
16 Planning Commissions as well as Hana Advisory, and how things are done. I definitely think
17 that the Department has -- I know the Director don't like the word, arbitrary, we'll use autonomy
18 because Lanai does things very different. I think we both know this. I do believe that if the
19 Department or the Director or Deputy Director is going to have this kind of power sort of say
20 then I think the Chair should also be involved. This is something that, you know, I in the past
21 when I've done my investigation through what I've done in the past, you know, the Chair of the
22 Commission should be involved in some way or manner. If they're going to have meetings like
23 this where something's going to be done like this, they should apprise the Chair. I'm not sure if
24 that's something I'm not necessarily reading here that, you know, the Chair of the Planning
25 Commission is going to be apprised of this.

26
27 Mr. Hudson: Corp Counsel would you like to speak to that? You don't want to speak to that?

28
29 Ms. Gomes: Not unless you want to read my report in 2015, the Cost of Government
30 Commission.

31
32 Mr. Galazin: No, that's okay Chair. And we will again as the Director stated these rules will
33 come through my office at some point too. This is really just like anything get your initial
34 feedback so the public hearing is more productive from your standpoint, or from the
35 Commission's standpoint.

36
37 Ms. Gomes: It's not that I don't trust. Like I said, I just think that it's all encompassing that the
38 Commission is involved, you know, as well.

39
40 Mr. Hudson: Would you like to make that as a recommendation so we can take a look at it later
41 on?

42
43 Ms. Gomes: Sure, I can give you binders as well.

44
45 Ms. McLean: So what are your folks thoughts on the up to \$50,000 negotiated? Would you
46 rather the Director have no authority on that and that all settlements come to the Commission?

1
2 Mr. Hudson: My opinion is that, yes, we should have that discretion and considering that those
3 could get really, really high, really, really fast. \$50,000 is a . . . (inaudible) . . . That's my
4 opinion.

5
6 Ms. La Costa: I agree.

7
8 Ms. Gomes: Don't we have an unsettled one that's like \$250,000?

9
10 Ms. McLean: Okay, so that was it for today's segment of proposed SMA Rules.

11
12

13 **F. NEXT REGULAR MEETING DATE: APRIL 9, 2019**

14
15

16 **G. ADJOURNMENT**

17
18

19 Mr. Hudson: Alright. We did the Director's Report, we did the SMA report. You guys have your
20 agenda for the next meeting on April 9th. Any further discussion? I'll be here all the way through
21 April. Maybe it would be a good time to discuss this. Maybe I'll be the acting until the end of
22 April that way I don't have to vote for with guys. You can make your determination in May.

23
24

25 Ms. La Costa: I vote you can't go.

26
27

28 Ms. McLean: I second.

29
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31 Mr. Hudson: Is that okay with you guys?

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34 Ms. Gomes: Are you bringing that because Carnicelli wants you to bring the pupus as well.

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37 Mr. Carnicelli: Yeah, you can't go.

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40 Mr. Hudson: Alright Maui County Planning Commission is adjourned.

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43 The meeting was adjourned at 11:12 a.m.

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Respectfully Submitted by,

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

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50 **RECORD OF ATTENDANCE**

51 **Present**

52 Lawrence Carnicelli

53 Stephen Castro

1 Tina Gomes
2 Larry Hudson, Acting Chairperson
3 P Denise La Costa

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5 **Excused**

6 Kahu Alalani Hill
7 Kellie Pali
8 Keaka Robinson, Chair
9 Christian Tackett

10

11 **Others**

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

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