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**MAUI PLANNING COMMISSION
REGULAR MINUTES
APRIL 9, 2019**

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., Tuesday, April 9, 2019, Planning Conference Room, First Floor, Kalana Pakui Building, 250 South High Street, Wailuku, Maui.

Mr. Hudson: The Maui Planning Commission of April 9, 2019 will begin. I'm Acting Chair Larry Hudson. First thing we'll do is establish quorum. Commissioner Carnicelli.

Mr. Carnicelli: Good morning Chair.

Mr. Hudson: Commissioner Kahu Hill.

Kahu Hill: Aloha Chair.

Mr. Hudson: Good morning. Commissioner Pali.

Ms. Pali: Good morning.

Mr. Hudson: Commissioner Robinson.

Mr. Robinson: Aloha Chair.

Mr. Hudson: Good morning. Commissioner La Costa.

Ms. La Costa: Aloha.

Mr. Hudson: Commissioner Castro.

Mr. Castro: Good morning Chair.

Mr. Hudson: Commissioner Tackett.

Mr. Tackett: Good morning Chair.

Mr. Hudson: Commissioner Gomes.

Ms. Gomes: Good morning Chair.

Mr. Hudson: The Director, Michele.

Ms. McLean: Aloha Chair.

Mr. Hudson: And Corp. Counsel, David. Having established quorum, Director?

1 **B. ELECTION OF OFFICERS FOR THE 2018-2019 BOARD YEAR – Chair and**
2 **Vice-Chair**

3
4 Ms. McLean: Thank you Chair. My understanding is that the Commission wishes to defer Item
5 B, the Election of Officers. We'll postpone that until May I believe? If that's the Commission's
6 wish.

7
8 Mr. Hudson: Let's think about this for a moment. I won't be here very long. You guys might
9 want to have the elections now so that one year from now you guys can do it again. Okay.

10
11 Ms. McLean: Okay.

12
13 Mr. Hudson: So let's proceed with that.

14
15 Ms. McLean: Okay. And so if there are any nominations for Chair we will accept them at this
16 time.

17
18 Ms. La Costa: I would like to nominate Commissioner Carnicelli for Chair.

19
20 Ms. McLean: Are there any other nominations for Chair? Commissioner if you are elected
21 would you be willing to serve?

22
23 Mr. Carnicelli: Willing.

24
25 Mr. Robinson: I'd like to nominate Stephen Castro.

26
27 Ms. McLean: Any other nominations?

28
29 Mr. Castro: I would decline at this time.

30
31 Ms. McLean: You will decline?

32
33 Mr. Castro: Yes.

34
35 Ms. McLean: We have one nomination. No further nominations?

36
37 Mr. Castro: I would like to nomination Commissioner Tackett.

38
39 Ms. McLean: Okay, Commissioner Tackett. And if you are elected would you be willing to
40 serve as Chair?

41
42 Mr. Tackett: It's for one year?

43
44 Ms. McLean: Yes.

45
46 Mr. Tackett: ...(inaudible)...stress for coming.

47

1 Mr. Hudson: We have two nominations for Chair then. Is that correct? Any other nominations?
2 Seeing none, we're gonna call for the vote. All those in favor of Commissioner Carnicelli please
3 signify by raising your hand. One, two, three, four. All those in favor Commissioner Tackett
4 signify by raising your hand. You can vote for yourself.

5
6 Mr. Tackett: ...(inaudible)...

7
8 Mr. Hudson: I'm going vote for you Commissioner Carnicelli. I think you're next in line is that
9 correct? Yeah, I like to keep things in line.

10
11 **Chairperson**

12
13 Commissioner La Costa nominated Lawrence Carnicelli
14 Commissioner Robinson nominated Steve Castro which Mr. Castro he declined
15 Commissioner Castro nominated Christian Tackett.

16
17 **After taking a vote Lawrence Carnicelli was voted as Chairperson**

18
19 **Lawrence Carnicelli – (A. Hill, K. Pali, P D. La Costa, L. Carnicelli, L. Hudson)**
20 **Christian Tackett – (S. Castro, K. Robinson, T. Gomes, C. Tackett)**

21
22
23 Mr. Hudson: Okay, now that you're the Chair. I believe this belongs to you.

24
25 Mr. Carnicelli: So the first thing I'd like to do as your Chair is to say thank you for the
26 nomination, thank you for the votes. I hope that I can serve you well. One hundred percent of
27 disappointment is based on expectation so set your expectations low. And I would actually like
28 to next ask Kahu Hill for a pule to start this new year, new commission. So if you would please?

29
30 Kahu Hill: Pray with us. ...(Kahu prayed in Hawaiian)... God blow your aloha, your long
31 descending breath into this Commission, a new Chair, Vice-Chair and all those that are here
32 and coming. Bless this room and all those that come and go. ...(Kahu continued in Hawaiian).
33 Amene.

34
35 **Vice-Chairperson**

36
37 Mr. Carnicelli: So the first order of business that we're gonna have to do is elect a Vice-Chair.
38 Do we have any nominations for Vice-Chair?

39
40 Ms. La Costa: I would like to nominate Christian Tackett.

41
42 Mr. Carnicelli: Okay, any other nominations from the floor? Seeing none if there are no
43 objections we will go ahead and have Christian Tackett as our Vice-Chair. Oh, I guess I should
44 ask if you are willing to be Vice-Chair?

45
46 Mr. Tackett: I'm willing.

47

1 Mr. Carnicelli: Okay, since he's willing if there are no objections? Seeing none,
2 congratulations.

3
4 **There being no other nominations, the Commission unanimously voted**
5 **Christian Tackett as Vice-Chairperson.**

6
7
8 Mr. Carnicelli: So I guess first item of business Public Hearing. Director.

9
10 Ms. McLean: Thank you Chair. There are two public hearing items on the agenda today. The
11 first is a request from Lahaina Cannery Retail Owner, L.P. for a Special Management Area Use
12 Permit for the proposed Lahaina Cannery Expansion Phase 2 to include the addition of a fuel
13 station, an 800 square foot convenience store, parking, landscaping and related improvements
14 on approximately 16 acres located at 1221 Honoapiilani Highway in Lahaina at
15 TMK: 4 5-011: 04. Paul Fasi is the project planner.

16
17 **C. PUBLIC HEARING**

18
19 **1. LAHAINA CANNERY RETAIL OWNER L.P. requesting a Special**
20 **Management Area Use Permit for the proposed Lahaina Cannery**
21 **Expansion Phase 2 to include the addition of a fuel station, an 800 sq. ft.**
22 **convenience store, parking, landscaping and related improvements on**
23 **approximately 16 acres located at 1221 Honoapiilani Highway, Lahaina,**
24 **Maui, Hawaii, TMK (2) 4-5-011:004 (SM1 2018/0007) (P. Fasi)**

25
26 Mr. Paul Fasi: Good morning Commissioners, good morning members of the public. Today we
27 will be reviewing the Special Management Area Permit request from Lahaina Cannery Retail
28 Owner L.P. The Lahaina Cannery Retail Owner is proposing expansion of the Lahaina Cannery
29 which they're calling Phase 2. I'm gonna go over the governmental regulations and how it
30 relates to the County laws, State law and the applicant will do the details of the project.

31
32 The parcel is owned in fee by the applicant. The project site's located within the limits of the
33 County of Maui Special Management Area so therefore a Special Management Area Permit is
34 required. There are three basic elements to this project, convenience store, fuel pad, and
35 parking. The applicant will have a presentation and go over the details of the project.

36
37 The description of the property is 15.5 acres, TMK: (2) 4-5-011: 004. It is in Lahaina, the Island
38 of Maui. The State Land Use District is Urban. The Maui Island Plan is Urban Growth
39 Boundary. It's outside of the protected area. West Maui Community Plan is
40 Business/Commercial Open Space. The County Zoning is M-1, Light Industrial, A-1, Apartment
41 District. It is in the Special Management Area.

42
43 So the applicable regulations for reviewing an SMA application are found under 205A-26,
44 Hawaii Revised Statutes, Special Management Area Guidelines and Section 12-202-12,
45 Assessment and Determination Procedures of 202, Special Management Area Rules of the
46 Maui Planning Commission and I say this just to get it on the record.

47
48 In the Planning Department's analysis under the State Land Use the proposed project is in
49 conformance with the goals, objectives and policies of the Hawaii State Plan. The subject

1 property is in the State Urban District. In regards to the Countywide Policy Plan the proposed
2 action is in keeping with the following Countywide Policy Plan Objectives Policies relating to
3 land use, economic activity and urban design and there's many objectives, policies and
4 guidelines that it does meet. For example, it will strengthen the local economy. It will promote
5 sustainable land use and growth management and it will direct urban and rural growth to
6 designated areas.

7
8 The West Maui Community Plan in which it's located it supports the West Maui Goals,
9 Objectives, and Policies for land use. The expansion of the Lahaina Cannery will be built on the
10 same property in the area that is designated for business/commercial according to the West
11 Maui Community Plan. There is substantial off street parking to accommodate the project.

12
13 County Zoning is designated M-1, Light Industrial, A-1, Apartment District. The existing use of
14 the property as used is in accordance with permitted uses under the M-1, Light Industrial District
15 Zoning. We are for the request for the Special Management Area, Chapter 205, HRS, and the
16 proposed project meets the Coastal Zone Management Program and Special Management
17 Area Objectives and Policies as listed in Chapter 205A, HRS. And I will not go into each detail
18 criteria. They are in the department report. So therefore the project supports the goals and
19 objectives of Chapter 205, HRS.

20
21 There was a Traffic Impact Analysis Report done in 10/18 and basically it summarizing all five
22 intersections study are projected to operate at an acceptable level of service and the build out of
23 the project will not require further mitigation of traffic management. The State Department of
24 Transportation, Highways emailed me and they had no problem.

25
26 The project was reviewed by the Maui Urban Design Review Board on January 15th and they
27 did approve the design. That concludes the Department's governmental regulation analysis. If
28 there aren't any questions I'm gonna turn it over to the applicant for the project presentation.
29 And with us today is Jason Umemoto who is a landscape architect, Michael Wright who is the
30 developer of the project, Jay Kerner representing the property owner or Jay may be the property
31 owner, Jim Stone who is the architect, and of course the ever present Jeff Overton who is a
32 planner with G70 who is going to be giving the presentation. Thank you.

33
34 Mr. Jeff Overton: Good morning. Thanks for the introduction Paul. Jeff Overton, I'm a planner
35 with G70. We're architects, planners, civil engineers based in Honolulu and you were just
36 introduced to the project team so I won't repeat that. Basically I've got a brief presentation and
37 a couple of my colleagues will join me up here. You've also got a copy of the slides before you
38 so hopefully you can follow along. It's a little better viewing to that. So thanks, we've been
39 working on this for quite a while and of course, Lahaina Cannery is a fixture in the community, in
40 West Maui, in Lahaina. Jim grew up in Lahaina as well. So we brought our
41 ...(inaudible)...architect from Maui with this on this.

42
43 What I'd like...Paul had covered some of the basics here. Of course, we're in the Urban District
44 and Business Commercial use under the community plan. And existing uses in the
45 neighborhood, shopping center. We've gone through a very extensive renovation that you may
46 have seen. Much greater improvements. I'm gonna have Jay Kerner talk a little bit about those.
47 What we're talking about is the area of the property that is unutilized. Lahaina Cannery is larger
48 converted section that everybody's familiar with. It has been used for a shopping center in
49 there, Safeway a major tenant in there, Longs on the other end and a variety of uses inside.

1 We're talking in particular here in this application for the positioning of a fuel station here at the
2 corner near the entrance by Keawe and Honoapiilani Highway and also conversion of a
3 landscape element here which would improve parking directly accessible to the main part of the
4 center. We've got some ground level photos for you to look at that basically shows the entrance
5 where the highway is here. A grassed area that adjoins Kahoma Stream flood channel in here.
6 This is the position of the proposed fuel station and convenience store in this paved area right
7 inside the entrance, and then this is along Front Street picture of the Safeway entrance. This is
8 that landscaped field in the front of the area, the highway in the background that would be
9 converted for the parking and so other site photos nearby.

10
11 We have...the project is really outside of any of the flood risk areas in here. You can see the
12 two areas that are outlined here on the flood map. So the proposed improvements here include
13 eight fill stations. You've seen these stations where we have the efficiencies of multiple fuel
14 positions here and it helps some economy pricing and availability here, 16 fuel positions in the
15 total of the site, approximately 36,000 square feet. There's a small convenience store,
16 800 square feet that's planned on this and some improvements of the entry driveway to help the
17 flow of traffic. Our total parking for the entire complex at 638 spaces and then corresponding
18 improvements to the drainage and infrastructure and landscaping and Jason will speak with the
19 landscaping.

20
21 This is our site plan overlaid on the aerial so the highway and the intersection here that's
22 signalized and of course, the end of the bypass here which is now functioning well. The position
23 of the fuel station is right there with the overhead canopies in this section, the convenience store
24 here. This is the space that's gonna be converted for parking. So the vehicles would follow the
25 normal pattern of access and egress to the property through the existing driveway and the
26 signalized intersection and then turn in and the flow is through the center and then out.

27
28 We had some very good comments from UDRB in our January presentation. In particular, they
29 asked us to pay attention to the layout to improve the flow of traffic in here. Originally we had
30 basically three pods. They were stacked with three fuel positions...three pumps deep, three
31 stacks of pumps and they said you know, that's not an efficient layout. It's gonna cause some
32 back up, back up in here. So we switched this out to two deep, basically 16 fuel positions in
33 total, but this now allows for queuing in all these areas. The idea is you want to get the cars out
34 of the flow of traffic and into the station and have this basically be the waiting area for vehicles if
35 the car in front has finished fueling, this guy's still fueling, you'll be able to pass and enter the
36 pump and access that way. So it works really well.

37
38 The convenience store is at the upper portion and flow works well to avoid any kind of backup
39 that might occur at the intersection. I've got Jim Stone here. He's gonna talk a little bit about
40 the convenience store elements and the architecture.

41
42 Mr. Jim Stone: Thank you Jeff. Jim Stone, architect, G70. This is a pretty standard
43 convenience store. We've all probably visited those where you can walk in and get a soda and
44 some local drinks and things like that. It's only 800 square feet. It would have the, you know
45 the standard ice and other type of things with accessible parking and so on with its own trash
46 enclosure over here.

47
48 One of the things that the Urban Design Review asked us to do is look at the design of the
49 canopy as well as the Q Store to make it appropriate for Lahaina. As you know it has a rich

1 plantation and whaling heritage there. We also have probably seen Safeway fueling stations in
2 our travels. They do have a standard. We were successfully through Jay and Mike able to ask
3 them to modify their standard one to bring in some very specific Cannery elements such as the
4 metal siding as well as decorative metal slats and use a color palette that with trim and other
5 types of treatment such as board and batten and so on to decrease the scale of this and make it
6 more appropriate for the Cannery in Lahaina. We also successfully asked them to break it up.
7 Sometimes they do a canopy all the way across and by breaking it into two separate canopies it
8 decreases the visual mass. We also asked them to decrease the height of the canopy here to
9 decrease that also. So they were very sensitive to the needs of Lahaina as a Historic District.
10 This would be a rendering to kind of show how this canopy would work with some of the colors.
11 As you know, the mall uses Cannery grays and other ...(inaudible)...types of accent colors and
12 you can see how the slot in the middle allows more light and breaks up the mass here. You can
13 also see how we've gone to the Q Store, the convenience store and used the metal siding, the
14 grays and some of the colors that we're accustomed to on the historic Cannery building and so
15 successfully addressed the Urban Design comments to make this a more appropriate for the
16 mall as well as driving by. Another view of the split canopy. And Jason, you can come up and
17 talk about the landscape elements we're employing here.

18
19 Mr. Jason Umemoto: Thanks Jim. I'm Jason Umemoto, landscape architect for the team. You
20 know, in general, the landscape wants to fit with the character that's already existing there. So
21 the Monkeypods along the highway, the Queen Palms along the entryway with the Hibiscus
22 would continue to be a main feature of this. One thing I wanted to point out and it was pointed
23 at the Urban Design Review is, you know, we'll make sure that any new plants feature natives
24 and we'll definitely use those in the landscape. Where it's not possible they'll always be
25 noninvasive. We'll check them against the Hawaii Weed Risk Assessment and Plant Pono
26 Research Site to make sure that they're all consistent with that. But ultimately, the functionality
27 of the station and all that we'll be using it to beautify the area, screen what's necessary and be
28 consistent with the entire project. I think that's it.

29
30 Mr. Overton: In terms of the –

31
32 Mr. Carnicelli: Identify yourself again please?

33
34 Mr. Overton: Jeff Overton, planner at G70. So our drainage concept...(inaudible)...important
35 that we manage our runoff properly and we're actually working with our civil engineers on low
36 impact development aspects that we integrate with the property so that means rain gardens in
37 areas where you use your large grassed areas to slow down, detain the runoff, have the silt
38 come out of it, storm water detention to avoid any kind of flooding or runoff issues and the best
39 management practices, the BMPs for these infiltration trenches, bioretention, rain gardens and
40 biofiltration. I'm gonna have Jay Kerner come up and provide some remarks about the project.

41
42 Mr. Jay Kerner: thank you Jeff. Good morning Mr. Chairperson, Commissioners, thanks for
43 hearing us this morning in our application for Lahaina Cannery Mall and I want to thank
44 Director McLean and Mr. Fasi for all their help and guidance through our process here.

45
46 Mr. Carnicelli: Identify yourself please.

47
48 Mr. Kerner: Oh, I'm sorry. I'm Jay Kerner, Lahaina Cannery Retail owner. We're the owners of
49 the Lahaina Cannery which we purchased in the middle of 2016. I'd like to thank everybody

1 who's been involved in the process here. We've done a lot of community outreach and we've
2 gotten a lot of good input, a lot of support and you know, as with the first phase of our project
3 where we expanded the Safeway and renovated the exterior and the hardscape and landscape
4 we've been very active with the community in trying to take all consideration in order to be a
5 good neighbor.

6
7 So with respect to this aspect, you know when we went to Urban Design Review Board they had
8 some excellent comments with respect to circulation, with respect to landscape, architectural
9 design and other features including access to the fuel station and so we've taken all of those
10 comments into consideration and we really appreciate you know the community's support. Any
11 questions I can answer at this time?

12
13 Mr. Carnicelli: Let's finish the presentation and then we...(inaudible)...

14
15 Mr. Kerner: Thank you all very much.

16
17 Mr. Carnicelli: Thanks Jim.

18
19 Mr. Overton: Thank you Jay. So that concludes our presentation and we'd be glad to respond
20 to questions from the team.

21
22 Mr. Carnicelli: Thank you. So at this time we'll go ahead and open up the floor for public
23 testimony. And just so everybody knows, you get three minutes and at three minutes Carolyn
24 will say three minutes and we need for you to stop. It's not that we want to cut you off. We
25 want to hear what you have to say but obviously with a full house we've got a lot of people that
26 have a lot of things to say so you get three minutes and three minutes only. The Commission
27 may ask your questions to clarify your testimony. Oftentimes people have more to say and they
28 say, oh please ask me a question so that I can continue on. That's not what the questions are
29 for. The questions from the commission are to clarify what you've already stated on the record.
30 With that being said, please stay on the topic. We're here for an SMA Permit so please speak
31 to that. And with that being said, the first person that signed up was Arleen Gerbig. Is Arlene
32 here? Hi Arlene, please state your name and I will ask you if you will be truthful.

33
34 Mr. Arleen Gerbig: My name is Arleen Gerbig.

35
36 Mr. Carnicelli: Okay, Arlene will you be truthful?

37
38 Mr. Gerbig: Of course.

39
40 Mr. Carnicelli: You have three minutes.

41
42 Ms. Gerbig: Okay, thank you very much. As I said my name is Arleen Gerbig. I am President
43 of the Lahaina Honolua Senior Citizens Club. We are here to testify in support of Lahaina
44 Cannery Mall plans to add a new fuel station, a convenience store and additional parking. Over
45 the past couple of years our organization and I have been invited to meet with the Lahaina
46 Cannery Mall team to review their renovation plans and to provide our input. They have also
47 attended our meetings to make presentations.

48

1 Throughout the process they have carefully considered our ideas and we're beginning to see
2 the results. The newly expanded Safeway is exciting and I shop there maybe twice a week.
3 We were also pleased to hear that a well-known national breakfast chain may be opening at the
4 Cannery Mall. The community will undoubtedly embrace this exciting new restaurant option and
5 I'm sure the seniors would love it.

6
7 In addition, it is our understanding that the station will offer low cost of gas and that will help
8 drivers on the west side especially the seniors who are on fixed incomes. West Maui residents
9 have typically have always had to travel long and the discounting fuel options are a welcome
10 service to the west side.

11
12 I'm especially grateful for the new plans that include an expansion of the parking area since I
13 sometimes find it very challenging to find a parking space near Safeway. Safeway has now
14 become very, very popular. I used to go shopping at like seven o'clock in the morning and
15 easily I could find a parking space right there in the front. But now it's so overloaded with cars
16 that I have to park beyond the road, the middle road. So anyway, I'm glad that they're going to
17 do an increase.

18
19 We urge the Planning Commission to recommend approval of Lahaina Cannery Mall's
20 application. Thank you very much.

21
22 Mr. Carnicelli: Thank you Arleen. Mr. Overton do you have any questions for her? Okay.
23 Commission any need to clarify her testimony? Seeing none, thank you very much.
24 Carl Offenbach, and I apologize guys if I'm gonna butcher your names. Please correct me
25 when you get up if I butcher your name along the way here. Carl do you promise to tell the
26 truth?

27
28 Mr. Carl Offenbach: The whole truth, nothing but the truth.

29
30 Mr. Carnicelli: State you name and you have three minutes.

31
32 Mr. Offenbach: Carl Offenbach. Anyway I'm opposed to the Cannery. There's things that
33 aren't coming forth. You got a big bottleneck in the works as far as traffic with the Lahaina
34 Bypass. The Cannery is being used as a shortcut. I use the expression road rage starts here
35 and that's at the Cannery. Kapunakea Street isn't being addressed at all. You had more
36 parking for handicap when they originally finished suddenly half of it's gone. You got four spots
37 that's it. That's not enough. I don't know what the County Code says for requirement. You put
38 in a parking garage they're not gonna be getting the baskets fast enough. It's gonna wind up to
39 be like a crime magnet, people coming in, breaking into cars. I live across the street. I have
40 problems sometimes parking in front of my own house because sometimes people come to the
41 Cannery or go visit the other property on the ocean side which has the same owner, yeah. I'm a
42 little nervous, sorry.

43
44 As far as your community plan goes there's a whole lot of issues with other businesses and it
45 has to do with the bypass across the highway 'cause it's basically dead ended there so it's just
46 gonna choke things. Things are gonna be built up more and using that bypass even more once
47 they start building houses and putting in new businesses so that needs to be taken into account.
48 This can't go by a study for traffic that was done in October during the slow time. It's not right.
49 Same thing applied when the Cannery went to expand the last time somewhere around ten

1 years ago or something like that and you still have the same issues nothing's been corrected.
2 You need another lane basically on the highway when they built the shopping center across the
3 street they wanted to put in a new lane but the owners didn't want to give up the land or sell it so
4 the County just say okay, but I mean, you're gonna have a lot of traffic accidents. I don't know
5 how many deaths will occur in the future but it's nasty. You have problems with the businesses
6 across the street already because of the bypass and to cram more traffic and slow it down at the
7 light, you're gonna need more lights to go in at where the bypass is. There's accidents that
8 happen almost every day. It's ridiculous. You don't even have, you know, bike racks at the
9 Cannery, you know and this is a new project. You got slabs that are cracking and they're not
10 going to get replaced. The whole thing's just gonna get driven down into the ground because
11 that's the nature of what businesses do. They get a hold of something, something gets
12 approved, they build, then they drive it into the ground.

13
14 Ms. Takayama-Corden: Three minutes.

15
16 Mr. Carnicelli: Thank you Carl.

17
18 Mr. Offenbach: Your food court it's shot. Most of it went out of business.

19
20 Mr. Carnicelli: Thank you for your testimony. Mr. Overton, do you have any questions for Carl?

21
22 Mr. Overton: No questions.

23
24 Mr. Carnicelli: Commission any need to testify or to clarify the testifier's comments? Nope?
25 Thank you Carl.

26
27 Mr. Offenbach: Okay, I got a long list.

28
29 Mr. Carnicelli: Would anybody else like to testify on this item? Seeing none, then without
30 objections we will close public testimony. Public testimony is now closed. So Commission I
31 think what I would like to do is continue the practice that Commissioner Hudson did and that is
32 we'll go around to everybody, you get two or three questions, we'll go to the next person and
33 we'll do two or three rounds based on you know how many questions that have and that way
34 everybody kinda gets a bite at the apple and we're not kinda all over the map. So either
35 questions for Mr. Fasi or for the applicant. At this point in time I'll start with you
36 Commissioner Hudson.

37
38 Mr. Hudson: No questions at this time Chair.

39
40 Mr. Carnicelli: Thank you. Kahu Hill.

41
42 Kahu Hill: Mahalo Chair. I do have a couple questions. Report indicated that SHPD stated that
43 no further work is necessary for Site 0678 and 8012. I only see the 2006 letter from SHPD
44 regarding the preservation area described in Exhibit 19 for the iwi kupuna and I just wanted to
45 know is there SHPD documentation from 2016 regarding the site 6078 and 8012 in the report. I
46 just cannot see it.

47
48 Mr. Overton: Thanks. Jeff Overton, planner with G70. Thanks for your question Kahu. So
49 you're referring primarily to the site that will be preserved.

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Kahu Hill: Yes.

Mr. Overton: As per the preservation plan that was approved by SHPD previously. So there's no more recent correspondence from SHPD on this other than we've expressed willingness to continue forward with the preservation plan which was not implemented previously. It will be implemented now. So this basically takes a preserve that has iwi preserved at the location per the Burial Counsel's guidance and we want to go ahead and expand per their recommendations to broaden the landscape area and low fence kind of enclosure so that it's more appropriately protected and respected here in the future. So those actions would be undertaken consistent with the preservation plan and if necessary we'd go back before the Burial Counsel to review that again just to make sure everything is implemented properly. If necessary SHPD could comment. We made all the materials available to SHPD through the process. There was no further comment from them that we had received. I know they're very business with all their activities so we're basically just saying yes we'll do it and we commit to it now under this. Does that answer your question?

Kahu Hill: It does. I'm still missing those documents that I don't see but I do hear you and just so on you, you have the...(inaudible)...

Mr. Overton: Eric Fredericksen was the archaeologist for it and we have the materials. It was a final report that was accepted by SHPD at that time and just the...you know the ownership had changed so we just received all that and then presented it properly with the SMA assessment and then the application and SHPD chose not to make any further comments on it. So I can get you any of the historic letters if you'd like--

Kahu Hill: I would like that.

Mr. Overton: --copies of that.

Kahu Hill: Yes.

Mr. Overton: Okay, let's make sure we follow up with that.

Kahu Hill: And just one other question about the archaeological monitoring. I just want to know are you going to have each piece of equipment have a archaeologist as you're developing.

Mr. Overton: Yes as we...because of any kind of subsurface activity there's foundations that's required of course for the pumps, the tanks for the fuel storage as well as the foundation for the convenience store. So any kind of subsurface disturbance would require the monitoring of that. For other types of site work this not, we probably aren't required to but we would follow the, again, the requirements of the preservation plan and have the active monitoring throughout the construction.

Kahu Hill: And one more Chair?

Mr. Carnicelli: Go.

1 Kahu Hill: I just wanted to hear what the other testifier said about the handicaps. So you have
2 thought about that if there need to be any other handicap area?
3

4 Mr. Overton: Well absolutely. I don't think a building permit can be issued if we're not meeting
5 ADA requirements for the building in there so that all of our spaces have to meet the minimum
6 requirements for these special parking spaces to deal with ADA requirements. It's very strict
7 Federal Laws that are being mandated and carried forward with the County. So Jim, we worked
8 through this in our plan and provided appropriate ADA spaces at each of the locations.
9

10 Kahu Hill: Mahalo.

11 Mr. Carnicelli: Commissioner Pali.

12 Ms. Pali: Hi, good morning.

13 Mr. Overton: Good morning.

14 Ms. Pali: Just a couple questions here. Did you folks do any kind of study or collect data on the
15 need for a third gas station? I understand that there's one across the street in the...right across
16 directly from Safeway and there's also a newer one that's across the street up to the right. So I
17 guess this would be a third on in a very, very walking distance close vicinity. So there was no
18 data done to state that there was a need in the community for an additional gas station. And
19 then follow up question to that was is your station going to be offering services that maybe the
20 other two don't offer?
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26 Mr. Overton: I'm gonna ask the owner's representative to respond to that better. I know
27 Safeway would not be building a gas station there unless they felt their market capture. So we
28 were not responsible for the market studies but maybe Jay you'd like to respond to that?
29

30 Mr. Kerner: Hi, Jay Kerner, Lahaina Cannery Retail owner. So with respect to gas demand so
31 Safeway did studies on their own. They did not share them directly with us, but that proved that
32 from their standpoint that there was real need and especially for a low priced gas option for the
33 community and it really...you know our view and Safeway's view is that really does more serve
34 the local community as opposed to necessarily tourists which it helps too, but I mean given the
35 distance from there to the airport, it's more about the local residents and a good fuel option.
36 And the cobranding between the Safeway Store itself and you know, couponing and offering
37 discounts you know in order to get people who are getting gas to come in the store, they often
38 offer discounts. Does that answer your question?
39

40 Ms. Pali: So is that part of...the testifier earlier mentioned potential discounted gas was that
41 kind of part of the assumption is that this gas price would be discounted and so that could
42 potentially be additional service that maybe the others aren't offering?
43

44 Mr. Kerner: That's correct.

45 Ms. Pali: Okay.

46 Mr. Kerner: Yeah, so they...it will be low price point and you know there's a affinity type
47 programs that Safeway offers where you get a discount off even their normal low price.
48
49

1
2 Ms. Pali: I think you do similar in the Kihei Safeway kind of...they have gas
3 station...(inaudible)...

4
5 Mr. Kerner: Yes, exactly, exactly.

6
7 Ms. Pali: Okay. It's just I guess I'm a little cautious because what we've seen weren't being
8 raising here is we'll see even mom and pops and then the big brand, and the mom and pops
9 close down because the big brands have kind of taken a lot of that and so we just want to make
10 sure that we're conscious and there's a balance there. I have one more quick question.

11
12 Mr. Kerner: Yes, and I have just one other comment I'd like to make in that regard is that, you
13 know, this station all that it offers is gas and then it has a very small convenience store. They
14 don't offer any service, any car washes, any of the other type of ancillary things that many of the
15 other station offer.

16
17 Ms. Pali: Okay, and then last question is what is your comment or feedback on the congestion
18 because I am enjoying when I go to see my dad guys and I'm coming through the new bypass
19 and it does have a dead end right at the main traffic which is going to be the corner of where
20 this is going to be built, what are you doing to mitigate further traffic congestion because if they
21 do want discounted gas before they go home then they're gonna be going straight through the
22 light and you know back up and things like that?

23
24 Mr. Kerner: Yes, so our studies of traffic showed that the operation of that intersection itself is
25 definitely in acceptable...it meets all the acceptability standards and with respect to when you
26 come into the shopping center that we have done everything that we could design-wise so that
27 cars will not get backed up and congested and so that starts with the relocation of the pumps
28 forward, spreading them out wide instead of deep and allowing for sufficient stacking so that
29 they won't stack up into the drive and back up into the highway. That was a consideration for
30 DOT also for the various community groups that we met with as well as Urban Design Review
31 Board. So we've taken those things into account.

32
33 Mr. Carnicelli: Commissioner Robinson.

34
35 Mr. Robinson: Chair so what's the rules, it's do I have to ask a question or I lose my turn or I
36 can ask a question later?

37
38 Mr. Carnicelli: Well there's no rules.

39
40 Mr. Robinson: Okay.

41
42 Mr. Carnicelli: We're just gonna use practice which is we're gonna do two or three rounds.
43 We'll do two rounds for sure. If people still have questions we'll do three rounds.

44
45 Mr. Robinson: I'll pass on the first round.

46
47 Mr. Carnicelli: Okay. Commissioner La Costa.

48

1 Ms. La Costa: Thank you Chair. Yes, either architect or owner, either one. So I would like to
2 add to what Commissioner Pali said. Is it correct that you are not going to do any changes to
3 the current road?
4

5 Mr. Overton: The improvements that were made to the state facility were designed for the flow
6 of traffic with the bypass. I realize there was an adjacent phase when it came in and the traffic
7 was first loaded. The one activity that could be pursued should mitigation be needed. Right
8 now the models don't show it would be some modification to the left-turn traffic travel lane, the
9 signal timing for that could be one of the fine tuning mechanisms that the traffic engineers when
10 we spoke with DOT they said that's always a possibility downstream to help improve a balance
11 to this. So they're always trying to make the flow perfect after time sets in. But right now they're
12 not saying that any adjustments are needed.
13

14 Ms. La Costa: Okay, being a west side resident I have seen more than my share of people try
15 to squeeze by on to make a right-hand turn. Rear end accidents, running into the trees because
16 they're in a hurry because that is just not wide enough. If you add more traffic in and out of that
17 intersection then I think you're gonna see a preponderance of more accidents and more people
18 in a hurry. So that is my first concern is that that roadway needs to have some kind of
19 improvements so that either the right-hand turn lane is longer or there is some kind of striping so
20 that people don't have those accidents and traffic backing up.
21

22 Mr. Overton: And just if I could add, we did make sure that both the County and the State
23 Transportations Agencies had a chance to review both the SMA Assessment and then the SMA
24 application. We've had comments from them that weren't specific to that but we've addressed
25 comments to date on that. Most recently DOT hasn't raised those. So I think you've raised
26 some good points. Thanks for sharing that and I think we'll have to take that into consideration
27 going forward.
28

29 Ms. La Costa: When you don't drive it every day then you don't have that experience and don't
30 have that information. So my second question is about removing the green area and adding
31 more parking and while it's true there does need to be more parking there I see families sitting
32 there. They go to Safeway and get lunch or they go to Starbucks and there also is a fair there
33 so if you take away some green space that adds really to I think the ambience of the mall and
34 add more parking then all you're gonna have for green space is what's along the highway and
35 what's on the other side of the exit road. So that's a concern of mine because I think we need
36 to have that Hawaiiana feel of greenery and I'll ask the other questions next time.
37

38 Mr. Overton: And I don't know if Jay or Mike you wanted to respond on that point.
39

40 Mr. Kerner: Hi, Jay Kerner again. I'd like to speak to your first question regarding
41 improvements at the actual entry to the shopping center and recently a few months ago, I'm not
42 sure if it was the State or the County Transportation folks came in and widened the apron at the
43 entry to the shopping center and onto our property and that was also combined with the traffic
44 signal, the new traffic signals that were out in as part of the whole bypass. So that area is a little
45 bit wider than it used to be so that it's more conducive to traffic flow.
46

47 Ms. La Costa: Thank you.
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49 Mr. Carnicelli: Commissioner Castro?

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Mr. Castro: Yes, I have a question. How many fuel tanks are going to be installed?

Mr. Overton: Okay, that's a question I can't answer other than I don't know. I don't have that answer for you technically. I know we have different fuel types that come in usually there's three that work. So I know they've gotta support those but I don't have the technical specs here for the installation of the fuel tanks.

Mr. Castro: One more question. In regards to the drainage, I have some concerns. About 20 plus years ago the car rental place we had a bad storm and the fuel surfaced up and as they were returning the cars it caught fire. Okay, it was a good explosion. So I'm concerned about that that's gonna be a lot of cars. This was only one fuel pump, now we're talking multiple pumps so I have concern with that.

Mr. Overton: I have familiarity with these types of facilities. The standards now are so rigorous for these tanks in terms of liners and double liners and monitoring that things that we experienced 10, 15, 20 years ago can't happen with the current technology. They're just very careful about how these stations are set up. Department of Health regulates these through their hazardous environmental risk groups. So we have to meet all those standards. It all has to be licensed and inspected properly but you raise a very good question and we want to be sure that that sort of thing doesn't happen.

Mr. Castro: Yeah, I'm really concerned about that because the fuel rises and any hot muffler is gonna set it off.

Mr. Overton: Okay, thanks for that.

Mr. Castro: Thank you.

Mr. Carnicelli: Commissioner Tackett.

Mr. Tackett: Good morning. My question is when you look at the placement it's kind of by the river. It's on the ocean side of the road and then weighing in with what people that have lived there before me have seen when these big storms come in and seems like we've had more than lately what have studies said about the chances of that affecting our ocean, affecting the stream 'cause it is kinda close to both of those two things?

Mr. Overton: Well, again thanks for those detailed questions. I'm gonna rely on the experts that have to implement both the Federal and State regulations for how these facilities operate. The position of this is actually more distant than other fuel stations that exists in Lahaina presently. We're gonna have to follow the strictest regulations that are there for these containment facilities. And again the technology has improved dramatically over what we've experienced in the past. And I heard what Commissioner Castro had said and I think decades ago those, those sorts of things may have occurred. They really can't with the way these facilities are lined. They have monitoring systems that detect any kind of leakage. They have secondary protection containment so that it would not be released to Kahoma...the flood channel there or of course the ocean downstream. All of that has to be contained properly within these systems, but I appreciate your concern and we have to meet all those very strict rules that are both Federal and State regulated to manage this system. I hope that answers your question.

1
2 Mr. Tackett: I got one other question. Do you know, do you know how many gas stations are in
3 Lahaina Town?
4

5 Mr. Overton: I don't have the exact number. I think the number was three but I don't know
6 exactly.
7

8 Mr. Tackett: I think it's about five.
9

10 Ms. La Costa: There are five. There are five with conveniences.
11

12 Mr. Overton: When we had discussions with the community and Shane Peters was out
13 speaking a lot with the folks in the community one was the concerns was the potential impact on
14 the smaller gas stations that are in town that are a part of the community today and again, this
15 won't be a service station, it won't be a carwash. It's really intended to benefit the community
16 through as Jay had mentioned the discounted gas that allows a convenience for the folks in the
17 community and that shouldn't have a negative impact on those stations that have the legacy in
18 the community contact or the full service operations that you see in Lahaina today.
19

20 Mr. Tackett: So just so I understand it I don't do gas stations myself, but I always kinda thought
21 that gas stations offer the amenities to get the people in so that they could sell them their gas
22 and I always thought that the gasoline was the driving factor financially. If one has a
23 convenience store and the other one doesn't maybe someone comes in they make the money
24 off the gas and they make a little bit of money off of the accessories. So what I'm worried about
25 is if you're saying that it's because you have the lowest prices of gas and you're saying the
26 other people are gonna be going for these accessory uses which might not be the financial
27 driving factor of what keeps their gas station alive to me is that correct? I believe most gas
28 stations survive off of the fuel sales is that not correct?
29

30 Mr. Overton: So I have Shane Peters here and I think he'd like to respond to the question.
31

32 Mr. Tackett: Thank you.
33

34 Mr. Shane Peters: Shane Peters. I'm also a consultant for the developer and landowner here.
35 So it's actually the inverse. The business model is that typically gas stations you almost never
36 see standalone gas stations without any amenities and the reason is because actually the gas
37 stations themselves, the gasoline provides just a small portion of a typical businesses revenue.
38 The vast majority of service stations are or fueling stations are attached to either a convenience
39 store or to a full mechanic service type of facility and I've represented Chevron and other
40 companies in the past. The revenue driver is actually the in-store sales if it's a convenience
41 store or for the mechanic service and the fueling options are actually they're just sort of an
42 amenity and that's just supplementary typically.
43

44 Mr. Carnicelli: Good?
45

46 Mr. Tackett: Yeah. Thank you for your answer.
47

48 Mr. Carnicelli: Commissioner Gomes.
49

1 Ms. Gomes: Thank you. That kind of goes back, I'm sorry the gentleman that was just here I'm
2 gonna piggyback on some of my colleague's questions. Commissioner Pali as well as our new
3 Vice-Chair Tackett in regards to the gas station issue. First of all, in regards to having the
4 number of gas stations in the west side, how many you have in such close proximity. You
5 mentioned the fact that the gas stations are...you don't see standalone gas stations without
6 some type of convenience store or some type of service somewhat attached to it that is pretty
7 rare. If that's the case then there's Safeway, right? And if Safeway's there then why the
8 convenience store, that's one.

9
10 Mr. Peters: So again, it's the same sort of model that any of these sorts of businesses use
11 which is that gasoline typically helps to drive traffic and foot traffic and business to their core
12 business, in this particular case Safeway. And for Safeway this is sort of ties into not only their
13 proposed 800-square foot convenience store but possibly to the larger store as a whole as well.

14
15 Ms. Gomes: But again we're coming back to price point, right. So we talk about price point.
16 Commissioner Pali, my colleague had brought up the fact of mom and pop stores. We see a lot
17 of them disappearing because of big brand names or you know we love Costco a lot just naming
18 one, right. We don't wanna go anyplace else to buy gas, example, we'll stand in line there
19 forever just to get five cents off, ten cents off, whatever. Just that little bit and yet we could have
20 saved money going to Maui Oil or some other place, right. But example of that thinking about it,
21 it's a little bit contradictorial to what is being stated because we think about price point, right, but
22 then we thinking also about the fact that there is gonna be convolute...convoluted traffic at
23 some point. There's gonna be issues of that. They are gonna give a problem to the other gas
24 stations, mom and pops, the small ones who do have possible convenience stores as well
25 attached to them because they're gonna go after Safeway's one and not in exactly
26 understanding you know, I can get what is being done, but I'm also listening to my other
27 colleagues and the answers are not matching up as well.

28
29 Mr. Peters: Perhaps I can clarify. You know, just to be perfectly honest, you know what's really
30 great is that you know Jay Kerner and the landowner team met with the administration and a
31 bunch of the community members. I think what we do know is this, is that this is very different
32 than Costco. Costco offers things like tire services, like a bunch of ancillary related services
33 specifically or automobile maintenance and other things, batteries, ...(inaudible)...types of
34 things. This is purely a fueling station and a convenience store. What we do know is a lot of
35 those mom and pops particularly in those in Lahaina Town itself their bread and butter, their
36 core business is repairing folk's cars. That is people go in there for their safety checks or
37 automobile repair, oil changes, tire changes, all of the usual stuff that goes into maintaining and
38 continuing to have a vehicle. There are no other services that will compete with that that we are
39 proposing. The core business is just for those, for those mom and pops will continue to be a
40 vital part of the community and something quite frankly that the community will continue to need.
41 So where you see sort of Costco competing at that sort of level in terms of the services and the
42 ancillary services that are related you will not see that here with Safeway.

43
44 Ms. Gomes: Just Chair, I'm sorry, I can see your point what you're saying. We can't compare
45 Costco to Safeway in any way, shape or form. I used to drive out to Lahaina quite often so I
46 know that, you know, gas stations were needed if anything there is one that's needed in
47 Olowalu if anything. If anything, if there's a place that needs one that's the spot. I do think that
48 there needs to be a little bit more data on this. I'm a little bit concerned in regards to...we're
49 talking about mechanics and all that, these people...the families out there I mean I used to have

1 them as being a teacher having these families they all work out there, they all very connected.
2 The west side is very special. The families are very special and you have one, you have them
3 all. So is there anybody, I mean I'm hoping there's some other...nobody else testified here in
4 regards to actually being an owner of a mom and pops or store type of...I don't think so or any
5 testimony that had come in, but I just want to state that you know I do have some concerns in
6 regards to this.

7
8 Mr. Overton: We appreciate that and we agree you know West Maui is a very special place and
9 you know the last thing we'd want to do is impact area businesses for sure. And just I'll leave
10 you with this one sort of bit of information that might here is that, you know, we actively reached
11 out to area businesses and that's why you've received testimony in support from the Lahaina
12 Town Action Committee and from West Maui Taxpayers Association those who represent area
13 businesses and I think that helps to provide some of the perspective in terms of any concerns
14 about competition. So thank you, I appreciate it.

15
16 Ms. Gomes: Thank you.

17
18 Mr. Carnicelli: Thank you. Jeff, just in the interest of I'm gonna just ask a couple requests and
19 then I direct question. So one request is for our landscape engineer when you're going to in the
20 native plants on that corner consider view plains, you know try not to make them too high or
21 whatever it is and I think that's gonna be appropriate for traffic, pedestrians, things like that. So
22 that's just one request.

23
24 The other request for you Jeff is what Commissioner La Costa brought up with removing that
25 grassy area in front. That was the first thing that jumped out at me, I was going okay, if you
26 have to have that for parking I understand but you can still request you know like, you know an
27 exception. So I don't know if you have to have it or not but, you know, my request would be can
28 we keep that 'cause I think that's a benefit to the community. I know I've been to the Cannery
29 you know thousands of times and I've never seen the parking lot full, so anyways that's just a
30 request.

31
32 Then my question is the reality of that intersection and our traffic is access from the Honoapiilani
33 to Front Street. Traffic studies are talking about okay, ingress, egress, Keawe Street and then
34 left, right out of the Cannery. But the reality is when you come to Keawe Street or here at that
35 gas station if you're gonna go to Front Street you gotta either...like even coming out of this now,
36 right, you're gonna go right and then back and then left or back, is people go through Keawe
37 and straight and they use your...you know they use that as a road. That's just the reality of how
38 it's used. So what are we doing to address that especially when that little left-hand, you know
39 you go right and then left down. So that's my question is what are we doing to mitigate the
40 reality of how the traffic flows there?

41
42 Mr. Overton: So that was a great question thank you Chair. I'll let the...want to go to the grassy
43 area question first and I think we know that the use of the parking lot it's very unutilized at the
44 present. Now the parking standard were changed to reduce the actual number of spaces
45 required based on the Code. That happened after we had applied for this. It happened at the
46 beginning of the year so we know that ratios...we'd have to recalc and see if we can
47 accommodate all of the requirements for what's built there presently plus this small additional
48 space to see if we could accommodate that and keep the grassy area. Now I know there have
49 been calls including from seniors that access is desired especially with the popularity of

1 Safeway. So it's kind of a balance of needs and desire and I think everybody would love to
2 have a green open space retained if at all possible. So I think we could look at that and see
3 what requirements are and I don't know we're kinda just judging things on the fly. We've had to
4 convert it based on the Code requirements as of last year to accommodate everything on site.
5 So we'll take a look at that and respond to you, hopefully we can respond today.

6
7 As for the flow of the traffic through the site, we worked with the traffic engineers really carefully
8 to look at all the impacts of the traffic on the property not just the intersection with Keawe but the
9 other points of connection Kapunakea and Front Street in here. So in terms of level of service
10 and flow of traffic they're meeting the standards of operation in here. I hear that what you're
11 saying and that there's gonna be some increase potentially as a result of the fuel station here.
12 Will it cause a change in the operating conditions, the traffic engineers don't see that at present,
13 but we did study five different driveway points here and intersections in the traffic study and it
14 was reviewed by all the technical agencies, the State and the County in the review. I hope that
15 answered your question.

16
17 Mr. Carnicelli: Thank you. Commissioner Hudson.

18
19 Mr. Hudson: Hello. Is the proposed site within in the tsunami zone?

20
21 Mr. Overton: So I'll go back to the flood slide in here and it shows the upper corner of the
22 property you know it was built before a lot of the mapping happened. This portion right in here
23 shows the highest in the flood zone in this corner but because of the elevation of the building, it
24 has a certificate for flood elevation in here and it operates fine with that. So not the gas, the fuel
25 station or the other...(inaudible)...are affected by the flood.

26
27 Mr. Hudson: So the direct answer is it's not in the tsunami zone.

28
29 Mr. Overton: Correct.

30
31 Mr. Hudson: Thank you.

32
33 Mr. Carnicelli: Kahu Hill any other questions?

34
35 Kahu Hill: Yes, I do. Mahalo Chair. This is for Shane. Aloha Shane. I just wanted to know you
36 mentioning about what a couple of the other Commissioners said, I mean we have, we go to
37 Safeway and we put in our card number and we get all the great discounts. And if you go to
38 Minit Stop however, they've got their posting of their gas and then you could have an HFN card
39 if you're a business owner and be able to get discounted gas, but it's at a certain rate. And just
40 seeing things like in Kihei, even Kihei Gas they can give a card for a carwash, and of course
41 they do have one there. But most of it just seeing that even in the south side for 30 years they
42 always are very competitive on the prices they put out there and there is other gas stations near
43 you. I could see if they maybe put in their card and got a Safeway discount because of using
44 their card. I'm just wondering about posting your prices that are going to be less than the other
45 gas stations around you and affecting those, any of those stores because they're in close range
46 across the street and up the bypass.

47
48 Mr. Overton: So State laws that gas prices are posted at the point of sale and so those will be
49 posted as required by State law. Typically Safeway's gas is slightly cheaper and then as you as

1 say they have a...not unlike Minit Stop where you have sort of their...flyer program if you will,
2 you know same with the Safeway card you can get additional discounts in that manner. But
3 those are not that particular portion for the discounted case per the Safeway card would not
4 necessarily be posted just the regular price.

5
6 Kahu Hill: So do you know how different your price would be, Safeway's price in the area of
7 let's say near the mom and pops store across the street?

8
9 Mr. Overton: Oh, I think it's a little too early to sort of speculate in terms of what exactly the
10 amount. Perhaps I can ask Jay who would probably be a little more familiar with that.

11
12 Kahu Hill: Just generally Jay. 'Cause we know that it's quite different if we go to Costco or if we
13 go to certain places. So we're just, I'm just looking about the gas stations near you and posting
14 the discount prices and not using a card actually to get a discount like you would at Costco or
15 HFN.

16
17 Mr. Kerner: So it definitely is not the deep discount that you would get at Costco, but it's you
18 know, it's typically a little bit cheaper than just do a standard gas station and then the card I
19 think that typically you get a 20 cent per gallon discount by using your Safeway card and then
20 you get the cross shopping you know sometimes with Safeway with coupons and that kind of
21 thing.

22
23 Kahu Hill: Mahalo. So it is, the people will get most of the discount by using their Safeway
24 card?

25
26 Mr. Kerner: Correct.

27
28 Kahu Hill: Okay, mahalo.

29
30 Mr. Carnicelli: Commissioner Robinson.

31
32 Mr. Carnicelli: Oh wait, wait. Sorry, sorry, Director.

33
34 Ms. McLean: Thank you. Jeff I think we need to clarify your answer to Commissioner Hudson's
35 question. Back on that slide so the purple is the velocity zone, so yes it's true the project is
36 outside of the velocity zone, but it is within I believe the tsunami evacuation zone. So that's
37 shown by the very light blue line that goes way up Keawe Street.

38
39 Mr. Kerner: This is this line up here.

40
41 Ms. McLean: That's the evacuation zone I believe.

42
43 Mr. Kerner: Yes, yes.

44
45 Ms. McLean: So when you talk about the tsunami zone there are two different things. One is
46 the velocity zone which is the purple and then there's the evacuation zone which is always a
47 much, much larger area so I just wanted to make sure that the Commission was clear on that.

48
49 Mr. Overton: So it included the entire...(speaking from the audience)...

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Ms. McLean: We can't hear you.

Mr. Overton: Thank you Director for the...Jeff Overton, planner with G70. Thank you for that comment and so the line that the Director depict...this is depicted here which is the evacuation zone so it includes the entire commercial center and other residential and other uses on the mauka side of the highway within that...it kind of surges out into this area. Thank you for saying that.

Ms. McLean: Thank you.

Mr. Overton: Now, I did have a follow up to the question you had Chairman regarding the green space. I spoke with Jay here on side...(inaudible)...we actually can keep the green space. We're gonna make some adjustments and retain that landscaped core piece in there. We can shuffle the parking based on the adjustment to the Code to include that necessary parking on site and retain the green space Commissioner La Costa and Chair. I think it would be a nice way to go...(inaudible)...

Mr. Carnicelli: Thanks Jeff. Thank you Commissioner Robinson.

Mr. Robinson: You got a mic over there huh Paul? And this is, this is for anybody, but I'm looking through this and I'm hearing traffic studies. I don't see a traffic study in my packet. I don't know if I missed something. I see we're gonna put fuel tanks underground in the SMA area and we have no idea of what the tanks are, and what the structure is, and I'm not trying to be out of line but I've never seen a SMA permit without traffic studies, without drawings of view plains and without digging into tanks in the ground and how it's gonna be done. I've just seen that we're gonna follow all regulations and I thought part of the commission here is to look at the plans before it goes to the regulations and we all know you're gonna follow regulations 'cause everybody follows regulations, but I don't see any of that information in our packet and it's hard for me to make a decision on the SMA part of this project without that information. Is it somewhere that was given to us?

Mr. Fasi: The—

Mr. Robinson: And that's to Paul, Director, to anybody.

Mr. Fasi: Yeah, Paul Fasi. Normally I don't include the TIAR because it's very complicated and unless you're a traffic engineer it's hard to understand. I have that study available. If you want a reprint I can give you a copy of the Traffic Impact Analysis Report but basically to sum it up it does suffice at a level of service which is acceptable for the proposed project.

As far as the tanks in the SMA, Costco tanks are in the SMA. There's many Kihei gas stations that are in the SMA with their tanks underground. So there are a lot of fuel stations with tanks underground. And as Mr. Overton said, you know with the monitoring, electronic monitoring of these tanks the technology has come a long way in the last 20 years so the Department is very comfortable with what they're proposing.

1 Mr. Robinson: So, so TIAR studies are too complicated for the Commission and you guys
2 decide when that we should view it or we have to ask for it Paul. I mean, I see it all the time so
3 to say that it's arbitrary.

4
5 Mr. Fasi: Well, it's too complicated for me.

6
7 Mr. Robinson: Okay, well—

8
9 Mr. Fasi: Maybe you can understand, but I can't—

10
11 Mr. Robinson: When I say...(inaudible)...there's A, B, C, D, E, F and five letters—

12
13 Mr. Fasi: I'll provide you a copy of the TIAR anytime you want.

14
15 Mr. Robinson: Okay.

16
17 Mr. Overton: Okay, we actually have a copy, Jeff Overton, G70. I have a copy here if you'd like
18 to review it while we're here—

19
20 Mr. Robinson: Well, actually as a commission I wish we all could have looked at it 'cause,
21 because then I think with the questions and there's been a lot of questions about traffic and
22 there's been a lot of answers about traffic study and—

23
24 Mr. Overton: This is the table that you were asking for.

25
26 Mr. Robinson: Yeah, and on traffic studies it tells us the time that it was taken, it tells us the
27 date it was taken—

28
29 Mr. Overton: Sure.

30
31 Mr. Robinson: --it takes direction of what time it was taken. And I have, and I'm sorry Chair can
32 I?

33
34 Mr. Carnicelli: Go, go, go.

35
36 Mr. Robinson: I have over two to three dozen vehicles that go past that intersection every day
37 both ways. And if it's gonna, you know, if it's gonna be a Safeway membership and I
38 understand how fuel works, it's gonna be a Safeway membership and you know, sort of
39 capitalistic to draw people in that's one thing. If it's gonna be, you guy's price point is gonna be
40 a Costco price point where people are gonna line up and you know fill that thing I think that's
41 something else. I am concerned because people are using that left turn a lot more and so traffic
42 is backing up closer to the previous stop light, you know all the way to Blackie's and so
43 everybody is only using that right lane now. And I would have liked to see the drawing of
44 exactly how long that right turn apron is going into that and that's all it, is you know, the
45 information. And I don't know if you have drawing of what length that turn in into your parking
46 is?

47
48 Mr. Overton: The apron that Jay described is the portion that leads up to the intersection right
49 here along the State facility. I don't have a diagram of that 'cause it was part of the State's

1 improvements that were out there. I do, I'm able to answer the one question about change
2 comparing with the project or without the project in the built condition and what those level of
3 services are and primarily at the...we already have a Level of Service D with no project in 2020
4 out there. With—

5
6 Mr. Robinson: When was that? When was that D taken, at what time and what date?

7
8 Mr. Overton: So the traffic consultant, it's a traffic consultant that the County uses, the State
9 uses, we use—

10
11 Mr. Robinson: I trust the consultant. I just want to know the time and the date.

12
13 Mr. Overton: Yeah. Okay, so they have the date of the traffic study, final report was October.
14 April is when they took counts I believe. I've gotta get the specific date. When you do it on a
15 percentage comparison it's actually...if we did at the busiest time of the year, the percentage of
16 the project would be lower. So we actually have to do it when school is in. These are sort of
17 the standards of requirement. They don't wait for peak tourist season or things like that. We've
18 got to do A.M., P.M. peaks and weekend and you're familiar with traffic studies so I'm sure
19 you've seen that. The differential with the project in terms of the delay change in the movement
20 at the cannery driveway with the highway at Keawe Street is a minus 1.4 second differential with
21 project as compared to no project. So there is some minor degradation but it does not change
22 the level of service and that there's a slight additional delay.

23
24 Mr. Robinson: I apologize But I don't know what your, what your criteria is to decide what the
25 1.4 is and without, without having that information of how many cars you think are gonna add
26 into that. If we're adding, we're adding 16 pumps and we're having back up space to hold
27 the...the cars, we're assuming we're gonna make some money here and it's gonna be a semi
28 used area and I'm not against it at all. I just, like I said, it's I just want to make sure that there's
29 enough on the apron, there's enough for accumulation for the highway to come into because
30 you know we want the Cannery to be successful. We want the Cannery businesses, all of them
31 to flourish, you know, and so, you know we want that to happen, but we also have to make sure
32 that's it's not in the, you know, in the...it backs up the traffic.

33
34 Mr. Overton: Right.

35
36 Mr. Robinson: And I've seen a lot of traffic studies and there's a lot of traffic in Maui. So all
37 these things get developed with traffic study but yet we still have traffic so somebody is not
38 checking the right, the right box on something. And all it is while I'm here and I'm doing a vote I
39 just wanted to be able to see the study for myself--

40
41 Mr. Overton: Sure.

42
43 Mr. Robinson: --to have my vote. The second thing is I'm looking at this picture you have right
44 here and I see arrows going into the pumps so where, where do the cars go out? So they're all
45 going into the station but where do they go out?

46
47 Mr. Overton: So the flow is directionally into these pumps. They don't come in reverse, they're
48 gonna flow through, they're gonna go out through here. So basically either they're gonna come

1 back, turn and come back out through the main driveway here or exit from other locations on
2 Kapunakea or Front Street at those intersections. So we studied all of those.

3
4 Mr. Robinson: Do you have a larger picture of...or do we have to go just to the big map? And
5 because, because is I go there now and I get, I get kinda stuck in front of Longs. People are
6 you know stopping and dropping off, we have a lot of senior citizens, you know taking their time
7 and so if that's gonna be the main flow of gonna go through that side to come back around you
8 know or if you're gonna keep one of those two lanes, if you can go back that one picture?

9
10 Mr. Overton: Sure.

11
12 Mr. Robinson: Or if you're gonna keep either right or the left lane as a one-way to be recycle
13 through 'cause I think recycling people all the way towards Longs I think is gonna...is not
14 a...you know, not going be a standalone, right. You could still go to Safeway which is the whole
15 point of them visiting Safeway but that mall I think you have everything flowing one way that way
16 it's going to be choke point in the parking lot. We're gonna need a better flow otherwise people
17 are gonna start losing their patience. They're gonna start speeding out inside there jumping the
18 highway and that's what happens. It's not that people don't know how to drive is they lose their
19 patience 'cause they don't think they should be going two miles an hour in a 35 mile an hour
20 zone because the traffic and then that's when we have our trouble. It's not that the road's
21 blocked, it's just that people aren't patient enough to just you know flow the track.

22
23 Mr. Overton: We get some of that on Oahu at times.

24
25 Mr. Robinson: Yeah but everybody had traffic studies on Oahu right? Yeah, okay. So and
26 that's all. So on the landscape do we have any view plains from the across the street or from
27 the highway of what the things are gonna look like instead of just from inside the parking lot
28 because part of the SMA is to preserve the view plains from the highway and do we have any of
29 those pictures?

30
31 Mr. Overton: We have the pictures of the existing conditions only. We've not done projections
32 of views from across the highway of the future condition and one of the reasons for that is many
33 of the mature monkey pods that exist out there which really dominate the landscape is gonna
34 continue forward. As Jason had described we will be augmenting the landscape in the area of
35 the convenience store following the UDRB comments where they wanted some additional
36 buffering of things like the trash dumpster area and the back of house in there. So you raise an
37 excellent point is that the beauty of this we want to retain, we've got the mature palms along the
38 access drive and then it's really going to be the low plants that we have an opportunity to bring
39 in natives and some colorful landscape there.

40
41 Mr. Robinson: You know it's and my concern is I'd actually like to see a taller hedge. I'm afraid
42 of people looking towards the gas station to see who's in there and looking at the distance and
43 them not seeing who's in front of them cause the traffic is congregating at that point. You know,
44 I think open is nice but I don't want them looking at the gas station and the 16 pumps and
45 seeing if their friend's there and we get, you know because it is slowing in that direction there.
46 Chair, I have one last question or would you like to go around and come back?

47
48 Mr. Carnicelli: Go.

49

1 Mr. Robinson: Thank you and I'm trying to think of what it was now.

2

3 Mr. Carnicelli: I can circle back if you want.

4

5 Mr. Robinson: Yeah, why don't you circle back I lost that train when I...thank you.

6

7 Mr. Carnicelli: Commissioner La Costa do you have any questions?

8

9 Ms. La Costa: Yes Chair thank you. I did not see on the plans any solar.

10

11 Mr. Overton: Yeah, that's a good point, you're talking about say rooftop PV?

12

13 Ms. La Costa: Rooftop PV or—

14

15 Mr. Overton: That sort of thing?

16

17 Ms. La Costa: Yeah.

18

19 Mr. Overton: So we have an expert in this and Jim Stone one of the founders of the Hawaii
20 Green Building Council, we've talked about potential for integrating it with the center and Paul
21 said, you know we gotta include that in this SMA if we're gonna have that. We talked about it.
22 We have a very complex roof assembly there and I think you have the ability to add this in there
23 but at this time the center is not pursuing that as part of the system in here. I think long-term it
24 may be a possibility to integrate that. I know there were some challenges because you know
25 how that saw tooth roof configuration is it's not perfect in terms of setting up for very efficient
26 solar field on the roof there. But of course, that could be added, it just hasn't...isn't included
27 right now.

28

29 Ms. La Costa: Being that it's a standalone building why would you be concerned about the
30 center doing it itself?

31

32 Mr. Overton: You're talking about the convenience store itself?

33

34 Ms. La Costa: Both the convenience store and the roofs of the pumps.

35

36 Mr. Overton: Canopies, the canopies in there.

37

38 Ms. La Costa: Yes.

39

40 Mr. Overton: So I know it was raised with Safeway. Safeway decided not to include it as part of
41 the design in there as far as we understood. So it's a possibility but it was not included in this.

42

43 Ms. La Costa: Okay. Another one please? Thank you. What are the depths of the tanks that
44 for the gasoline?

45

46 Mr. Overton: Okay, that's a technical question I probably don't have an answer to. I know that
47 some of the folks on our team have worked on other gas stations. I don't know whether Michael
48 you want to respond to that question 'cause I know you've dealt with remediation of the site.

49

1 Mr. Michael Wright: Good morning Chairman, Commissioners. Michael Wright, developer for
2 the project. Just so we're clear what we're in with the SMA app for is for the fuel station, but
3 we're actually not developing the fuel station. We're delivering to Safeway a buildable pad and
4 Safeway will come in and build their own fuel station. So if we sound like we're quite up to
5 speed on the depth of the tanks, the size of the tanks, the number of the tanks is because we're
6 not designing the tank system or the gas station. We are however, and you've seen in our
7 elevations the canopy, the convenience store which is required for the SMA app. So when
8 Safeway comes in for the building permit they will come in with all respects for the fuel station.
9 So we're kinda not up to speed on that, but per Jeff's comments earlier it will be totally up to our
10 current Code requirements.

11
12 Ms. La Costa: Thank you Mr. Wright.

13
14 Mr. Carnicelli: Commissioner Castro do you have any other questions?

15
16 Mr. Castro: Yes I do. I have a couple of questions. One will there be any air and water
17 provisions out there?

18
19 Mr. Overton: For tire air service or water for radiators sort of thing?

20
21 Mr. Castro: Correct.

22
23 Mr. Overton: I don't know if that's included at this station. I didn't see an outlet for those or
24 vacuum or things like that since that's more traditional service station offerings. I'm not aware
25 of those being included. So the answer's no, not included.

26
27 Mr. Castro: Okay. One more question.

28
29 Mr. Overton: Sure.

30
31 Mr. Castro: From the pumps to the convenience store is that area going to be striped for
32 pedestrian crossing?

33
34 Mr. Overton: Yeah, this is the diagram, it does not show the striping on here. You raise a very
35 good point because if you have pedestrians coming out of the vehicles to access that I would
36 think we would need to show at least one central one might make sense here so that it'
37 organized and it's not random walking across so if I was designing it it would come through
38 here. I don't know if that makes the most sense guys. You focus them and try to direct them to
39 the walkway, have way finding signs so it be much safer. It's a very good comment. Thank
40 you.

41
42 Mr. Castro: Yeah, it's only my concern if you know people crossing and the drivers not yielding
43 to the pedestrians crossing.

44
45 Mr. Overton: If I could maybe respond back on the tank question just briefly. So my experience
46 has been these tanks are typically eight feet diameter tanks. They have to have two-foot cover,
47 they have a concrete deck with a very set, you know valve outlet for the filling positions on it.
48 So that would go to the total depth of eight feet. Now they have to add liners and detection as
49 Planner Paul Fasi had mentioned. So your excavation depth might be approaching 10, 11 feet

1 to get that they've got to apply a solid bed so it doesn't settle in. So we're down at about minus
2 ten from the site.

3

4 Mr. Castro: One more question. So does that include vapor release?

5

6 Mr. Overton: Yes, all of those factors have to be integrated with the design. It's required.

7

8 Mr. Castro: Thank you.

9

10 Mr. Carnicelli: Commissioner Tackett you have any other questions?

11

12 Mr. Tackett: Not at this time.

13

14 Mr. Carnicelli: Commissioner Gomes you have any other questions?

15

16 Ms. Gomes: I do thank you Chair. In regards to...just want to piggyback on
17 Commissioner Castro's in regards to the tanks you talk about the tanks, we are talking about
18 providing for the fuel pumps is this correct?

19

20 Mr. Overton: Correct.

21

22 Ms. Gomes: So the tanks, you didn't have the answer in regards to how many tanks were going
23 to be provided earlier is that correct?

24

25 Mr. Overton: I didn't have an answer for you in detail.

26

27 Ms. Gomes: Correct. So we have eight fuel pumps, according to you approximately eight feet
28 in depth are these...but you probably don't know because we're not sure about the tanks but I'm
29 just gonna ask you this anyway, are these tanks going to be accommodating the eight fuel
30 pumps dual or are they going to be like eight separate tanks, four tanks accommodating two
31 tanks each? Is there some kind of thought process to this? And then I also have a question for
32 that other gentleman who stated that he's not developing it, that Safeway is developing it.

33

34 Mr. Overton: Oh no, we're here representing the project. I think you know we should be able to
35 answer your questions regardless of who's developing 'cause we're asking for permission to
36 build this facility. So I think that this area if I could just go to the graphic here, this is the portion
37 of the property where the tanks are gonna be located. Now you have typically three different
38 blends of fuel, right your regular, your plus and then your super. Okay, so you've got three
39 reservoirs that are set up for the three different fuel types in there. They're all interconnected so
40 that they service these 16 different fuel positions. So to answer one of your questions we will
41 not have eight separate tanks. I believe the number is three because of the different fuel tanks.
42 Now the arrangements, the way they work in these when you see a tanker truck it may not be
43 just all one fuel in a tanker truck. You might have three or four different cells in a tanker truck
44 that hold these different blends. So you can imagine in the ground we can't mix these. We've
45 gotta have them independent by fuel type and then interconnect them to have them go to each
46 of the filling positions. So it's basically lined along this area, we've sized it so that the fuel truck
47 can come in and load without blocking traffic because these parking spaces don't go through
48 and this is the area where the tanks would be lined up and then they service each of these
49 pumps as in your question. They would be the main reservoir for them. What's nice about this

1 it's the farthest distance away from the Kahoma flood channel as well as the question about the
2 ocean. We're basically at the mauka edge of the property here.

3
4 Ms. Gomes: So there is an answer in regards to...I mean, the pumps, how many pumps there
5 is going to be in the ground and so forth. It seems like there might be...you do have an answer
6 for that.

7
8 Mr. Overton: What I don't have is a design plan for the subsurface, you know, fuel
9 specifications here that I can show you right now. So that's why I had mentioned that we rely
10 standards. This is very, very closely regulated. So my experience based on this fuel station in
11 terms of the concept layout and other stations that would be the configuration for it, but it was
12 not presented in detail as any of the exhibits in the application.

13
14 Ms. Gomes: And then Chair, in regards to developing, the gentleman stated that Safeway
15 is...they are going to building this particular gas station.

16
17 Mr. Overton: They will be submitting their own design plans and coming in for the building
18 permit as a tenant on the space. So these folks represent the owners and developers of the
19 property. Safeway is the tenant for this space and they would be responsible for coming in with
20 the specific design plans that would have to meet State approval, County building approval and
21 all those clearances so that's the next phase in the process should we be successful in gaining
22 the SM1 approval.

23
24 Ms. Gomes: Okay, and then just back to one of my colleagues, Commission Hudson, in
25 regards to the evacuation line that we showed wouldn't that cause traffic? I'm mean we've seen
26 traffic again, Commissioner Robinson had explained we do see...Paul, I'm sorry, you know,
27 staff with all due respect, we do see traffic impact statements reports, we do see them. It is not
28 everybody can read them, yes, I agree not everybody will have the full understanding of them
29 but we do see them. We do understand that we'd like to see them in the report ahead of time.
30 The time, the date, definitely the year, we've seen stuff that traffic impact reports were done
31 couple years ago yet they come to us and it's like this was done last year, it's not even current.
32 The landscape of that place has changed. So just want to make that very clear that you know,
33 just backing up you know several of my colleague's comments and statements and concerns. I
34 do have some concerns on top of that.

35
36 Mr. Overton: Could I respond briefly on that? So the staff report that was issued to the
37 Commission Members that I have here it's roughly 30 pages has over two pages on traffic
38 information and also a diagram on here so it does talk about the date of the traffic study, the
39 level of service, when the work was conducted. I can point you to pages.

40
41 Unidentified Speaker: It's in here but it's not good, it's a summary.

42
43 Mr. Overton: It's about two-thirds the way through the report. I'm sorry, it doesn't have a page
44 number at the bottom.

45
46 Ms. McLean: Page 27.

47
48 Ms. Gomes: Page 27.

49

1 Mr. Overton: So it talks about the date of the traffic report, it answers that one question that we
2 had in here about how many vehicles at peak, peak period of 85 during the morning hour and
3 111 trips that's in and out at the afternoon peak hour. Has a diagram that shows the five
4 different points where there traffic study did the modeling of traffic impact and with and without
5 project conditions and then it talks about the flow of access through there. And then at the back
6 also there's discussion under roadways at the very end of the report it talks about 2020
7 intersection conditions. So I think there was a high level presentation, I'm sorry that there was a
8 not requirement to include this but it is in the assessment application as well as the SM1 app
9 that was reviewed by the Planning Department and I'm glad to share it with you here today.
10 There's a summary table that's very clear.

11
12 Ms. Gomes: Right. I mean, this is, I mean, this is I wouldn't call it a synopsis in a sense, but
13 we'd like to see data, you know. We've seen some before in the past. This to me is like a
14 paragraph you know. We'd like to see some numbers that would be nice.

15
16 Mr. Overton: Sure, make sense.

17
18 Ms. Gomes: Yeah, a graph, you know that would be good, some peak times, you know months,
19 maybe.
20

21 Mr. Overton: An important thing to understand is this is an existing shopping center and this is
22 being placed within the context of an existing shopping center so a lot of the circulation patterns
23 are all in place to there and again, we're overlaying this one use on top of it and we made sure
24 that it was reviewed by your County transportation agency as well as the State. We met
25 personally with them to review their concerns directly. Did provide us some guidance on
26 mitigation and helping to improve the driveway flow. So I think your points are well-founded and
27 we have paid attention. I apologize we didn't have more in there for you.

28
29 Ms. Gomes: No, I mean there's a lot of information trust me, it's just that we have to be very
30 responsible as commissioners. I mean, we are the conduit for the public and just so you know
31 the landscape of Maui is changing drastically and very quickly. Lahaina is gonna boom up,
32 South Maui is booming up, so it's not like we're just throwing ...(inaudible)...at you. You know,
33 but we do need to be responsible and respectful about everyone that is going to be impacted.
34 So it's in no disrespect just want say that.

35
36 Mr. Overton: I'm a planner I can take it.

37
38 Mr. Carnicelli: Mr. Fasi.

39
40 Mr. Fasi: Yes, thank you Commissioner. If...when you do...Commissioners when you do
41 receive the report if there's something missing you need to call the Planning Department
42 immediately and we'll send it out. The report sent to you with enough time to review so if
43 something's missing call me we'll get it sent to you. One of the reasons why I don't print out the
44 TIAR because it's voluminous and it takes a lot of resources of paper and ink to...and time to
45 print these out, but individually if you want copies of the TIAR I can either send it out to you
46 personally or I can have the traffic engineering company get it to you ASAP.

47
48 Mr. Carnicelli: So Commissioners I think we still have some questions so we'll go ahead and do
49 another round. Commissioner Hudson do you have any other questions?

1
2 Mr. Hudson: My question is for the Director. This is an SMA Permit so somebody building a
3 service station but it doesn't include the specifications for the tanks. Okay, when the tank
4 comes in, to put in the tanks, and even though technically advanced and all the rest of that are
5 we going to see another SMA Permit? Is that coming back over here for another SMA?

6
7 Ms. McLean: No, this permit would be for the entire project.

8
9 Mr. Hudson: So we're gonna be working on an SMA where we don't have the specifications for
10 the tanks? Is that correct?

11
12 Ms. McLean: That's correct.

13
14 Mr. Hudson: Thank you.

15
16 Mr. Carnicelli: Kahu Hill do you have any other questions?

17
18 Kahu Hill: I do. Mahalo Chair. I did want to know a couple of things. I didn't know if Mike
19 would be the person to answer or who could...if you could answer here and that was just about
20 Kahoma Stream and if there is something that happens with a tank or with an earthquake or
21 with something I know the stream is channelized but don't know how deep the tanks are. So
22 any specifications on the tanks how that could affect the stream and therefore our oceans out
23 there?

24
25 Mr. Overton: Sure. Well, I think in terms of the scaling I gave that information as sort of a
26 secondary response, they're eight-foot diameter tanks, two-foot are cover. So we're at about
27 minus ten at the base of the tank and I'm sorry, we don't have the drawings before you, we
28 could get those for you. Yes, Kahoma Stream, you know, if there was an earthquake or some
29 kind of dramatic failure where these fuel tanks ruptured and flowed into the channel it would be
30 a horrible event. I think there would a lot other very difficult things happening in that size of an
31 event. These systems have to be scaled and constructed in a way so that they don't rupture. In
32 the old days of steel tanks and things like that, it's a little bit different. These are all poly, they've
33 got double liners so you got the liner, the tank, then there's a secondary liner around them that
34 way they can do leak detection if the primary one fails then they can detect it and capture it
35 within the outside liner like that and so especially when we're near water bodies these type of
36 designs are really effective and they follow the latest guidance flowing down from EPA through
37 our Department of Health Hazard group and so that's really the best answer I can give you is
38 that it has to be designed to those latest specifications or it won't be approved for construction.
39 There shouldn't be issues like the old days where we had overflows and vapors and fires or
40 tanks that had no liners or detection and we didn't know for years that happened and so we've
41 worked on a few of those kind of recovery situations on other islands where it's a big clean up,
42 it's a big mess. And so the new systems shouldn't have those problems at all because of the
43 safeguards.

44
45 Kahu Hill: Mahalo. I have one other question.

46
47 Mr. Overton: Sure.

48

1 Kahu Hill: This is about traffic and just really looking at what Commissioner Gomes had said
2 and other Commissioners, we have a authentic luau, Old Lahaina Luau that's right there on the
3 other side and a lot of these people coming which is hundreds come in and out using that drive
4 and they may come out and go through your lot or through this lot and come out to the street
5 light to go back, go out, go back to the south side or upcountry, wherever they are. I'm
6 wondering is there any way that you or have you thought about just working a little bit more on
7 that road or expanding that a little bit more for traffic that would come from there up to
8 Honoapiilani?

9
10 Mr. Overton: So you're talking about the connection between Front Street and here and up
11 through the project in here?

12
13 Kahu Hill: Yes.

14
15 Mr. Overton: Of course we wouldn't be proposing any kind of a new intersection on the
16 highway, but you've raised a good point about how smoothly can we have traffic flow. There's
17 already an agreement for offsite parking to support the luau and that's gonna be sustained. So
18 there'll actually be some improvements to the parking lot and the landscaping that will make it
19 more pleasant for the folks attending the luau and the parking situation there. I would say that
20 the improvements to the driveway and signage and way finding will make it very clear there
21 won't be a secondary road added in here at this point. We've really got to stay away from, this
22 edge of the property here, this is the fence line in here, so we're basically gonna work with the
23 internal driveways and the owners have plans for improvements to the parking, the landscaping,
24 the signage and such in there.

25
26 Kahu Hill: Okay, mahalo.

27
28 Mr. Carnicelli: Commissioner Pali any questions? Commissioner Robinson.

29
30 Mr. Robinson: Thank you. Thank you again. I'd like to circle back with a comment a testifier
31 had regarding the ADA parking. To your knowledge did you guys reduce ADA parking from its
32 current amount and to where it's gonna be when this project is finished?

33
34 Mr. Overton: I'm gonna ask Jim Stone to come up 'cause he worked a lot on the renovations
35 side.

36
37 Mr. Jim Stone: Thank you, yes, Jim Stone, G70. When we expanded Safeway there was stalls
38 that were right in front here, they were not well used and the ramp and everything did not
39 comply. When we successfully expanded this we actually moved the stalls over to the side and
40 here and kept the current ADA. Again, we would not have been issued a building permit if we
41 didn't retain the ADA. As you also know this whole line across here are all ADA stalls and there
42 also was a few around the corner here. So direct answer is no, we retained all the ADA stalls.
43 You might have remembered some here, they're now over here because we've made this a new
44 hardscaped, landscaped easy promenade that's now ADA compliant. The ramp before was not.

45
46 Mr. Robinson: Okay, fantastic, zero impact on ADA stalls, right? Got that cleared up. Okay, so
47 the picture that I have here and if you could go back to that, go back one more time, yeah, so is
48 the...can you go back one more time? Yeah, so the drawing you have here I'm assuming is the

1 drawing that we have here where it shows parking on the left side of the convenience store is
2 that not an inaccurate rendering?

3

4 Mr. Overton: In here. I apologize in that the convenience store—

5

6 Mr. Robinson: That's the right side, yeah.

7

8 Mr. Overton: ...(inaudible)...half.

9

10 Mr. Robinson: No, but this drawing we have here is what we're looking at the pumps and from
11 the street side and it shows that there's parking lots, there's parking stalls on this side of the
12 convenience store. So this rendering is not...

13

14 Mr. Overton: This is the view that you're looking at right here.

15

16 Mr. Robinson: Yeah, and see where that green car is, that green car is kind of where that
17 triangle is.

18

19 Mr. Overton: Up in here.

20

21 Mr. Robinson: Yeah. Is that a parking stall right there?

22

23 Mr. Overton: This is the dumpster trash enclosure in this location. So the renderer may have
24 taken some liberty for having a car there or the car may be there—

25

26 Mr. Robinson: No dumpster, yeah, and there's no dumpster here either. So how many stalls do
27 we have for the convenience store? I mean, in the actual vicinity of where we think people are
28 gonna walk and to the convenience store and are you allowing customers to park their car,
29 leave the pump and go the C store and shop in there?

30

31 Mr. Overton: I can't speak to Safeway's operational requirements. You're talking about
32 pumping and walking in?

33

34 Mr. Robinson: Can we ask Safeway? It's about traffic. So if cars are gonna be in the...if cars
35 are gonna be at the pump and they're allowed to shop then that becomes a parking stall and not
36 a pump and then the back, then backflow of the traffic coming into that parking lot might be
37 affected. I don't know if it is.

38

39 Mr. Overton: Sure, but I think you raise an excellent point. If I was operating it, I wouldn't allow
40 that. You have parking that's ample along this side and here. There's parking bays on this
41 side. It shows a little bit more in detail that there's parking right here very close to this location
42 so that if you were going to have a extended amount of time in the C store you'd probably be
43 directed to park over here.

44

45 Mr. Robinson: To park over there. And so can we ask? I mean I hate to say I don't have
46 enough information so can we ask Safeway now what their...if they have a plan on allowing
47 people to shop while they're parked at the pump? I mean, most places do.

48

1 Mr. Overton: Right. Our recommendation is that they not be allowed to stay at the pump while
2 they're going in the convenience store.

3
4 Mr. Robinson: Okay, thank you so much.

5
6 Mr. Carnicelli: Commissioner La Costa do you have any other questions?

7
8 Ms. La Costa: I do, thank you Chair. So I have a few things. So you mentioned the gas, are
9 you going to be also selling diesel? Will there be a pump for diesel?

10
11 Mr. Overton: I don't believe there's diesel included. No.

12
13 Ms. La Costa: Because if there is then you're going to have height restrictions and height
14 limitations for commercial vehicles that come in there. How long was the traffic study done?
15 What was the time period over which it was done?

16
17 Mr. Overton: Okay, typically what is done in these traffic studies is they'll take weekday peak in
18 the morning and those peak periods usually run about two hours. I can refer to the study and I
19 give you the exact time of day for each of those if you'd like it just will take me a moment.

20
21 Ms. La Costa: And I'd like to know how many days. If they just sat there for one day that is not
22 representative of the actual traffic flow so I need to know the period of time over which the study
23 was done. Thank you.

24
25 Mr. Overton: So they typically do not do two, three, four days of repeat counts for these studies.
26 They'll pick a typical day, it can't be a holiday, school has to be in session and they run these
27 because of their...understanding if they're using ...(inaudible)...counts, they'll have a 24-hour
28 count that's done mechanically and then they'll pick the peak period based on the busiest two-
29 hour period and designate that both in the morning and in the afternoon. Then they also need
30 to do weekday counts in there. Weekend counts on the peak period in the afternoon usually of
31 a Saturday. So all of that is in here I can share that with you.

32
33 Ms. La Costa: So two days that they did the study or did they just...

34
35 Mr. Overton: That's typically what it takes because they have to do the weekday and then they
36 have to do the weekend. So it takes two days of field work.

37
38 Ms. La Costa: Okay. It would be important to me as a west side resident to see when those
39 times are done and what the actual traffic is because to reiterate I have sat there through two
40 and three lights because of the traffic, because of the flow does not work very well coming out of
41 Longs Drugs so that is...it would be important to me to see the traffic.

42
43 Mr. Overton: So what I see here is they do 24-hour totals and they ran it for a month.

44
45 Ms. La Costa: Okay.

46
47 Mr. Overton: So that gives them the background to do the analysis, but then they also pick the
48 peak periods. So I see two different descriptors in here using different counts. So these are
49 their worksheets. I'm sorry you're stumping me a little bit, I'm trying to put my traffic engineer

1 hat on here quickly but we've got these station descriptions from the counts that are done in
2 through here so we have that information in the study.

3
4 Ms. La Costa: Chair if I might please? Thank you. I'm gonna go back again to the tank which
5 is a major concern not only from ecological but also what's important to our water. If you did the
6 height and the depth, I want to know close to Kahoma Stream and the ground water is the
7 bottom of the tank and like Commissioner Hudson I also, it's important to see the actual
8 construction specs for that because you can't say yes, to an SMA if you don't know how it's
9 going to impact the Special Management Area.

10
11 Mr. Overton: So I do not have the construction specs here for you. I could tell you what the
12 distance is from Kahoma Stream. The tanks are approximately 400 feet away to the north of
13 the Kahoma flood channel. Just scaling it off the plans here.

14
15 Ms. La Costa: And the depth?

16
17 Mr. Overton: The depth as I had described, I don't know the actual depth of the stream. I know
18 it's kind of tidal in the area down by the bridge in there. Our elevation on the site, I know Jim
19 you can ...(inaudible)...an elevation here. I know at the bottom of the site I have to pull up the
20 elevation map.

21
22 Ms. La Costa: I need to know close the bottom of the tank liner is to the ground water and the
23 stream, again thinking forward to any kind of a natural disaster that could create a nightmare.
24 And then lastly, just as a point of information, there are seven gas stations with convenience
25 stores and/or additional services within a mile and a quarter of this project.

26
27 Mr. Overton: Seven?

28
29 Ms. La Costa: Seven.

30
31 Mr. Overton: Thank you.

32
33 Mr. Carnicelli: Commissioner Castro any further questions?

34
35 Ms. La Costa: I beg your pardon, yours would be seven if it were approved.

36
37 Mr. Carnicelli: Commissioner Castro any further questions?

38
39 Mr. Castro: None. Thank you.

40
41 Mr. Carnicelli: Commissioner Tackett any questions?

42
43 Mr. Tackett: None at this time.

44
45 Mr. Carnicelli: Commissioner Gomes any questions?

46
47 Ms. Gomes: No.

48

1 Mr. Carnicelli: Okay, so Commission I think we kind of...we've been doing this about an hour
2 and a half now as far as questions. I guess my question to you as a body is would you like to
3 move forward with the recommendation and then, you know a motion to either accept, deny or
4 defer or would you like to move in a different direction? Commissioner Robinson.

5
6 Mr. Robinson: I'd like to make a motion to defer.

7
8 Mr. Hudson: I would second the motion.

9
10 Ms. Gomes: Second.

11
12 Mr. Carnicelli: Okay, motion by Commissioner Robinson, seconded by Commissioner Hudson.

13
14 Mr. Robinson: I'd like to speak to the motion please Chair if I could?

15
16 Mr. Carnicelli: Yeah, as the movant.

17
18 Mr. Robinson: I'm actually for this project. I think options are good for the west side. I think if
19 they can get cheaper gas or cheaper groceries then good for the west side. There's not many
20 options there. I think as it's growth hopefully we can facilitate it more, but I do have questions
21 regarding the SMA. I do have questions regarding the traffic, the traffic study. I read where
22 there's 1,500 new trips. I don't know how this is gonna be new trips because there's already
23 traffic in Lahaina. So the store is not gonna generate traffic, the people are gonna go to the
24 store, if they're gonna go or they're not, but my concern is that right turn. My concern is the
25 study that we have if there's gonna be...we're thinking there's gonna be 1,500 right turns or not,
26 I'm hoping that the person who did the study you know could hopefully be here and answer our
27 questions so that we can make sure that you know we're making a safe decision. I'm also
28 concerned about there's no...I haven't seen any soil tests inside here. So it's ten feet deep but
29 what is the soil ten feet deep? Is it sand is it silt, is it hard rock, is it dirt, you know those type of
30 things that we normally do see in a, you know, it's usually a EA but this is a SMA for this area.
31 And so I'm not against this project I'm just, I don't think there's adequate information at this time
32 to make a decision. Thank you Chair.

33
34 Mr. Carnicelli: Thank you. Commissioner Hudson.

35
36 Mr. Hudson: Thank you Chair. I seconded the motion for a couple of reasons.
37 Commissioner Robinson touched on a few of them. We need the specifications for the tanks.
38 We need the traffic study so that we can see them, maybe have the traffic specialist be here.
39 And since Safeway is gonna be your tenant perhaps a representative from Safeway would be
40 here to answer some of the questions that weren't able to be answered. Keaka touched on soil
41 samples. I'd like to know how deep it is before you hit the water table and what are you guys
42 gonna do to prevent anything from happening to the water table. Thank you Chair.

43
44 Mr. Carnicelli: Anybody else like to speak to the motion? Seeing none, Director.

45
46 Ms. McLean: Thank you Chair. The motion is defer taking action on the SMA Permit.

47
48 Mr. Carnicelli: All in favor please raise your hand. That is eight ayes. Motion passes.

49

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

2
3 **VOTED: To Defer the Special Management Area Use Permit for Additional**
4 **Information as Discussed.**

5
6 **(Assenting – K. Robinson, L. Hudson S. Castro, A. Hill, K. Pali,**
7 **T. Gomes, C. Tackett, P D. La Costa)**

8
9 Mr. Carnicelli: So you guys have what it is we would like to see, correct? I think at this point in
10 time we need to take a break, but we will be back at 11:10.

11
12 A recess was called at 11:00 a.m., and the meeting was reconvened at 11:10 a.m.

13
14 Mr. Carnicelli: The Maui Planning Commission meeting of April 9th is now back in session.
15 Director.

16
17 Ms. McLean: Thank you Chair. The next item is a request from Mr. Allen T. Yap for Paynella
18 Hawaii, LLC for a Special Management Area Use Permit for the proposed eighty-six lot single-
19 family subdivision with an approximately three-acre park, seven-acre drainage retention area,
20 and all associated improvements including landscaping, roadways, sidewalks and utilities,
21 located at Welakahao Road in Kihei at TMK: 3-9-002:014, 116, 150 and 151.

22
23 Commission you also have in front of you a Petition to Intervene from Na Kahawai O Kula Kai,
24 represented by its President Vernon Kanani O La`ie Kalanikau. And so Commission the way
25 the proceedings would go for these items is for the Project Planner, Candace Thackerson to
26 present the project and for the applicant to provide any additional presentation information and
27 then for the Petition to Intervene to be presented and discussed. And then the Commission
28 would take action on the Petition to Intervene. If the Petition to Intervene is granted, then you
29 would not be taking action on the proposed permit today. If the Petition to Intervene is denied,
30 then the Commission could consider taking action on the application and public testimony would
31 then be accepted. Are there any questions on that proceeding? Okay, Candace Thackerson is
32 the Project Planner.

33
34 **2. MR. ALLEN T. YAP for PAYNELLA HAWAII LLC requesting a Special**
35 **Management Area Use Permit for the proposed eighty-six (86) lot single-**
36 **family subdivision with an approximately three (3)-acre park, seven (7)-acre**
37 **drainage retention area, and all associated improvements including**
38 **landscaping, roadways, sidewalks and utilities, located at Welakahao Road,**
39 **Kihei, Maui, Hawaii, TMK: (2) 3-9-002:014, 116, 150 & 151 (SM1 2018/0009)**
40 **(C. Thackerson)**

41
42 Ms. Candace Thackerson: Aloha Commissioners. So the project is before you because it's
43 located in the Special Management Area and Michele as our Director has already read into the
44 record what the project is. I just wanted to state that the community plan, the Kihei Community
45 Plan is Single Family, the County Zoning is R-3, Residential. So the only permit required by this
46 body would be the Special Management Area. In an effort to not repeat ourselves I'll let the
47 applicant go into the presentation so that we can then take up the intervention as well.

48
49 Mr. Raymond Cabebe: Good morning Commissioners.

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Mr. Carnicelli: Good morning.

Mr. Cabebe: Good morning Chair and Madame Director. My name is Raymond Cabebe, I'm with Chris Hart and Partners and I'm here representing the owner, Paul Boschetti and the Project Manager, Allen Yap and we have our team here that will be giving our presentation on the project. We have in addition to myself David Sereda from our office who is the landscape architect. We also have Peter Neiss from Maui Architectural Group, Stacy Otomo from Otomo Engineering, Tyler Fujiwara who is the traffic engineer from Austin Tsutsumi, Lisa Rotunno Hazuka from Archaeological Services Hawaii, Katherine Smith, Kama`ema`e Smith from Honu Media LLC and we have Forest and Kim Starr from Starr Environmental and Michael Reyes from Maui Environmental Consulting.

This shows the location of the property. It's in Kihei just about Central Kihei, Kalama Park to the south. We have Azeka's Place to the north up here. This is the tax map key showing the four parcels totaling 41.337 acres. This is an aerial map that shows the landmarks around the area. We have two schools, Kihei Elementary and Lokelani Intermediate and the South Maui Community Park on the east side. And you have Welakahao Road on the south side of it, of the parcel of the project site with Hope Chapel on one end and Kihei Baptist Church at the other end and South Kihei Road along the west side.

This shows that the parcel is within the Urban Growth Boundary and it's not designated a sensitive area. It's designated Urban by the State. It's community planned Single-Family and it's also zoned for R-3, Residential.

This is some of the photos of the property. Some views down Welakahao going...looking east and west. This middle picture is a typical picture of the interior of the property with the kiawe tree thicket and this is looking from the east side of the property, the mauka side looking across the site. This first picture is a drainage ditch that's right at the corner of Welakahao and South Kihei Road and this is one of the houses, there's like three houses on the property right now. There's an entrance gate to a construction baseyard on the eastern side of the property and these two photos are looking along the future Liloa Drive.

These are some of the photos like along South Kihei Road showing some wetland areas. And the studies that we prepared, that were prepared for this project, you know botanical and fauna report and archaeological inventory surveys there were two of them done. One was done in 2004 and one was done in 2016. Both were done by Archaeological Services. We had a Cultural Impact Assessment done, even though this is not an environmental assessment we thought it was important to have one done anyway. We did walk the site with ...(inaudible)...Oshiro who was the...(inaudible)...at the time of...and there was possibilities that you know there might be some kind of cultural significance to the site. We had a Preliminary Engineering Report done by Otomo Engineering and Traffic Impact Analysis Report done by Austin Tsutsumi and a Wetland Survey Report by Maui Environmental Consulting.

We met with the community, Kihei Community Association Design Review Committee last November and they had some comments regarding the situating the houses and also some trees along the roadways and also about considering to put a restriction on short-term rentals on the project and the applicant is not opposed to that. Also at a community meeting in November last year we notified all property owners within 500 feet or 164 of them and it was approximately

1 40 in attendance. What came out of that meeting was something that we didn't really look at
2 first was a possibility of having wetlands on the property. So we based our initial analysis
3 looking at the National Wetlands Inventory and the property is right here so we noted that well,
4 there's no designated wetlands on the property. However we did engage Michael Reyes to do a
5 Wetland Assessment for the property and this is some of his findings and at this point I'll bring
6 up Michael to talk about his study.

7
8 Mr. Michael Reyes: Hello everyone, I'm Michael Reyes with Maui Environmental Consulting.
9 We conducted a Wetland Survey on the property using the Army Corp of Engineers 1987
10 Wetlands Delineation Manual and the 2012 Regional Supplement for Hawaii and the Pacific
11 Islands Region. The Army Corps of Engineer uses three indicators to determine whether or not
12 something is a wetland. Those indicators are hydrophytic vegetation. I should say a
13 predominance of hydrophytic vegetation and then indicators of hydrology...(inaudible)...lines,
14 salt deposits on the soil surface and then hydric soils. All three of those indicators have to be
15 present for the Army Corps to claim the wetlands and for it be protected under the Clean Water
16 Act.

17
18 So during our survey we found two different wetland areas obviously Keokea Gulch and the
19 fresh water emergent wetland that's just mauka of South Kihei Road. I will show you here,
20 these pictures are within Keokea Gulch and I apologize they're kinda dark because there's a
21 thick kiawe canopy on either bank of the gulch. But as you can see you've got built up material
22 during, you know, flood events that have been deposited within Keokea Gulch. Those are
23 indicators of hydrology. And then within the fresh water emergent wetlands that's just mauka of
24 South Kihei Road you have things like surface soil cracks, you've got sparsely vegetated
25 concave surfaces, these are all very specific indicators within the Wetland Delineation Manual.
26 You also have obviously like salt deposits in these areas. And so I also wanted to speak most
27 of the vegetation within the wetland area is Batis or Pickleweed and the Army Corps of
28 Engineers they actually have a list of plants observed to commonly grow within Hawaii. They
29 give each one a designation of either being an upland plant, wetland plant or just a facultative
30 plant which means they can kind of occur in both areas, upland and wet.

31
32 In this area you can see kiawe which is considered an upland plant is dead. So what's
33 happened here is during a dry year kiawe tend to move into this like sunny area and establish
34 themselves but obviously because of the hydrology of the wetland were killed off during a wet
35 year. And then all of your groundcover vegetation is this Pickleweed, the genus is Batis but the
36 Army Corps of Engineer has designated it to be an obligate wetland species which means that it
37 only grows in wetland. And so when I speak to the three indicators of a wetland this is what I
38 mean, we have a predominance of hydric vegetation, we have indicators of hydrology and then
39 obviously we also dug soil pits and looked for hydric soil indicators. The soil indicators that
40 were observed were gleyed soils and a presence of muck within the soils. And so again, it
41 ended up being just approximately just over three acres of wetlands on the property. Going to
42 turn it back over to Raymond.

43
44 Mr. Cabebe: Thank you Michael. This is a FEMA map, it shows the property, most of the
45 property is within AE Zone which is a one percent, 100-year storm event zone and each of
46 those lines there are the base flood elevation. They all have different base flood elevations as
47 you go up the gulch. At this point I'll bring up Stacy Otomo to talk about how the project is
48 gonna address the flooding conditions here.

1 Mr. Stacy Otomo: Good morning Chair, Members of the Commission. My name is
2 Stacy Otomo from Otomo Engineering. To give you an overview of the drainage, there's a
3 whole bunch of things that's going on. Basically at Piilani Highway where Keokea Gulch
4 crosses the highway there's a bridge...(inaudible)...as you move further down it's an open
5 channel. The Maui Electric substation is right in this area. Right where the future North-South
6 Collector Road crosses this it's an open gulch. Maui Electric has a driveway going right across
7 the gulch. There's two 54-inch culverts that are in this gulch that Maui Electric uses to get
8 across to their substation. Keokea Gulch is fairly defined as you come into the property and
9 right about here it just peters out to being flat. So what the runoff does is it comes through here.
10 It just peters out and just sheetflows here. The bulk of that basically goes over South Kihei
11 Road. Some of it does go in this direction toward the adjacent property and toward the Kihei
12 Franks Subdivision.

13
14 Our drainage plan is to basically channelize Keokea Gulch coming through the property and
15 right in this area where it peters out we're gonna allow it to continue doing that. However, on
16 this half of the bottom parcel we're gonna create a retention basin. The retention basin is gonna
17 be partly in a excavation mode and we're gonna create a little berm along South Kihei Road to
18 provide storage volume. There's a question about what the 100-year flow is in Keokea Gulch
19 and I'll give you three numbers. When Piilani Highway was built I believe the early 70's the
20 engineers calculated the 100-year flow at Keokea Bridge to be 8,008 cubic feet per second.
21 There was a drainage master plan done for the County of Maui in 1997. It was never adopted
22 but kind of used as a guideline. That same report computed the 100-year flow to be 9,035 cubic
23 feet per second. Most recently the Department of Public Works has retained another consultant
24 doing an update to the Kihei Drainage Master Plan and I believe it's in the pre-final stages of the
25 report. Their calculations show that the 100-year flow in Keokea Gulch is 5,753 cubic feet per
26 second. So there's quite a bit of difference between all three of the reports. For the purposes of
27 our preliminary work we use the worst case scenario which was the 9,055 cubic feet per
28 second. In discussions with the Department of Public Works, the Engineering Division we
29 asked them what number should we be using for this study and because none of these numbers
30 are formally adopted what they suggested was that we do our own evaluation of what's
31 happening mauka of Piilani Highway and do our independent calculation and present that to
32 them for consideration. We're not at that stage yet, but like I said for the purpose of this project
33 we used the worst case scenario.

34
35 Ultimately the goal here is to like I said, we're bringing a channel down here. We're allowing it
36 to do what it's doing. In the 1997 and the most current drainage master plan the ultimate
37 solution for Keokea Gulch is actually to come across here, get into the adjacent property and
38 when they built the Kihei Franks Subdivision they already included culverts across Pali Kai
39 Street that accommodates the 100-year flow and it's not shown on this picture but beyond this
40 what happens is it comes here, it makes a left turn down towards South Kihei Road and when
41 the South Kihei Road were improvements were installed in the I believe late 90's or early 2000's
42 there was a whole bunch of culverts that were actually put along South Kihei Road to allow this
43 runoff to cross there and get into what they call the regulation reservoir down at...adjacent to
44 St. Theresa Church. And our hopes here is to be able to build part of that so-called drainage
45 master plan while mitigating the drainage down in the retention basin.

46
47 I'd like to also say that if this project doe get approval to proceed there's a number of steps that
48 we would need to go through to get the drainage plan approved. Number one, FEMA comes
49 into play so we would have to basically come out with a design, submit calculations to FEMA

1 and if FEMA agrees, the objective would be to get all the single-family lots into a green color
2 and at that point it's gonna be called a conditional letter of map revision. If we get to that stage
3 with FEMA we do construction plans, the subdivision gets built out, then and we back and we do
4 an as-built survey and we run the same calculations again, present it to FEMA and if FEMA
5 agrees that everything was built per what was approved then it becomes a letter of map revision
6 and what you would end up seeing is basically where all the blue it would become green other
7 than the retention basin area. And this is similar to some of the other gulches that you've seen
8 like Kulanihakoi Gulch and Waipuilani Gulch.

9
10 Mr. Cabebe: Thank you Stacy. This shows an increase in runoff that is proposed to be
11 captured by the retention basin. The drain inlets will be filtered. The retention basin does
12 provide some natural filtering as well. As I mentioned before, two archaeological inventory
13 surveys were performed and I'm going to have Lisa Rotunno-Hazuka come up and speak to
14 that.

15
16 Ms. Lisa Rotunno-Hazuka: Good morning Commissioners, Lisa Rotunno-Hazuka for
17 Archaeological Services Hawaii and we conducted two Inventory Surveys of the project area,
18 one around 2003, and one in 2016. The 2003 was performed in what we call like the upper
19 20 acres and 2016 we performed the Inventory Survey of the lower 20 acres.

20
21 During an inventory survey we attempt to find the presence of surface sites and the potential for
22 buried cultural deposits and part of the process of the survey is doing background research
23 determining what's been done in the area, what's been found and then we do field work where
24 we go out to the site, we walk the acreage, we look for indications of any types of surface sites
25 and if there are no indications of surface sites then we do backhoe trenching to get idea of the
26 subsurface conditions, you know how much disturbance is there subsurface, are there cultural
27 deposits present? So we did a total of 30 trenches in the project area. We did not have any
28 subsurface findings, no cultural deposits in the trenches and we did not have any surface sites
29 indicated.

30
31 Some of the interesting things that's going on in the area, our project is in this band that
32 archaeologically a theory is it's called the barren zone so it's between two areas, the coast and
33 the uplands that would be more densely populated. However the barren zone would have trails
34 going from mauka-makai. You could have temporary habitation sites along the way, possible
35 fishing shrines, and the park parcel actually had probably the most archaeological features
36 found in this zone. They had agricultural terraces, there was a ceremonial site as well as a
37 couple of habitation sites. Just to the north of our project area an inventory survey was done
38 and there were no findings. They recently did...well actually 2009, 2010 they did the...as part of
39 the park development and they did not find any cultural deposits. They also focused their
40 monitoring on there as a remnant sand dune in the central portion and they did a very controlled
41 grading of that sand dune and did not have any findings during that time.

42
43 So after an inventory survey is done before you go into construction you have to develop an
44 archaeological monitoring plan and that will state you know, how construction will be monitored,
45 if there are any finds how they will be treated and if you have some sensitive areas that those
46 areas during construction may be able or may need to be treated in a more controlled manner.

1 Mr. Cabebe: Thank you Lisa. A Cultural Impact Assessment as a I stated before was done
2 even though it's really required for an SMA permit application. We'll bring up
3 Katherine Kama`ema`e Smith here to speak to her study.

4
5 Ms. Katherine Kama`ema`e Smith: Aloha Commissioners. Aloha Chair and Madam Director. It
6 was my pleasure to do a Cultural Impact Assessment Study.

7
8 Mr. Carnicelli: Excuse me, can you just state your name for the record please?
9

10 Ms. Kama`ema`e Smith: I'm sorry it's Katherine Kama`ema`e Smith and I live in Lahaina.

11
12 Mr. Carnicelli: Thank you.

13
14 Ms. Kama`ema`e Smith: It was my pleasure to do a Cultural Impact Assessment Study for this
15 property and my work started with my love of the Hawaiian culture and that I am an avid reader
16 of old literature. I think I can...I think I have...here's my process, that's not my process. Oh,
17 there's my process. Okay, my method. I go through all of the old literature, I go through a lot of
18 different steps. I do a thorough research for the parcel and I do a thorough for Keokea
19 Ahupua`a and that starts at SHPD with the archaeological records on all of the studies that have
20 been done in the past and all of the ancient maps and all of the most recent maps because it's
21 important to make sure that I am...I'm in the dark when I'm doing my study so it's important for
22 me to understand exactly what the locale is and I do that starting with you know tax key maps
23 and I look for previous owners through the Tax Assessment Record Office and then I look at the
24 ancient records that are the Palapala Mahele Aina O Ke Aupuni Hawaii because those were the
25 earliest land records that we have of the parcels and survey records that show where they may
26 have been habitation sites or shrines or ala or different things that would indicate that people
27 were there. I also read, I scan through and I huli the Na Nupepa Olelo Hawaii through Ulukau
28 and I find out exactly if there were any mentions of any of the ahupua`a or ili or mo`o that
29 existed in Keokea and what they may reveal about this particular property and the land use and
30 the cultural practices that may have gone on.

31
32 I do a primary and secondary histories. I read those...those that were left to us by David Malo
33 and John Papa I`i and others so that I can know what was captured in the early literary period
34 that might indicate some things that were known at that time and that would represent...that
35 goes back...the literary period goes back about seven generations and then...but the
36 people...things that were written down then might indicate things that happened two or three
37 generations before that and then of course, the mele that go back 25 generations.

38
39 So after my historical research then I come back to take a look at that property and I want to see
40 with my own eyes if it looks like the kind of property that the hale builders would select as a spot
41 to build something or that it might have some view lines or other cultural aspects of the land that
42 would cause it to be a ceremonial place. So I took four visits to this parcel to inspect for
43 evidence of cultural sites and also cultural resources such as materials that might be gathered
44 in the process of cultural practice.

45
46 I also put an ad in *The Maui Newspaper* to...asking for cultural informants to come forward and I
47 run that two weeks apart, two ads two weeks apart and then I request informants from the
48 Ahu Moku of the area and I also ask my friends if they know people who were active in this area
49 and know about this area and then I do follow up interviews or have meetings and in this case I

1 did tour the ceremonial site in the recreational park which is above this parcel to get an idea of
2 what was going on and get a feel for that place.

3
4 There were no records that I was able to find on cultural sites, historical home sites or actual
5 cultural practices on this particular parcel. And going back to what was recently said about the
6 barren area, that's not un...that's not unusual for this part of Maui where the Keokea Ahupua`a
7 was held as a crown...as crown lands and these particular ahupua`a that were chosen for that
8 purpose usually had some specific cultural or economic resource attached to them so actually
9 the resources of Keokea and Waiohuli which is next door are the fish ponds at the sea and the
10 rich grazing lands that were up on the slopes so there may have been...there's obviously traffic
11 through this area to get to and from the fish ponds and there may have been camp sites for the
12 those who were to care for the fish ponds but there was no...I could not find any documentation
13 or any person who knew of that.

14
15 There were no mentions of cultural sites or practices on this parcel in my conversations. The
16 area may have been used for kiawe gathering during the 1900's and one of the Mahiai Family
17 lineal descendants knows of this particular activity that was probably throughout all of Kihei area
18 in the kiawe zone where the kiawe was made into fuel, made in charcoal for fuel and the seeds
19 were collected and they were used for cattle fodder and they would sell them. That was an
20 industry. But I don't know of any of that being done recently.

21
22 The family mo`olelo of my informants indicated burials on the parcel, but no locations were
23 found and the informants did not know of specific locations of burials, only of the possibility of
24 burials and so I do recommend the archaeological monitoring for iwi and that is my final
25 recommendation. The people that were interviewed for this were Kimokeo Kapahulehua whom
26 I worked with at the Mookheha o Piilani launching, Wayne Chung who is a cultural practitioner at
27 Ko`ie`ie Fish Pond. Wilson Angel of Kihei Canoe Club, Lucienne De Naie, co-author of the
28 Project Ka`eo and Kihei wetlands historian, Joe Engledow, historical and author of Kau
29 Haleakala, a History of the Maui Mountain, Vernon Kalanikau Po`o O Ka `Ahu Moku O Kula Kai
30 and Sandra Akina of Akina Aloha Tours, I tried to get in touch with, I was not able. She did not
31 answer any of my calls. I spoke to Louise Alborano who is a Welakahao Street resident,
32 Melanie Kehaunani King, who is an Akina Family descendant and a voyager, and Cody Namet,
33 who is a Kihei resident and cultural informant, and Scott Meidell, who is the historian at
34 Haleakala Ranch which is above this site. And that concludes my report to you Commissioners
35 on the study that I performed for this property. Thank you.

36
37 Mr. Cabebe: Thank you Katherine. This slide shows that site that both Lisa and Katherine
38 referenced on the park. This is the park site and there's a...a site that was discovered during
39 the archaeological studies there and a preservation plan was prepared and accepted by SHPD
40 in 2005 and the site is described as such, the presence of several small boulder large cobble
41 size pieces of unmodified branch coral at this site points towards ceremonial use. Its positioned
42 on one of the highest knolls in the surrounding area overlooking its largest drainage also
43 suggests a ceremonial function. It seems more likely that the site represents a single late
44 occupation and that it functioned as a ceremonial site. So that site is right here, it's right at the
45 top, very close to Piilani Highway maybe about 150 feet I estimated. This is looking up the site
46 towards Haleakala. You can see the orange buffer area, it's delineated and this is looking
47 towards, towards the recycling area. You can see the church buildings in the background here
48 and anyway that slide didn't come out right, but looking towards the ocean you can see just the
49 top of the horizon line right above tree line, this site is significantly higher than the project site. It

1 sits about 80 to 90 feet above sea level and the project site ranges from 10 to about 50 feet
2 above sea level. It's a residential subdivision so their heights are limited to 30 feet from existing
3 grade so any filled grade you have to calculate it from the existing grade for the heights of the
4 buildings. So I can show you the picture of those...looking from...looking towards the ocean
5 from here but the tree line, there's a tree line that you know obscures most of the ocean there
6 so we don't anticipate that the project itself is going to impact the sight lines for that shrine.

7
8 We had a botanical and flora survey done by the Starrs. I'll have Forest Starr come up and
9 speak to this.

10
11 Mr. Forest Starr: Forest Starr, Starr Environmental. So we surveyed site in March 2016 and
12 our approach is to go through the landscape noting all the plants, animals, insects, birds, and
13 what we found is that site is predominantly nonnative like much of Kihei. It's in the mauka
14 reaches it's buffel grass, open. You get into the kiawe canopy with a little buffel grass
15 understory and then it becomes a barren understory under the thicket kiawe and then by the
16 wetland it becomes that Pickleweed and Fleabane. All that's nonnative. Inside there's a little bit
17 native plants scattered Ilima, Uhaloa, Akulekule what you'd expect in Kihei. We observed one
18 pueo, that's the Hawaiian owl and a pinao, it's the Hawaiian dragonfly. So virtually all of the
19 plants and animals are nonnative and not a conservation concern on Maui. They're all pretty
20 common. And there was concern about the pueo that it could potentially breeding or nesting
21 right at the time of construction like a two-month window and also the Blackburn sphinx moth
22 that nests on the tree tobacco we did not witness either but they very likely could be there since
23 we've surveyed it and so as a result before construction we'll go in and survey both for nesting
24 pueo and the Blackburn's sphinx moth and the tree tobacco. If any are found, appropriate
25 mitigation will be taken.

26
27 Mr. Cabebe: Thank you Forest. Okay, let's get to the project. It's 80 single-family lots. We
28 reduced it from 86. I think in your packets it shows 86. They average 11,000 square feet
29 approximately. They're six main dwelling models. They're one and two-stories, three, four and
30 five bedrooms and there's one ohana model. Bring Peter to describe the architectural.

31
32 Mr. Peter Neiss: Good morning Commission. My name is Peter Neiss. I'm an architect at Maui
33 Architectural Group and we've created these model homes for what was 86 but is now 80 lots.
34 Pretty straight forward. All the lots have covered lanais, outdoor space, pretty typical building
35 materials, board and batten lap siding. It's pretty early on in the project so we want to leave it
36 open to like the roofing types we're not sure if it's going to be standing seam metal or some sort
37 asphalt shingle or something else, but these are very...they're nice for Kihei but it's what you
38 see all around Kihei already. We're not going out of the box with any of the design and it will fit
39 in well and create a nice neighborhood once there is people living there. Some of the bigger
40 models, two stories is tricky. Yeah.

41
42 Mr. Cabebe: Thank you Peter. Let me just back up a little bit here, going back in the design.
43 We have common areas that include the drainage channel, about four and a half acres, passive
44 park which is three acres, open space of six acres. The wetlands is designated as designated
45 by those reports it's 1.83 acres. There's two vehicle entries from Welakahao Road, two access
46 points with left turn lanes and there's also pedestrian access points to Welakahao and also to
47 South Kihei Road.

1 This was I think was the original layout as submitted, and even before this we had a couple of
2 other layouts that we had originally done. The original project I believe had 91 lots. There was
3 access to the future Liloa Drive here, but then we went to visit Parks and the Parks wanted the
4 driveway to line up with the park driveway so that was relocated here to this area and then in
5 talking with Public Works their timetable for Liloa Drive was...they didn't really have a timetable
6 for it so we decided to construct a bridge and have the access all from Welakahao Road instead
7 and originally we could follow through with this design even though wetlands were discovered in
8 this area here, you know through permits with the Army Corps but ultimately we decided to just
9 go ahead and avoid the wetlands completely, eliminated six lots.

10
11 So the project itself is laid out around all the natural features of the property. Along the future
12 Liloa Drive there's also a 60-foot like no build line that if you see some of these lots are really
13 oversized. That one on the corner is like 20,000 square feet but that's because half of it is
14 unbuildable. And Peter went over some of the architectural features. And this is the landscape
15 plan and we'll have David Sereda come up and speak to this.

16
17 Mr. David Sereda: Good morning. I'm David Sereda, a landscape architect at Chris Hart and
18 Partners and I'd like to speak to you about the landscape features and the open space system.
19 So the open space system has...is comprised of four parts. So there's the gulch itself, the
20 three-acre neighborhood park, the detention area, the wetland and then the network of
21 sidewalks and pedestrian and bike paths throughout the neighborhood. The Keokea Gulch
22 itself would be replanted with native grasses and ...(inaudible)...appropriate for the area. The
23 three-acre neighborhood park would be publicly accessible and it would be well maintained and
24 it would feature barbeques, picnic tables, benches, and walking paths and that's this area here.

25
26 The detention area here what we'd like to do there is have it planted with Hawaiian shrubs and
27 groundcover and become a naturalized habitat. So it would be maintained to a less manicured
28 level than the neighborhood park and would be allowed to naturalize for more habitat purposes.
29 And then the wetland area here what we'd like to do is remove the invasive species and replant
30 it with native Hawaiian plants that are appropriate for wetland areas which would most likely be
31 include makaloa and akulekule.

32
33 There'd be one mile of bicycle and pedestrian paths and that doesn't include the sidewalks
34 within the neighborhood and the main bicycle path would...and pedestrian path will be a 10-foot
35 multi-use path. It would come down both sides of the gulch and would connect Welakahao
36 Road with South Kihei Road. So the path comes along here all the way through across the
37 bridge and back out onto Welakahao Road all the way up to the Maui Electric lot. Potentially
38 this could connect with the north-south collector pedestrian and bicycle access system for that.
39 With the project itself there's three connections between lots and the open space areas.
40 There's one here between the lots, another one here and the third one here that would connect
41 directly to the neighborhood park. There's two additional pedestrian walkways that would
42 connect at the end of the cul de sac here and here and this would allow access to Welakahao
43 Road and to South Kihei Road.

44
45 Some of the plant material, I won't go through all of this but some of the plant material we'd like
46 to propose is for the street trees would be Pink Tecoma and the native Milo. Within the
47 detention area we'd have Hawaiian Kou, Monkey Pod and Hao, and Ali'i shrubs along the
48 frontages of South Kihei Road and Welakahao and again we'd have native plant species in the
49 wetland area and in the detention area.

1
2 Some of the typical sections for the project. This one here at the bottom shows a...the
3 relationship between some of the proposed housing lots and the park below so that was that
4 one pedestrian connection to get down to the neighborhood park that's this section here. This
5 section here is a typical street section which shows the width of the street and that there would
6 be sidewalks on both sides separated from traffic with a planter strip. And then this section here
7 is the typical Welakahao section which would show along the property line of the project, a
8 fence and rock columns. A six-foot planter buffer, five-foot sidewalk and a six-foot grass strip
9 separating pedestrian traffic from the traffic along Welakahao Road. Along South Kihei Road
10 there would also be a six-foot fence and rock column combination but that would end at the end
11 of the houses so then it would become a three-foot fence for the remainder going north. So on
12 the site plan that would be here. So this would be...this is the frontage here which would have
13 fence, and then this will be a low three-foot fence along here. And then this would also be low,
14 three-foot fencing within the project here and here. And I should also mention that along South
15 Kihei Road there would be a ten-foot landscape buffer. So along Welakahao there's a six-foot
16 planter landscape buffer and along South Kihei Road there would ten feet.

17
18 These are pictures of the typical tree species we'd like to use. We're including the native A`ali`i
19 on the bottom which would along the street frontages within those landscape buffers.
20 Potentially what the fence could look like with the rock columns. And I should also mention that
21 the irrigation for the project would be designed and constructed to be suitable to accept the
22 reclaimed water from the nearby Kihei facility so that would be the County reclaimed water that
23 we'd be using for the irrigation. Thank you.

24
25 Mr. Cabebe: Thanks David. Just wanted to point out on this landscape plan, the Department
26 asked for these connections to pedestrian and bikeway connections so we did provide them at
27 the last minute here. Also they wanted a connection or a future connection to probably to the
28 north so that's what this lot is right here. They also asked for a connection to Liloa Drive but
29 there's a drop of about 12 feet from Liloa Drive so we didn't think it would be feasible to put one
30 there. And also in your original plans it showed the project as a gated, gated project. We took
31 the gates out by request of the Planning Department.

32
33 Domestic demand of water is 120,000 gallons per day. The sewer demand is still within the
34 capacity of the Kihei wastewater reclamation facility. Your typical subdivision improvements of
35 your roadways will be constructed and we'll bring up Tyler Fujiwara for to discuss the traffic
36 report which I hope you all have.

37
38 Mr. Tyler Fujiwara: Good afternoon Commissioners. Tyler Fujiwara, traffic engineer with
39 Austin Tsutsumi and Associates. So we prepared the traffic impact analysis report for this
40 project. We conducted counts at various intersections in May of 2016, 2017 as well as
41 November 2018. We studied various intersections surrounding the project along
42 Piilani Highway, South Kihei Road, East Lipoa Street, East Welakahao Road and Liloa Drive.

43
44 You know last year there was number of different improvements that State DOT has done along
45 Piilani Highway. You know we did a recount at the Piilani-Lipoa intersection and also did some
46 reroutes to accommodate some of these DOT modifications and couple of them include new
47 traffic generated by the Kihei Charter School mauka of Lipoa Parkway. DOT implemented a
48 restriction of the east bound left-turn lane at the Piilani and East Welakahao Road intersection
49 and they also did some signal modifications at the Piilani and Lipoa Street intersection.

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Based on observations most currently last week. I went out last week Tuesday and Thursday to check on the surrounding intersections. There's no major queuing or congestion currently present along South Kihei Road, Welakahao or Lipoa Street. There are some delays and congestion issues at the Piilani Highway and Lipoa Street intersection during the A.M. peak period you know in part due to the Kihei Charter School. The intersection is also provided with high fixed cycle lengths and again, as I mentioned traffic generated by Kihei Charter and Kihei Elementary and Lokelani on the makai side.

The project will provided with two new driveways along East Welakahao Road one of which will align with the existing Akai Street intersection. Upon full development, so this would include ohana homes on each of the 80...currently 80 lots it would generate 128 A.M. peak trips and 172 P.M. peak trips. The project's expected to increase traffic on Piilani Highway by about 10 to 60 vehicles. This is about a one to two percent increase and along South Kihei Road by 10 to 20 vehicles so this is a one to three percent increase.

Based on the level of service analysis at the majority of the intersections the delay increases are relatively minimal. We're looking at increased about one to seven seconds with the project. Again the project increases overall traffic on Piilani Highway by about 1.4 percent. We will be providing exclusive left-turn lanes at both project accesses one of which will be a left-turn lane into the Akai Street intersection to service the southern neighborhood just south of our project. I'll turn it over to Raymond again.

Mr. Cabebe: Okay, thanks Tyler. Okay workforce housing is being addressed by there's four, actually four ways to address workforce housing. One is to construct it onsite, one is...the other way is to construct offsite, one is to pay in-lieu fee, and the forth way is to purchase credits. If it was offsite...if offsite units are provided it would be 20, 20 units would be provided. Onsite would be 16 units. The developer will enter into an agreement with the County prior to the issuance of building permits.

To point out some of the sustainability features of the project. Water conservation, native and climate adaptive plants will be used, automatic irrigation with rain sensors. There's a R1 line that runs along Liloa Drive right now that can be used for R1 irrigation. Low flow fixtures of course will be used and the storm water retention keeps all the water onsite. And some of the other features there's community connectivity. This line around the project site is a half mile so it shows you know, there's schools, churches, library, fire station, shopping malls at both ends, supermarket, all within walking distance. This is an infill project so there's alternative modes of...opportunities for alternative modes of transportation. There's buses, along South Kihei Road one stop is like right in front of the property. There's also future stops that will be on Welakahao Road and as shown before we have bicycle and pedestrian paths running through the property.

The Kihei-Makena Plan there's a implementing action and that says prepare an open space master plan to provide unified system of non-motorized access and to establish standards for the use of drainageways, wetlands, and easements. And this plan was adopted in 2004 and the project site is right here and it shows a secondary access path going through the right the property and our project complies with this plan.

1 So in conclusion is surrounding by similarly zoned properties. It has all major infrastructure in
2 place. It's in close proximities to public and basic services and you know it's a residential
3 subdivision project so it provides housing, needed housing units. At this point our presentation
4 is concluded. I believe Allen Yap wants to come up and say a few words before we end it.
5

6 Mr. Allen Yap: Good afternoon. My name is Allen Yap. I'm the project manager and my
7 company Paynella Hawaii represents the...is the applicant represents the owner in this
8 development. We have complied to everything for the Planning Department. However, I'd like
9 to make a consideration with the Planning Commission to remove the requirement...remove the
10 requirement for a roadway through the subdivision to provide access to the north lot. And one
11 of the...the reason is that by doing that it's going to severely impact the north section, on the
12 north side of the drain way for the development. That portion of the development was
13 programed to be some of the better homes in the higher price. It was going to make the project
14 reasonably profitable because of the additional privacy, security and serenity of that area which
15 was going to be only probably accessed by the residents there and no flow through traffic.
16 However, if we do install that roadway that's going to destroy that concept and will have a
17 severe financial impact on the developer.
18

19 I'm sure and I'm not to criticize the Planning Department, but I'm sure the Planning Department
20 has their reasons for requiring that condition for their approval. However, I'd like to point out
21 that this roadway, these roadways are going to be private and that, we're required to install and
22 maintain these roadways in the future along with utilities and insurance and a whole bunch of
23 other things providing access to the north lot. The developer believes that this an unfair and
24 overly burdensome requirement and not necessary because the north lot has full and
25 reasonable access to the north-south collector on its east bound better known as the Liloa
26 which Liloa will join into I believe it's Halekuai and they would have their own access. Access
27 through here is not necessary. I mean, we've done a lot of research and we can't find a reason
28 that it's absolutely necessary. A lot of complications become that you'll have traffic flow through
29 there for the subdivision which could possibly contain at least 50 lots. They could develop
30 50 lots that would increase the traffic flow through that section by more than a 100 percent.
31

32 Mr. Carnicelli: Excuse me Allen?
33

34 Mr. Yap: Yes.
35

36 Mr. Carnicelli: So really kind of where we are right now. You're talking about a condition of the
37 SMA Permit and a change that you'd like to make. Really kind of where we are right now is
38 we're at the presentation stage and then you know, so if you want to make this part of your
39 presentation I guess we can accommodate, but I'm just trying to let you know you've been going
40 on this awhile and this a condition that we address later. We do have a petition to intervene that
41 we need to address before we even get back to the SMA Permit.
42

43 Mr. Yap: So if I have an opportunity to address this later then I'll concede.
44

45 Mr. Carnicelli: Okay.
46

47 Mr. Yap: Thank you.
48

1 Mr. Carnicelli: Thank you. So Mr. Cabebe are you done? Are you done with your
2 presentation? Okay, great. Thank you very much. Appreciate it. So Commission it is now
3 12:15 and we have a couple of options. We can just power through. The next thing that we get
4 to the intervention, right. And we have to either approve or dispose of the intervention. In
5 talking to Corporation Counsel was we'll probably do is allow them 15 minutes. We'll allow the
6 applicant 15 minutes to rebut and they can kinda go back and forth so we got about a half hour
7 say of that before we even have to make a decision. So we can either power through it right
8 now. We can eat and do it at the same time if you guys are okay with that or we can go ahead
9 and take the break now and come back and do this after lunch. I'm gonna let you guys make
10 that decision and then or at least what you would like to do and then we'll ask the intervenor if
11 you know they would be cool with that as well. So what would you guys like to do at this time?

12
13 Mr. Kalanikau: I just gotta move my car.

14
15 Mr. Carnicelli: You gotta move your car.

16
17 Mr. Kalanikau: It's too late already though, up to you guys.

18
19 Mr. Carnicelli: Is there a new Taguma? Go ahead Commissioner La Costa.

20
21 Ms. La Costa: I would like to defer to the intervenor for his schedule because I don't know what
22 that is. I'm fine with anything that is discussed?

23
24 Mr. Carnicelli: Any other thoughts?

25
26 Mr. Hudson: I'll go with just proceed get the next half hour done.

27
28 Mr. Carnicelli: Okay.

29
30 Mr. Hudson: I don't eat lunch anyway, so...

31
32 Mr. Carnicelli: So, Vernon would you like five minutes to go move your car and then come back
33 and then do this or do you want to go to lunch and come back?

34
35 Mr. Kalanikau: I just gotta move my car.

36
37 Mr. Carnicelli: Okay, I tell you what, let's do this let's go ahead and take a five-minute break
38 and go take care of your car and then we'll come back and we'll just at least get the intervention
39 taken care of before we take lunch. Recess.

40
41 A recess was called at 12:18 p.m., and the meeting was reconvened at 12:26 p.m.

42
43 Mr. Carnicelli: Good afternoon, the Maui Planning Commission meeting of April 9th is now back
44 in session. So where we are right now is the intervention of Item C.2. So basically what this
45 part is guys is there is an intervention into the SMA request. So what we're gonna do is allow
46 the intervenor to do a presentation up to 15 minutes on the intervention itself not on the merits
47 of the SMA but on the merits of the intervention. The applicant will have a chance to rebut and
48 then you get the last word. Okay, so if you wanna reserve some of your time for that that's fine.
49 So basically what I would ask for you do is come forward and then give us the reasons why you

1 should be granted the intervention. And I'm gonna go ahead and defer to Corporation Counsel
2 to kinda spell out what it is that what we need to use, what we need to make that decision so
3 you know what to do.
4

5
6 **a. NA KAHAWAI O KULA KAI, represented by its President VERNON**
7 **KANANI O LA'IE KALANIKAU, submitting a Petition to Intervene**
8 **dated March 25, 2019 on the above mentioned application from**
9 **ALLAN T. YAP for PAYNELLA HAWAII LLC.**

10
11 **1) Action of the Petition to Intervene**

12 **2) If the Commission acts to grant the Petition to Intervene, then**
13 **the Commission may select a Hearing Body/Hearings Officer.**

14
15 **b. If the Commission denies the Petition to Intervene, then they may**
16 **take action on the application request.**

17
18 **AN EXECUTIVE SESSION MAY BE CALLED IN ORDER FOR THE COMMISSION TO**
19 **CONSULT WITH ITS ATTORNEY ON QUESTIONS AND ISSUES PERTAINING TO THE**
20 **COMMISSION'S POWERS, DUTIES, PRIVILEGES, IMMUNITIES AND LIABILITIES,**
21 **PURSUANT TO SECTION 92-5(a)(4), HAWAII REVISED STATUTES.**
22

23
24 Mr. Galazin: Thank you, Chair. Some of you may have been through an intervention before,
25 not personally I hope but as Commissioners although it did have a God bless you. So there are
26 two types of intervention that are permissible under your rules. We have mandatory intervention
27 which is for any agency or department of the State or County if they file a petition. The other
28 mandatory intervention applies to different categories of people. There are people who have a
29 property interest in the land subject to the action. People who lawfully reside on the land or can
30 demonstrate that they will be so directly and immediately affected by the matter before the
31 Commission that their interest in the proceeding is clearly distinguishable from that of the
32 general public. And that's mandatory intervention. So what they would have to show if
33 somebody wants to argue that they deserve mandatory intervention if they're not...if they don't
34 live on the land, they don't own the land they would have to show that they more than anyone
35 else in the public is somehow affected...are somehow affected by what is going on.
36

37 Apart from mandatory intervention there's permissive intervention which is a discretionary
38 function of this body. You start from the premise that intervention shall be freely granted.
39 However, that's with the caveat that in the Commission's discretion it appears that...three
40 things, the position or interest of the applicant for intervention is substantially the same as a
41 party already admitted to the proceeding which there aren't any intervenors already so that one
42 doesn't apply. Two, the admission of additional parties will render the proceedings inefficient
43 and unmanageable or the intervention will not aid in development of a full record and will overly
44 broaden the issues. So you have to make a couple of findings. You could either find that the
45 criteria is satisfied from mandatory intervention based on the intervenors arguments or you
46 could find if they don't, you don't even have to reach mandatory intervention if you think that
47 permissive intervention is grantable and you don't believe that it appears that any of these two
48 things that I mentioned would be basically making the proceedings inefficient or it wouldn't help
49 the record and would only make it too broad. Now you're dealing with an SMA permit which
50 is...encompasses a lot of things so I'll leave that to the petitioner to speak to. But those are the

1 things that you have to, you do have to make findings on those. So after you hear from
2 everybody you can ask clarifying questions and then discuss amongst yourselves. If you have
3 any questions along the way certainly...Thank you, Chair.

4
5 Mr. Carnicelli: Thank you Mr. Galazin. So Vernon if you would like to come forward. Please
6 identify yourself and you will have 15 minutes, up to, you don't have to take it—

7
8 Mr. Vernon Kalanikau: So maybe let me know when I get five.

9
10 Mr. Carnicelli: Okay.

11
12 Mr. Kalanikau: So I can add some of the...is that, is that okay? This is the first time, yeah so
13 we can try maybe.

14
15 Mr. Carnicelli: Yes, the separate petitioners...(inaudible)...speak.

16
17 Mr. Kalanikau: Same hui but they get their own mana`o.

18
19 Mr. Carnicelli: Got it.

20
21 Mr. Kalanikau: So if reach five minutes cut me off.

22
23 Mr. Carnicelli: Sounds good.

24
25 Mr. Kalanikau: Yeah, so...

26
27 Mr. Carnicelli: Say your name for the record.

28
29 Mr. Kalanikau: Yeah, again my name is Vernon Kanani O La`ie Kalanikauikaalaneoepuolani.
30 So after listening to the presentation today I can appreciate Mike Reyes and the Starr Ohana for
31 providing good information on their end to what I about to share. The only part that really
32 missing from what they shared the Starr Family and even Mike Reyes is coming from the
33 kanaka point of view of the lineal descendants or the cultural descendants to the area. So I'm
34 just gonna read you my kuleana to this area.

35
36 My tutu from the Big Island Mary Kauahipaula from Hamakua Moku O Keawe gave me the
37 middle name Kanani O La`ie which is the Beauty of La`ie. La`ie there's one La`ie on Oahu and
38 there's one La`ie next to St. Theresa Church, the La`ie Muliwai that name La`ie the full name to
39 that is La`ieikawai and La`ielohelohe two beautiful princess, twin sisters that was born in Oahu.
40 One...through time as they made their choices of where they want to be La`ieikawai went to the
41 Big Island and La`ielohelohe came to Kula Kai to the area we're talking about. Eventually she
42 married Chief Piilani and they had sons Kiha, Lono and Piikea. My connection to lineage is
43 through Kiha, Kekaulike, Kalola and Keopuolani. Keopuolani you most of you guys know that
44 that's Kamehameha's first wife and the most sacred of all the wives that he had. But her full
45 name is Kalanikauika`alaneoepuolani and that's my last name. So in relationship to
46 La`ielohelohe and the marriage to Piilani we do have lineal ties and connection culturally also as
47 far as the 1500's. So `ie in the word la`ie, is a vine that is...that symbolize high royalty and not
48 everyone can have that. And it used to grow in different parts of Keokea and Waiohui may be
49 no mo today but maybe get tomorrow. So my part in this, you know, it's our family kuleana, we

1 decide when we wanna participate in restoration or preservation or cultural access or cultural
2 use.

3
4 I also want to talk about the mo`o, the kuleana, the mo`o I cannot give you guys the name right
5 now, but maybe in the future if it vibes with me and the ohana but the kuleana of the mo`o is to
6 keep the waterways under the ground, the ground that we no see, the lava tube, the streams
7 that flow underneath, the ponds, the streams, the kuleana of the mo`o is to keep it clean, pretty
8 much maintain all that waterways and that water is the water of Kane, and the water of Kane
9 gotta reach the ocean, the kai. It's all part of the circle of life, water from the top, come down to
10 the bottom, goes to the ocean, the clouds do its thing, and then if we cut that circle of life by not
11 allowing and interrupting and moelepo the water then there's no chance of restoration in the
12 shorelines like the reefs, the opae, o`opu and so on. So we have to...so my kuleana is make
13 sure that I prevent and preserve especially the water because right now it's so important in the
14 water test and all that right now, so...and here we're talking about the water so we gotta focus
15 on that. And cultural practices you know the last time I've gone there was November. Yeah, I
16 saw the tobacco plant but as I look at the map it's kinda like on the border line of the project
17 itself and Westco property. It was about five feet tall. And there's moths, and Cody can explain
18 some of that. The pueo, I see the pueo all the time when I drive that road in the evening. . But
19 then again...oh go ahead.

20
21 Mr. Carnicelli: Did you want five minutes remaining or your first five minutes? I'm just letting
22 you know about that's about five, sorry to interrupt.

23
24 Mr. Kalanikau: Oh it's about five, yeah, thanks for letting me know. So I like them add their part
25 too. I no like they be left out.

26
27 Mr. Carnicelli: Just one quick thing, please also state on the record who you're representing.

28
29 Mr. Kalanikau: Oh sorry. So I represent, I the President for Na Kahawai O Kula Kai.

30
31 Mr. Carnicelli: Awesome. Thanks Vernon.

32
33 Mr. Kalanikau: And we have three, two, yeah three members.

34
35 Mr. Carnicelli: Okay, thanks. Whoever's next go ahead and come forward, the next intervenor.

36
37 Mr. Cody Nemet Tuivaiti: Aloha mai kakou. My name is Cody Nemet Tuivaiti and I live my
38 whole live on Welakahao. I was hanai'd by the Akina Ohana and Kahalekai Ohana when I was
39 very young and I've been there on Welakahao Street since I was five years old. I've seen a lot
40 of changes. I live for six years at the bottom of Welakahao Street on the northern side right
41 there where the project area is beginning to start. I remember times where we'd have big rains
42 and the whole property was under water for like a week and this is after the rain stopped. I
43 remember one time my friend paddled his surf board into our driveway you know, and you know
44 just to make fun but it represents that even though a scientist my portray one small area as a
45 wetland this whole area functions as a wetland because the water sits and then the water filters
46 yeah. It doesn't mean the water is always gonna be there, it doesn't mean the water is...it's
47 always gonna be moist for kiawe trees to keep growing. It's always in this continuous stage of
48 moving, water moves and the water will always find its known source of path every single time.
49 And how many times do we have scientists and people who come up here talking about the

1 best ways to manage water but we're still dealing with the same flooding in my hometown, in my
2 area you know.

3

4 As for cultural practice or a cultural active person I do a lot of active cultural works in my moku.
5 We have the heiaus that you guys were showing. I go there every week. I was there this
6 morning, you know. I do my pules, acknowledge them. I do hina'i fishing down makai. I've
7 seen the effects of what a lot of these big rains can bring because of our developments,
8 because of the constant diversion of water. One time at La'ie Pond there were over 500
9 pounds of dead fish, 40 dead birds. So you can kinda feel my ...(inaudible)... when I hear more
10 development when I hear more development coming to this area that I constantly walk, that I'm
11 constantly in. The bottom area that I know of 'cause we kilo this these areas, yeah, that means
12 we...you learn to understand these areas because we're there all the time. You know kilo is to
13 observe something on a daily basis yeah. To acknowledge the patterns not to come in there
14 one, two times a week and portray something. So when we kilo these areas, we understand
15 these areas a lot more. The bottom area is all wetland, yeah. As you move up there's a lot of
16 sand there. You know, there's a lot of...that place used to have huge sand dunes when I was
17 one young kid. Right above that is all bedrock. You know. There's a lot of areas that when you
18 walk inside you can feel the energy, you know spiritual for me, but you can tell because there
19 was a loko i'a right down at the bottom just makai. But that means it had to be in a village.
20 There wasn't a fish pond there for nothing. And when you see the view planes you can tell that
21 these had to have been some kind of habitation, platform areas. I do a lot of my time when I'm
22 not working I help do archaeological work on my free time, you know to help learn more about
23 these things so I can better understand my area.

24

25 I seen a lot of impacts on traffic already in this area so that is a huge concern of mine, a major
26 concern of mine. I do a lot of cleaning of the La'ie pond on my own free time. I go there and I
27 clean the pond. I try to bring back a lot of the native la'au on my own free time as well and
28 these are things that I do in this area. So it's very personal to me when I hear people making
29 decisions that I neva see in this area for the benefit for our future in this area.

30

31 Mr. Carnicelli: Cody that was five minutes. If you want to keep going or I didn't know—

32

33 Mr. Tuivaiti: I just want to say one more thing.

34

35 Mr. Carnicelli: Sure you've got another five minutes. I'm just saying is I know Vernon had
36 mentioned he wanted –

37

38 Mr. Tuivaiti: Yeah, my biggest thing is trying to heal the area, yeah. So because of everything
39 that's happened in the past we're trying to heal the area and so when you're trying to heal the
40 area and all these things keep happening it makes it harder and harder for us to heal the area.
41 So I really do not want this project to go through. I'm not against pono development. I'm
42 against poho development, you know so they can do this somewhere else. Leave that area
43 alone. Let the aina do what it needs to do. Mahalo.

44

45 Mr. Rob Aldrich: Aloha Commission and Staff and especially Carolyn running around like a
46 chicken this morning and still had time to help me out. Thank you. My name's Rob Aldrich and
47 I've—

48

1 Mr. Carnicelli: Rob I just want to remind you that you're here to testify or you know your
2 presentation on the intervention, yeah, and not the SMA. Yeah.

3
4 Mr. Aldrich: Yeah. Okay, wanted to echo some of things that Vernon and Cody said and it
5 really relates to the La`ie wetland and the muliwai, the estuary. It is just a gem in Kihei. And so
6 much so that I wouldn't want to see anything happen to it, anything that degrades it, to any
7 water that comes down mauka that's contaminated or spoiled in any way. When you're in there,
8 you can listen to the birds, you can hear the ocean. It's serenity, it's beauty, it's calming. And
9 it's a very, very special place. With that being said, the wetland part of it has nene quite
10 frequently. When I drive by I see them. It also has Hawaiian stilt which is listed state and
11 federally as endangered. The estuary of course is a place where the fresh water from Keokea
12 Gulch or Keokea Watershed meets the ocean and it's a place that's a nursery for juvenile fish.
13 It's a place where I've seen papio, kaku and mullet and I know it fairly well because I have spent
14 enough time there to fall in love of it but on the outlet of that I've fished in other places as well in
15 South Kihei, but that's one of my favorite places. So the muliwai is among one of the most
16 productive ecosystems in the world. It helps to filter the flows of water before it empties into the
17 ocean and threats to the muliwai as well as the ocean ecosystem are real and diverse which
18 includes developments and pollutants.

19
20 Water quality in the Keokea Ahupua`a can be adversely affected by the proposed development
21 due to urban runoff which carries pesticides, nutrients from lawns and gardens, pet waste,
22 viruses, heavy metals from roofs and oil, grease and toxic chemicals from motor vehicles all of
23 which will end up in the ocean. I was a hazardous waste investigator in California among other
24 things and I hope you all had a chance to read my declaration. I'm going to skip over it's nine
25 pages and just get to the salient points. But petroleum hydrocarbons even in very minor
26 quantities and we're talking about parts per million are deadly to fish.

27
28 The 2016 Kihei drainage master plan describes how the drainage works, "there are existing
29 wetlands mauka of South Kihei Road that act as a natural detention basin. A series of existing
30 underground pipes along South Kihei Road convey storm water from mauka lands to the natural
31 reservoir. Storm water not captured by the South Kihei Road drainage system seeks its natural
32 path and ends up in the reservoir or sheetflows to the ocean." HRS 226-106 encourages the
33 preservation and restoration of wetlands that, "have the inherent capacity to avoid, minimize or
34 mitigate the impacts of climate change."

35
36 So what happens mauka of La`ie that really special place in Kihei, the gem, the place that I love
37 and the place that I like to fish I don't want to see it affected by contamination coming down from
38 a development like the Welakahao Villages and in my experience and in dealing with a lot of
39 wetlands where construction has occurred and developments there are certain kinds of things
40 you can't mitigate. There's going to be pollution. There's going to be urban runoff. There's
41 going to be things that effect the wildlife, and the people, and the culture. So in my opinion the
42 project should not be approved or it should be placed on hold until we take into account the
43 savvy and inherent in the Kihei drainage master plan, Hawaii Revised Statutes regarding
44 wetlands, the scientifically proven benefits of wetlands, and most importantly the integration of
45 the wisdom and purposes of the Na Kaha Wai O Kula Kai into the plans. Otherwise there might
46 be significant adverse impacts on the natural and cultural resources of Keokea Ahupua`a and
47 my ability to continue my recreational use makai of this property. Thank you.

48

1 Mr. Carnicelli: Thanks Robert. Appreciate it. And just so you gentlemen know is you know,
2 what we're dealing with right now is the intervention. If it's not granted and we actually then go
3 to the SMA you can testify on that too. So just to let you know. Does the applicant have a
4 rebuttal at this point? Please identify yourself and you have up to 15 minutes.

5
6 Ms. Arsima Muller: Thank you. Good afternoon Commissioners. My name is Arsima Muller.
7 I'm with Carlsmith Ball, counsel or Paynella Hawaii. We did not file a formal opposition as it is
8 really up to the petitioners to demonstrate that they've met the requirements to intervene
9 whether as a matter of right or by permission. The tests were set out by Corp. Counsel. It's in
10 the rules. What we decided to do today though for the benefit of everyone including the
11 petitioners was we tried to focus on the issues and impacts that they outlined in their petition.
12 We really wanted to show and as you saw it took quite some time for our presentation today
13 because we really wanted to talk about the issues and impacts that they've raised.

14
15 The application and the supporting studies, everyone that spoke earlier you know they've shown
16 how much work the developer has done to try to resolve some of these issues. If the
17 Commission is inclined to grant the petition we ask that the issues really be specified as I heard
18 more today than what was in...set out in the petition and some of the stuff that was raised today
19 are also included in the SMA criteria which you are obliged to review anyway. So with that, we
20 will remain available for questions as needed. Thank you.

21
22 Mr. Carnicelli: Vernon, you get the last word. If you have anything else that you would like to
23 add we will grant you that. If you're good, that's fine too. Just go ahead and identify yourself
24 again for the record.

25
26 Mr. Kalanikau: Yeah, oh okay, yeah Vernon Kalanikau, short version. Yeah, so I don't know if I
27 can comment on this, but you know when they did the first presentation last year at St. Theresa
28 you know the community wasn't buying it. It was more concerns. And both Jordan Hart and
29 Allen Yap did offer to meet with us, Aha Moku Council for Kula Kai at that time that never
30 happens. So it would be nice you know whatever happen today, you know there's always ways
31 and solutions to move forward. But you know I just...that's still wetland. We still got water
32 underneath. That water needs to reach the kai and it needs to be protected and that comes
33 from the very top, Keokea and Waiohuli. I say this because you know if we going to back here
34 dealing with the ones behind Longs Drugs and the one with Sue ...(inaudible)...property and
35 she trying wanna sell, the Wellness Center, ...(inaudible)...waste our time. You know they just
36 cover all the wetlands and then we deal with what nature provides back to us. You know I mean
37 as my...you know it's our family kuleana. The thing about the mo`o whether you guys believe or
38 not, you know we live in this realm, there's multiple realms. They doing what they supposed to
39 do. We gotta do what we supposed to do here physically. You know so why we gotta prove
40 that's one wetland, you know why we gotta prove get the native plants and the species there.
41 It's there, you know, maybe they only come out to certain ones and present themselves. I get
42 koko, that's my kuleana. They gave one good argument, you know, for the species and the
43 plants but they missing, they no more connection, they no more koko. I get roots to that area
44 from 1500's. If this goes through it affects not only our ohana, it affects the whole entire line of
45 Piilani. So that we gotta think about, it's a broader scale of mana and energetic stuff that we
46 gotta deal with spiritually. So that's my spiel. Thank you.

47
48 Mr. Carnicelli: Mahalo. Corporation Counsel.
49

1 Mr. Galazin: Thank you Chair. Also and just to remind the members the petitioners did submit a
2 petition to intervene along with the declarations and so I hope you've read and considered those
3 arguments as the oral arguments given today are supplemental to those for the petitioners
4 interests just to clarify.

5
6 Mr. Carnicelli: At this point, Commissioners do you have questions? I'll go ahead and start with
7 Commissioner Hudson. Do you have any questions at this point in time?

8
9 Mr. Hudson: Are we gonna...I'm gonna discuss this in executive session?

10
11 Mr. Carnicelli: If you would like to.

12
13 Mr. Hudson: I make a motion to go into executive session.

14
15 Ms. La Costa: Second.

16
17 Mr. Carnicelli: Motion by Commissioner Hudson to go to executive session, seconded by
18 Commissioner La Costa. Discussion on the motion? All in favor, please raise your hand.
19 That's seven. Motion passes.

20
21 **It was moved by Mr. Hudson, seconded by Ms. La Costa, then**

22
23 **VOTED: To Go into Executive Session.**

24
25 **(Assenting – L. Hudson, P. D. La Costa, A. Hill, K. Pali, K. Robinson,**
26 **T. Gomes, C. Tackett, S. Castro)**

27
28 Mr. Carnicelli: We will be going into executive session. I ask that all of you please step outside.
29 We're not in executive session.

30
31 *(The Planning Commission recessed the regular meeting at approximately 12:56 p.m. to enter*
32 *into Executive Session and adjourned at 1:11 p.m. The Planning Commission reconvened the*
33 *regular meeting at approximately 1:13 p.m.)*

34
35 Mr. Carnicelli: The Maui Planning Commission meeting of April 9th is now back in session. So
36 Commissioners I think maybe what we should do at this point in time is the Chair will entertain a
37 motion and then we can have discussion on that motion. So does anyone want to put a motion
38 on the floor? Kahu Hill.

39
40 Kahu Hill: Mahalo Chair. I would like to make a motion to grant the petition for intervention.

41
42 Mr. Carnicelli: Okay, that's a motion.

43
44 Mr. Hudson: Second.

45
46 Mr. Carnicelli: Okay, moved by Kahu Hill, seconded by Commissioner Hudson. As the movant,
47 you can speak first.

48
49 Kahu Hill: Mahalo. I do want to mention, Corp. Counsel that the position of interest of the

1 applicant for intervention is substantially different than the party already admitted in the
2 proceeding and that the lineage of Vernon speaks very loud. That it's, you know, the kupuna
3 speak with him and with those that are here and I believe that it is different. There's so many
4 other reasons but that's what I'm basing my...basing it on.

5

6 Mr. Carnicelli: Thank you. Commissioner Hudson.

7

8 Mr. Hudson: I concur with my fellow Commissioner Kahu Hill. The only thing I really looked at
9 is did the petitioner demonstrate a difference from the general public in his ties to the land.
10 Now, I'm not a judge, but I think 1500 years of lineage shows that yeah, you might be attached
11 to that piece of land. Thank you.

12

13 Mr. Carnicelli: Anybody else would like to speak to the motion? Commissioner Gomes.

14

15 Ms. Gomes: I want to speak to the motion. I respect what my fellow colleagues and
16 commissioners have stated. I concur. Outside of that I do want to state that the land itself is an
17 entity of itself regardless and that we have the responsibility as commissioners to protect that
18 land. So I understand what we had discussed but with respect I also appreciate the information
19 that was provided by the intervenors so I do concur. But I do want to also acknowledge the fact
20 in the land itself has its own mana, it has its own state of that we are responsible for it as well
21 regardless if there were people who were intervening or not.

22

23 Mr. Carnicelli: Thank you Commissioner Gomes. Commissioner Robinson.

24

25 Mr. Robinson: I am not a...I am not a fan of intervention. The reason why I'm not a fan is I am
26 sure this Commission can do the job. That's what we're here for. I think we should be able to
27 decide what it is. I think intervention either delays the inevitable and it makes people draw apart
28 or it stalls the time on a developer. Having said that, I'm actually in favor of this intervention
29 because there wasn't a meeting between the two parties and I think that's something that we
30 always as commissioners don't want to step in front of somebody and with this intervention I'm
31 hoping that the step that was skipped will happen. Thank you.

32

33 Mr. Carnicelli: Thank you. Sure Corporation Counsel.

34

35 Mr. Galazin: Thank you Chair. I wanted to ask Commissioner Kahu Hill if she wished to
36 perhaps clarify her motion to also include the fact that the admission of this additional party
37 would not render the proceedings inefficient and unmanageable and that intervention will aid in
38 development of a full record and will not overly broaden the issues.

39

40 Kahu Hill: Mahalo Corp. Counsel. I don't believe that it will and I believe by allowing this it's
41 gonna allow communication. You know, the land speaks, the aina speaks, the waters of Kane
42 speak and I believe that listening to the culture here and listening to those that have that
43 kuleana even tending the ponds and praying...(inaudible)...today and gathering the lapa`au. I
44 think it's just an understanding and to be able to have them communicate not to make this more
45 difficult.

46

47 Mr. Carnicelli: Thank you for that clarification. Would anybody else like to speak to the motion?
48 Okay, seeing none, all those in favor of the...or I guess maybe we should clarify the motion.
49 Director.

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Ms. McLean: Thank you Chair. The motion is to grant the petition to intervene.

Mr. Carnicelli: All those in favor please raise your hand. That is eight ayes. The motion passes.

It was moved by Kahu Hill, seconded by Mr. Hudson, then

VOTED: To Grant the Petition to Intervene.

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

Mr. Carnicelli: So the intervention has happened, has occurred. Which means then the C.2, the public hearing item will be deferred. However, Commissioners would you like to go ahead and choose a hearings officer right now. Director.

Mr. Hudson: Chair when exactly do we choose a hearings officer?

Ms. McLean: That could be chosen today, we'd like to check with the applicant as well as the intervenor on the three choices that our Department provided to both parties to see if there's agreement and then if the Commission agrees to those then we'd be able to move forward without any further action by the Commission at this time. The applicant or the intervenor do you have a preference or any conflicts with either of the names that were provided or any of the three names that were provided?

Mr. Kalanikau: The hearing officer for Ohigashi.

Ms. McLean: Were there mediator names provided separately.

Ms. Thackerson: Sorry, Candace Thackerson, Staff Planner. On the sheet that we hand out it's...they're the same three people, except the mediation officer cannot serve as the hearing officer.

Mr. Kalanikau: Need mediator first?

Ms. Thackerson: Yeah, we usually choose—

Mr. Kalanikau: Kosaka.

Ms. Thackerson: Okay, Glenn, Glenn Kosaka.

Mr. Kalanikau: Yeah, thank you.

Ms. McLean: Is that acceptable to the applicant?

Ms. Muller: Our preference is Ohigashi as mediator and McConnell for hearings officer. And also can we get clarification on the issues that are gonna be the subject of the contested case. I believe I asked that question when I...Corp. Counsel I don't know if that's something...

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Mr. Carnicelli: Corporation Counsel.

Mr. Galazin: Yeah, thank you. Once intervention is granted that is going to be up to the hearing officer to decide the scope pursuant to the rules they're gonna go ahead and be in charge of the order in which discoveries happens, what evidence is going to be put in there, ...(inaudible)...approved, so that's...we're gonna leave that...the body is going to leave that to the discretion of the hearings officer whomever that may be.

Mr. Carnicelli: Vernon, come. No you can speak to the mic please.

Mr. Kalanikau: So we only like deal with Kosaka.

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

Mr. Robinson: Could I get the three names again please?

Ms. Thackerson: Yes, the three names were John McConnell, Glenn Kosaka, Lee Ohigashi.

Mr. Robinson: I make a motion that Mr. Kosaka is the mediator and Mr. Ohigashi is the hearings officer.

Ms. La Costa: Second.

Mr. Carnicelli: Moved by Commissioner Robinson, seconded by Commissioner La Costa. Discussion to the motion?

Mr. Robinson: I just feel that those two gentlemen would be fine. Thank you.

Mr. Carnicelli: Thank you. Any further discussion. Seeing none, all in favor what was the...state them again, sorry.

Ms. McLean: The motion is to appoint Glenn Kosaka as the mediator and Lee Ohigashi as the hearing officer.

Mr. Carnicelli: All in favor raise your hand. That's eight ayes.

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

VOTED: To Appoint Glenn Kosaka as the Mediator and Lee Ohigashi as the Hearing Officer.

(Assenting – K. Robinson, P D. La Costa, L. Hudson, A. Hill, K. Pali, T. Gomes, C. Tackett, S. Castro)

Action on the Special Management Area Use Permit is Deferred Until the Mediation and Intervention is Completed.

1 Mr. Carnicelli: So at this point we are going to break for lunch finally. However, Director if you
2 could address the agenda please.

3
4 Ms. McLean: Just real quickly when the Commission reconvenes after lunch we will switch the
5 order of the next two items, the two communication items. The first item we would take up after
6 we reconvene is the Seashore Properties item followed by the Montage item.

7
8 Mr. Carnicelli: With that being said we are now in recess till 2:20 p.m. for lunch.

9
10 A recess was called at 1:20 p.m., and the meeting was reconvened at 2:22 p.m.

11
12 Mr. Carnicelli: The April 9, 2019 Maui Planning Commission meeting is now back in session.

13
14 Mr. Hudson: Excuse me Mr. Chair, could I have about 30 seconds of your time?

15
16 Mr. Carnicelli: You can have as much time as you like.

17
18 Mr. Hudson: Thank you for hearing me before the next agenda item is called. Effective
19 immediately I'll be resigning from this commission. I voted twice on Item D.2, my opinion has
20 not changed. I do not believe this permit should be approved. Since I'm no longer a member of
21 this commission I will not contribute any further discussion or action regarding this matter. I will
22 not be compelled to take action against the opinion and the belief of the commission and the
23 commission voted twice against this. Having said that, I say this, I will miss working with your
24 guys. Have fun. Okay, guys.

25
26 Mr. Carnicelli: Thank you. Actually Larry before you go I would just like to say that I'm gonna
27 miss working with you too. You know, I mean is I appreciate the way with which you conduct
28 yourself. I appreciate the manner with which...the professionalism with which you approach this
29 job, take it extremely seriously the entire time you did this, you're respectful, you're honorable
30 and you have been just a great commissioner and you're gonna be really missed. I really wish
31 that you would have stayed longer but I completely respect what's best for you and your family
32 and anyways and before you go I would also like to open the floor to any other Commissioners
33 that might want to bid Larry adieu.

34
35 Ms. La Costa: Aloha. Well I've only been on the commission a year, the way that you do act
36 with such decorum has been a real example for me and I have looked up to you for your
37 steadfast thoughts and conviction so mahalo nui and I will miss you.

38
39 Mr. Castro: Brother Larry it's been a real pleasure working with you and I admire you most for
40 your integrity and the way you address things, the issues and you're totally the bomb, really
41 appreciate that. It's been a pleasure.

42
43 Mr. Hudson: It was my pleasure.

44
45 Mr. Tackett: And I hate to put a bad tone on all this but I'm gonna have to vote against you on
46 this matter. With that being said, I appreciate all you contributed.

47
48 Ms. Gomes: Yes, Hudson I have known you from...for a long time and not only for your work
49 here on Maui Planning while I had come upon Maui Planning Commission but also when I was

1 on Police Commission and all the work that you've done you know with MPD. So thank you for
2 having the opportunity, I having the opportunity to also work with you again. So thank you very
3 much for all that.

4
5 Ms. Pali: I'll make it brief, in my short, what six months you have been invaluable to me
6 personally and I aspire to be more like you.

7
8 Kahu Hill: Larry, I have been honored to be on this Commission since 2017 and you have been
9 one of my leaders, one of my guides, one of my teachers in how you conduct yourself, how you
10 speak, how you keep everything focused and the water running, flowing forward and I support
11 your standing in your truth today and your life and this is a big to give so much time in a
12 volunteer position. So blessings to you and it's been an honor serving with you.

13
14 Mr. Hudson: It's been my honor. Thank you all very much.

15
16 Mr. Hudson: Let the record show that we're gonna give him hugs.

17
18 Ms. Gomes: And we second that motion.

19
20 Commission Members: Aloha.

21
22 Ms. Gomes: Do we still have quorum?

23
24 Mr. Carnicelli: We still have a quorum. Okay, Director.

25
26 Ms. McLean: Well, thank you Chair we're going to go directly to Item D.2, and I'll read this into
27 the record, this is Findings of Fact, Conclusions of Law, and Order Granting Appellant Seashore
28 Properties, LLC's Appeal, Filed October 24, 2018 from the Circuit Court of the Second Circuit,
29 State of Hawaii, ordering the approval of a County Special Use Permit application from
30 Seashore Properties, LLC for the proposed nine room transient vacation rental on the property
31 referenced as the Paia Inn located at 93 Hana Highway, TMK: 2-6-002: 027 in Paia.

32
33 The Circuit Court of the Second Circuit, State of Hawaii, heard the subject appeal on
34 March 15, 2019 and ordered the matter remanded to the Commission with instruction to
35 approve the subject application and issue the permit subject to the terms and conditions
36 recommended in Exhibit "A" to Hearing Officer E. John McConnell's report that was presented
37 to the Commission on September 25, 2018.

38
39 **D. COMMUNICATIONS**

- 40
41 **2. Findings of Fact, Conclusions of Law, and Order Granting Appellant**
42 **Seashore Properties, LLC's Appeal, Filed October 24, 2018 from the Circuit**
43 **Court of the Second Circuit, State of Hawaii, ordering the approval of a**
44 **County Special Use Permit application from SEASHORE PROPERTIES, LLC**
45 **for the proposed nine (9) room transient vacation rental on the property**
46 **referenced as the Paia Inn located at 93 Hana Highway,**
47 **TMK: (2) 2-6-002: 027, Paia, Island of Maui. (CUP 2015/0006)**
48 **(CTB 2015/0009) (SMX 2015/0522)**
49

1 **The Circuit Court of the Second Circuit, State of Hawaii, heard the subject**
2 **appeal on March 15, 2019 and ordered the matter remanded to the**
3 **Commission with instruction to approve the subject application and issue**
4 **the permit subject to the terms and conditions recommended in Exhibit "A"**
5 **to Hearing Officer E. John McConnell's report that was presented to the**
6 **Commission on September 25, 2018.**

7
8 **AN EXECUTIVE SESSION MAY BE CALLED IN ORDER FOR THE COMMISSION TO**
9 **CONSULT WITH ITS ATTORNEY ON QUESTIONS AND ISSUES PERTAINING TO THE**
10 **COMMISSION'S POWERS, DUTIES, PRIVILEGES, IMMUNITIES AND LIABILITIES,**
11 **PURSUANT TO SECTION 92-5(a)(4), HAWAII REVISED STATUTES.**

12
13 **The Commission shall approve the application subject to the conditions.**

14
15 Mr. Carnicelli: Thank you Director. At this point in time I am going to step down as Chair, I'm
16 going to hand the gavel to Vice-Chair Tackett and I am going to recuse myself.

17
18 Mr. Tackett: So I'm gonna turn the proceedings over for the Findings of Fact.

19
20 Mr. Galazin: Thank you Vice-Chair. So Commissioners you have before you once again, the
21 application for Seashore Properties, LLC, as the Director stated for the nine-room TVR known
22 as the Paia Inn. The matter did come before Judge Cahill and as is in the Order before you the
23 Judge concluded that September 25, 2018 was the salient date on which the recommendation
24 of the hearing officer was presented to this body that a motion was taken on September 25th,
25 but that motion was later rescinded on November 27th. The short version is that because no
26 new decision was put in place to replace the motion that had been rescinded that was a
27 violation of the Commission's rules requiring action on permits pursuant to HRS 91-13.5 which
28 is a 60-day time limit. So that's the pretty narrow grounds on which the Judge ruled. If you
29 want to get into any more detail I'd probably have to ask that we go into executive session for
30 that otherwise you can simply to move to approve the permit subject to the terms and conditions
31 as recommended by Hearing Officer McConnell and I recommend that the body adopt the
32 written order as your findings of fact and have the Director transmit it to the applicant.

33
34 Ms. La Costa: At this time I'd like to make a motion that we go into executive session.

35
36 Mr. Tackett: Do I have a second?

37
38 Mr. Castro: Second.

39
40 Mr. Tackett: Okay, moved and second. All in favor?

41
42 Commission Members: Aye. There's five.

43
44 Mr. Tackett: Okay, we're gonna go into executive session now. Recess.

45
46
47 **It was moved by Ms. La Costa, seconded by Mr. Castro, then**

48
49 **VOTED: To Go Into Executive Session.**

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(Assenting – P. D. La Costa, S. Castro, A. Hill, K. Pali, T. Gomes)
(Recused – L. Carnicelli)
(Excused – K. Robinson)

(The Planning Commission recessed the regular meeting at approximately 2:31 p.m. to enter into Executive Session and adjourned at 2:47 p.m. The Planning Commission reconvened the regular meeting at approximately 2:48 p.m.)

Mr. Tackett: Commission is now back in order. Is there any discussion to be had for the Communications D.2? Hearing no discussions, I need a motion.

Ms. Gomes: I'd like to make a motion Vice-Chair, Pro-Tem Chair for...I'd like to make a motion to approve as ordered by the Court.

Mr. Tackett: A second. I need a second. And I need a vote.

Mr. Galazin: You have to say second.

Mr. Tackett: Second?

Ms. Pali: Aye.

Mr. Tackett: So we have a second, Kellie Pali, and then I need a vote. All in favor? One, two, three, four—

Ms. McLean: Six ayes.

Mr. Tackett: Six ayes. Six ayes. Motion carries.

It was moved by Ms. Gomes, seconded by Ms. Pali, then

VOTED: To Approve the County Special Use Permit as Ordered by the Court.

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

Mr. Tackett: I'm gonna give the gavel back over to my esteemed colleague over here, Mr. Lawrence Carnicelli.

Mr. Carnicelli: Thank you Vice-Chair Tackett. I appreciate that. Director.

Ms. McLean: Thank you Chair, the other Communication item on today's agenda is a request from Munekiyo Hiraga on behalf of Montage International for a Step I Planned Development Approval for the transfer of land use within two parcels for the sales center and model unit and to update representations made in the original Special Management Area Use Permit, Planned

1 Development and Shoreline Setback Variance Approvals for the Kapalua Bay Hotel Planned
2 Development Area, located in Kapalua, Maui at TMKs 4-2-004:027 (por.), 4-2-004:028 (por.)
3 and Tara Furukawa is the Project Planner.
4
5

- 6 **1. MUNEKIYO HIRAGA on behalf of MONTAGE INTERNATIONAL requesting**
7 **Step I Planned Development Approval for the transfer of land use area**
8 **within two parcels for the sales center and model unit and to update**
9 **representations made in the original Special Management Area Use Permit,**
10 **Planned Development and Shoreline Setback Variance Approvals for the**
11 **Kapalua Bay Hotel Planned Development Area, located in Kapalua, Maui,**
12 **Hawaii, Maui Tax Map Key Nos. (2) 4-2-004:027 (por.), (2) 4-2-004:028 (por.)**
13 **(PD1 2018/0002) (SM1 2005/0001) (PD1 2005/0003) (PD2 2005/0003) and**
14 **(SSV 2005/0002) (T. Furukawa)**
15

16 **The Commission make take action on this request.**
17

18 Ms. Tara Furukawa: Good afternoon Commissioners. This item has come to you for review
19 because the applicant Montage International is the adaptive reuse of a sales center and model
20 unit to meeting space for community organizations and property management office space. In
21 order to maintain the structure a Step I Planned Development Approval is necessary as well as
22 an update to representations made for the original Special Management Area Use Permit, Step
23 I and Step II Planned Development and Shoreline Setback Variance Approvals. Gwen Rivera of
24 Munekiyo Hiraga is the project consultant and she's here today to discuss the applicant's
25 proposal.
26

27 Ms. Gwendolyn Rivera: Thank you. My name is Gwendolyn Rivera with Munekiyo Hiraga.
28 Good afternoon Commissioners, Chair Carnicelli and Director McLean. Okay, I'll be providing a
29 brief presentation on behalf of Montage International on this application for a Planned
30 Development Step I transfer involving an office building at the Montage Kapalua Bay Resort.
31 Here with me today from the offices of Munekiyo Hiraga is Karlynn Fukuda, representing
32 Montage today we have Vice-President, Mr. Bill Claypool.
33

34 The proposed Planned Development Step I transfer is between two parcels which make up the
35 Montage Kapalua Bay Resort. Parcel 27 is the site of Spa Montage and Parcel 28 is the site of
36 the rest of the resort buildings including an office building which is the site of the development
37 sales center and model unit.
38

39 To give you some background on the property in 2005, I'm sorry let me go back here, in 2005 a
40 Special Management Area Use Permit and a Planned Development Step I, II, and III were
41 granted in order to develop the resort as the Residences at Kapalua Bay. The plans presented
42 at that time included construction of the sales center and model unit at its present location which
43 is in the County zoning Open Space District and within the West Maui Community Plan it's in
44 the Park District. So this was included, the development of the sales center and model unit was
45 included with the representation that the building would be removed and the area landscaped
46 after construction and sales of the units were complete. In 2013, Montage International
47 acquired the properties and now seeks to continue use of the sales center and model unit as an
48 office facility for its resort operations and for property management purposes as well as to
49 provide a meeting area for community groups. To allow for this use with respect to County

1 zoning Montage proposes a Planned Development Step I transfer and in addition, Montage
2 seeks to update the 2005 SMA and Planned Development Approvals in order to keep and to
3 utilize this building.
4

5 So this map shows the location of the properties. The resort is located in Kapalua on makai
6 side of Lower Honoapiilani Road. Lower Honoapiilani Road is right here. The resort takes up
7 these two properties. Just north of...let's see the Coconut Grove on Kapalua Bay is just south
8 of the properties and the Kapalua, the Bay Villas property is just north of the subject properties.
9 If you were to continue along just to give a little bit of an orientation, if you were to continue
10 along Lower Honoapiilani Road about half a mile you'll reach Office Road and the Ritz Carlton
11 Kapalua Resort.
12

13 Zooming in a bit to the properties this is an aerial view which shows the Montage Kapalua Bay
14 properties, the resort buildings located on this larger of the two properties which is Parcel 28.
15 The office building is shown here and it's accessible via Bay Drive off of Lower Honoapiilani
16 Highway. The office building occupies one of the two areas involved in the proposed Planned
17 Development Step I transfer. And the second area involved in the transfer is located fronting
18 Lower Honoapiilani Road on this parcel which is the site of the spa. This is a landscaped area
19 fronting the road. And this is an aerial view of the office building. It consists of a 6,500 square
20 foot sales center building and this building has been utilized as the sales center during the
21 development and sales of the units and there is a model unit approximately 2,300 square feet
22 and the two structures are connected via a shared roof.
23

24 As the resort is an approved planned development the Maui County Code allows for zoning
25 uses to be transferred within the planned development area so long as the total area allocated
26 for each zoning use does not change. And this mechanism for the transfer is a Planned
27 Development Step I Approval.
28

29 It may be helpful at this time to explain the concept behind the PD 1 transfer by way of just a
30 general example. This is a hypothetical planned development with the boundaries located here
31 with two parcels and the first parcel there's...it consists of ten acres of the R,
32 Resort/Commercial zoning and the other parcel, I'm going to click back a bit here, the other
33 parcel consists of ten acres Open Space zoning. This is before the transfer. So for use of B-R,
34 Resort Commercial use in the second parcel under a Planned Development Step I transfer we
35 can transfer five acres of Open Space use from Parcel 2 to Parcel 1 and an equal area of the
36 B-R Resort/Commercial from Parcel 1 to Parcel 2 so that after this transfer we now have five
37 acres of B-R use in Parcel 1, five acres of Open Space use in Parcel 1 and the same in
38 Parcel 2.
39

40 For the proposed Kapalua Bay development Planned Development transfer just like in the
41 example there are two parcels involved...that are within the planned development boundary.
42 So this is the planned development area as shown in the map, the sales center and model unit
43 are indicated by the square marker right here within Parcel 28, and the road frontage area in
44 front of the spa is located here. The area in Parcel 27 fronting the road is zoned A-1 Apartment
45 and B-R Resort/Commercial, but its current use is compatible with Open Space as its
46 landscaped area and the B-R and A-1 zoning use would be compatible with the resort
47 operations that are taking place in the sales center and model unit.
48

1 So a Step I transfer is therefore requested by the applicant to transfer B-R and A-1 zoning use
2 from Parcel 27 to Parcel 28 to accommodate the proposed office use of the building. In
3 exchange, an equal area of Open Space zoning use equaling 0.417 acres will be transferred
4 from the current site of the office building to that undeveloped landscaped area fronting the road
5 in front of the spa. And the transfer is visualized here on slide 13. You'll note that the total
6 amount of Open Space with the two parcels comprising the planned development is three acres
7 even. With all of that at the current time located within Parcel 28. Three acres of Open Space
8 in 28 and there's zero acres of Open Space at the current time within Parcel 27.

9
10 So following the transfer, following the transfer of the A-1 and B-R zoning use into Parcel 27
11 you'll see that the overall acres of Open Space within the planned development hasn't changed.
12 We now have 2.583 acres in Parcel 28 and we have 0.417 acres which has been transferred
13 into Parcel 27 for a total of three acres of Open Space remaining.

14
15 The original SMA application for the SMA Use Permit which was approved in 2005 represented
16 that the sales center and the model unit would be removed following construction and sales of
17 the units. Because the applicant is now seeking to retain and reuse these buildings it's
18 requested that this update to the plans be accepted. I would add here that this update applies
19 to Condition 4 of the approval and also to Condition No. 11 in the approval which states that the
20 applicant shall develop the property in substantial compliance with the representations made in
21 obtaining the SMA. So we would note that with the completion of the planned development
22 zoning transfer the Planning Department considers the proposed use will be consistent with the
23 zoning requirements and the community plan designations and as a benefit, community and
24 nonprofit groups the applicant does intend to allow the facilities within the building to be used as
25 a meeting space.

26
27 So approval of the transfer will allocate that 0.417 acres of Open Space zoning use to the area
28 fronting Lower Honoapiilani Road which is shown here in this photo and is already being used in
29 a way that's consistent with open space. The transfer will allow A-1 and B-R zoning use to the
30 site of that office building shown here allowing for its continued use for property management for
31 community use and these uses are consistent with the A-1 and B-R zoning.

32
33 So in conclusion, Montage respectfully requests of the Commission approval of the Planned
34 Development Step I transfer for Parcels 27 and 28 within the Montage Kapalua Bay Resort as
35 well as an update to the SMA Use Permit to allow the office building to remain. Thank you very
36 much.

37
38 Mr. Carnicelli: Thank you. At this time, at this time we will open up the floor for public
39 testimony. Is there anyone that would like to testify on this time please come forward now.
40 Seeing none, if there are no objections I will close public testimony. Public testimony is now
41 closed. I guess at this point we will go to questions from the Commission. 2I'll start at the other
42 end. Commissioner Gomes do you have any questions at this time?

43
44 Ms. Gomes: Pass right now. Thank you.

45
46 Mr. Carnicelli: Pass, okay thank you. Commissioner Tackett.

47
48 Mr. Tackett: I have no questions.

1 Mr. Carnicelli: No questions. Commissioner Castro.

2

3 Mr. Castro: No questions.

4

5 Mr. Carnicelli: Commissioner La Costa.

6

7 Ms. La Costa: Thank you Chair. I have just two questions. Will the office building be used for
8 anything other than meetings and office work?

9

10 Ms. Rivera: The use that's proposed for the office building is use for resort operations, for
11 property management including management of the grounds and the parking and maintenance
12 activities as well as use of the facility as a community space for meetings. No other uses are
13 proposed at this time.

14

15 Ms. La Costa: Okay. And will...if there are community meetings will there be a fee for that
16 charged to the people who are using it?

17

18 Ms. Rivera: No charge.

19

20 Ms. La Costa: Mahalo. Appreciate very much.

21

22 Mr. Carnicelli: Thank you. Commissioner Pali.

23

24 Ms. Pali: Thank you for your presentation. There was a slide you had that had boxes and
25 showed the Open Space. I don't think we had that exact...right there...so those boxes
26 Parcel 28, Parcel 27, I found one similar to that which didn't look as clean and I suspect it
27 probably could serve its use. I just wanna just clarify and reiterate so I understood what you
28 said and if you can correct me. So they were supposed to get rid of this Area B in the initial
29 approval but now they're realizing because they've obtained another property they could utilize
30 it for other things and so in exchange for the open space that was supposed to have been there
31 because it was going to be destroyed you want to keep it and in exchange you want to trade the
32 open space which is Area A is that correct?

33

34 Ms. Rivera: You're essentially correct.

35

36 Ms. Pali: Okay.

37

38 Ms. Rivera: The building was allowed to be developed in Open Space zoning at the time with
39 the condition that it was to be removed after the development of the resort was complete and
40 the units were sold.

41

42 Ms. Pali: Removed and then to be landscaped.

43

44 Ms. Rivera: Correct.

45

46 Ms. Pali: And so now you're saying hey, other things have happened since then. We kinda
47 wanna keep the building but in exchange we will...we've got this other parcel and we'll use that
48 as the Open Space that B was intended for.

49

1 Ms. Rivera: Correct. The resort ownership has changed hands since that time and the resort is
2 using the building for office space and for operations for its staff so this transfer is proposed so
3 that the uses that are compatible with the B-R and A-1 zoning can take place within that area.
4

5 Ms. Pali: Okay so now that I think I understand it and thank you for clarifying, my question is
6 regarding Area A will you just confirm what it's currently zoned now and it looks like the way the
7 land is laid out parallel to Lower Honoapiilani Road I mean are you even able to build anything
8 there anyway with setback rules? I'm just wondering that if it's already gonna sort of be forced
9 to be open space if though it's not zoned Open Space are we really getting an adequate trade
10 or is this a real true even swap that's my question. Not that I'm for or against it just curious for
11 the answer.
12

13 Ms. Rivera: Sure I can give you a little bit more information about the zoning and the land. This
14 slide shows the zoning, it's a little bit small, this area is Area A fronting the road and it is partially
15 in A-1 zoning, this gray shaded spot here is A-1 and this is B-R. The way this is laid out, let's
16 see if I have a photo of this, I'm not sure if we do have a photo that shows the layout. There's a
17 driveway that comes up from the road so the area that's proposed to be used it is located
18 between the driveway for the service entrance of the spa and the road. I'm...I can't really
19 comment about what other uses could be possible at this time.
20

21 Ms. Pali: Quick question. How wide is it? Would you know off the top of your hand from Lower
22 Piilani at any point if we were to just go inland from the road, are we talking ten feet, are we
23 talking 50 feet, how big is that? I have this one here which is kind of a nice size to look at.
24

25 Ms. Rivera: Right.
26

27 Ms. Pali: I was just wondering if it was because of our setback rules from the road and this and
28 that could there even be future development and if the answer is no, then wouldn't it already
29 kinda be a space that is currently being used as open space even though it's not zoned as
30 Open Space and I think...I don't know what happened in the last commission as to why they
31 made a condition that they would have this other area be a requirement to then be Open Space.
32 I just want to make sure for trading that it is kind of a fair trade and I don't know...
33

34 Ms. Rivera: I'm viewing the full size copy of the map which is on the screen and the width of
35 this area from the road looks to be on average 75 feet wide.
36

37 Ms. Pali: Okay, that's fine. That's good enough thank you.
38

39 Ms. Rivera: You're welcome.
40

41 Mr. Carnicelli: Kahu Hill do you have any questions?
42

43 Kahu Hill: I do. Mahalo. First question I just wanted to have clarification on it, are you saying
44 since the condition from 2005 that one of the conditions was to remove the building and it never
45 was removed?
46

47 Ms. Rivera: As part of the 2005 SMA Use Permit one of the things that was represented in the
48 application and represented at the Commission at that time was that the building would be
49 removed upon completion of the project. This is not, this is not listed as one of the specific

1 project the conditions of approval in the approval but it was represented at that time. So
2 because the applicant now wishes to keep the building that's where the update comes in to the
3 SMA.
4

5 Kahu Hill: Okay. Mahalo. And to Corp. Counsel I just wanted to question, is there anything
6 with us and in overturning or changing the zoning, updating...well, updating the SMA Permit
7 from 2005, 14 years later to now?
8

9 Mr. Galazin: Thank you Chair. It's certainly within the purview of this Commission to make
10 amendments to SMA Permits and see them for various reasons, most of the time they're time
11 extensions but occasionally you'll see some like this. And think probably the question that a
12 couple of you seem to be talking about is sort of at what point was this supposed to be removed
13 I think and you know was that supposed to be ten years ago or how long has this been sitting
14 here that nobody's noticed, but that's an enforcement question for Planning really. It's within
15 your discretion to go ahead and grant both the amendment to the SMA as well as the Planning
16 unit swap.
17

18 Kahu Hill: Michele do you want to share anything about that and the condition that it was not
19 never complied with, I just want to understand.
20

21 Ms. McLean: Yeah, thank you. And this ties into Commissioner Pali's prior question. The
22 reason the swap is being recommended really is because without that zoning that building
23 couldn't remain there permanently with Open Space zoning and it's not clear to me how the
24 building was allowed to be built in Open Space zoning in the first place, but it was and that was
25 understood by the Commission at the time that there was the understanding that the building
26 was removed. It's uncommon for new projects to have a construction trailer or a sales office
27 and the structure probably started out as a somewhat temporary thing and then just over time
28 temporary things as we all know often become permanent and then there was a recent change
29 in ownership and the new owner is now assessing all of the assets of the property and is looking
30 at this seeing it as a useful structure and then the desire to make it available to the community,
31 but that could only happen with the swap. So I think you asked a good question. I don't really
32 know that we're getting anything out of the swap but it would be the only way to allow that
33 structure to remain because of its zoning. So it's, you know the prior Commission looked at the
34 whole thing as a package and allowed that structure to be there temporarily and now this
35 Commission is being asked you know that was the thinking at that time, but now we want to
36 keep that structure and so the zoning swap is needed in order to allow that if you want to allow
37 it.
38

39 Kahu Hill: Okay, and one more with that. Did the Planning Department administratively ever
40 approve that building or did the Planning Commission ever approve that, would that be to you?
41

42 Ms. McLean: It was part of the original SMA Major Permit. So it was...the Commission was
43 aware that that structure would be built there but it was understood to be temporary. So this
44 wasn't an administrative approval. This was a Commission approval.
45

46 Kahu Hill: Okay, mahalo.
47

48 Ms. Karlynn Fukuda: Hi, Karlynn Fukuda, Munekiyo Hiraga. Just in a comment or response to
49 the question that Commissioner Hill had provided, I just wanted to note that the building was a

- 1 temporary sales center and model unit and that the understanding was that it would remain
2 while units were available for sale. There are still units available for sale at the Montage
3 Kapalua so that's why that...it hasn't been taken down, you know since it's been there. There's
4 still units available, so...
5
6 Kahu Hill: Can I ask how many units are still available?
7
8 Ms. Fukuda: To that question, I'll...according to Mr. Claypool, 12 units.
9
10 Mr. Carnicelli: I have a follow up to that. Are those 12 original developer sales left or are those
11 resales?
12
13 Mr. Claypool: Originals.
14
15 Mr. Carnicelli: Originals. Okay, thank you. We'll start back Commissioner Gomes you have
16 any questions?
17
18 Ms. Gomes: No, well...I just...
19
20 Mr. Carnicelli: If you have a question?
21
22 Ms. Gomes: I do. Thank you. Thank you Chair. So the Montage is...is this a timeshare type of
23 resort? I was...I always thought that the Montage was a hotel. That's probably my mistake
24 because I've never stayed there, I apologize. I just need a little bit more clarification. The
25 Montage is you're selling units as like...
26
27 Mr. Bill Claypool: It's comprised of two components of residential.
28
29 Mr. Carnicelli: State your name for the record.
30
31 Mr. Claypool: Yeah, Bill Claypool with Montage Kapalua Bay. The property is comprised of two
32 residential components, 84 wholly owned residences and 62 fractional components, all original
33 construction.
34
35 Ms. Gomes: Okay, thank you.
36
37 Mr. Carnicelli: Commissioner Tackett.
38
39 Mr. Tackett: I have nothing at this time.
40
41 Mr. Carnicelli: Okay, Commissioner Castro.
42
43 Mr. Castro: I miss the old Kapalua Bay Hotel.
44
45 Mr. Carnicelli: The seafood buffet on Friday afternoon.
46
47 Mr. Castro: Was the best.
48
49 Mr. Carnicelli: Yeah. Commissioner La Costa.

1
2 Ms. La Costa: Thank you Chair. I just actually wanted to make a comment. I was going to
3 reiterate that there are indeed still units, developer units available but also the property that
4 they're asking to swap is at an angle like this so you come out of Montage Spa and you have
5 almost put it in low to get out, so as far as you know, to address your question could something
6 else be built there it would be kapakai so just FYI.

7
8 Mr. Carnicelli: Commissioner Pali.

9
10 Ms. Pali: Yeah, so the only other question I would just have is if we actually, it would be for you
11 Planning Director, Ms. Michele, Ms. McLean, if we do grant this today would there be any follow
12 up that they would have to go through to make 'cause we just doing zoning right now, so would
13 they have to then go back and then get after-the-fact building permits to then make this building
14 legal or is this going to be a blanket, the building's legal, the zoning is cool and we're moving on,
15 like what's the situation?

16
17 Ms. McLean: Any action that the Commission takes can only be action under your authority.
18 So you don't have the authority to approve building permits or anything like that. I think it's safe
19 to assume that the building was lawfully constructed with building permits and that any changes
20 they may make to accommodate what they've been presenting today would also be done with
21 before-the-fact permits, but what's in front of you today is to allow the change in the project
22 scope that was from the original SMA Approval and the Planned Development, the swap. So
23 those are the two things under the Commission's authority that you would be considering today.

24
25 Mr. Carnicelli: Kahu Hill.

26
27 Kahu Hill: I'm good. Mahalo.

28
29 Mr. Carnicelli: Thank you. Does the Commission feel like they have enough information right
30 now to be able to make a decision? Yeah? Okay, so we'll go ahead and stop the Q&A portion
31 and Tara would you like to give the Department's recommendation please?

32
33 Ms. Furukawa: Okay, so the proposal is to transfer .264 acres of A-1 Apartment land use area
34 on Parcel 27 to Parcel 28, transfer .153 acres of B-R Business/Resort from Parcel 27 to
35 Parcel 28, and transfer .417 acres of OS Open Space from Parcel 28 to Parcel 27. The total
36 land area will not change, just the location of land uses and the proposal meets the criteria for a
37 Step I Planned Development transfer so the Department is recommending approval. The
38 Department is also recommending approval of the update to the SMA Permit scope for the PD1,
39 PD2, and Shoreline Setback Variance. And the land use transfers and update approval will
40 ensure that the proposed adaptive reuse is consistent with the Planned Development land use
41 designations as well as West Maui Community Plan. The Department is also asking that the
42 Maui Planning Commission authorize the Director of Planning to transmit the written decision
43 and order on behalf of the Planning Commission.

44
45 Mr. Carnicelli: Thank you. The Chair will now entertain a motion. Commissioner Castro.

46
47 Mr. Castro: I'll make the motion to accept the Department's recommendation.

48
49 Ms. Gomes: Second.

1
2 Mr. Carnicelli: So moved by Commissioner Castro, and you've been second to second all day
3 long so we're gonna go ahead and Commissioner Gomes seconded the motion.

4
5 Ms. Gomes: He ignored me all day. Thank you Chair. I was always the third one in.

6
7 Mr. Carnicelli: So Commissioner Castro as the movant I will let you speak to the motion.

8
9 Mr. Castro: I think even you know something that was done way back you know it's been
10 overlooked and allowed to continue and the way it was presented it's an even swap and would
11 like to see them move forward.

12
13 Mr. Carnicelli: Great. Thank you Commissioner Gomes.

14
15 Ms. Gomes: I agree with my colleague Commissioner Castro that this is something that the
16 previous Commission had seen, they approved, it was something temporary that I don't think
17 they broke any rules so to say. I think that the Planning Department would have caught it if
18 anything. I don't they're doing anything at the moment by breaking anything rules, they're
19 making it right if anything, so I think that's a good thing with new, I guess with new ownership
20 and so forth, that's a good thing. We'd like to see more of that come through the Commission.
21 So yes.

22
23 Mr. Carnicelli: Okay, would anybody else like to speak to the motion? Kahu Hill.

24
25 Kahu Hill: I'd just like to say that I really respect this property and how it's grown over the years.
26 It just goes to show you we don't know the future and just a dream and a sales center and
27 everything could imagine could come in the future and then grow and that building become pa`a
28 or firm so. So I think it's continually growing and so are we and I think it's really good project.

29
30 Mr. Carnicelli: Great. Anybody else? Thank you. Would anybody else like to speak to the
31 motion? Seeing none, Director.

32
33 Ms. McLean: The motion is to approve the Step 1 land use transfer and the revision to the
34 scope of the SMA Major Permit.

35
36 Mr. Carnicelli: All in favor of the motion?

37
38 Ms. McLean: Six ayes.

39
40 Mr. Carnicelli: That is six ayes, unanimous. Congratulations. Motion passes.

41
42 **It was moved by Mr. Castro, seconded by Ms. Gomes, then**

43
44 **VOTED: To Approve the Step I Planned Development Approval for the**
45 **transfer of land use area within two parcels for the sales center and**
46 **model unit and to update representations made in the original**
47 **Special Management Area Use Permit, Planned Development and**
48 **Shoreline Setback Variance Approvals for the Kapalua Bay Hotel**
49 **Planned Development Area as Recommended by the Department.**

1
2 **(Assenting – S. Castro, T. Gomes, A. Hill, K. Pali, C. Tackett,**
3 **P D. La Costa)**
4 **(Excused – K. Robinson)**
5

6 Mr. Castro: Maybe Montage can bring back the seafood buffet.
7

8 Ms. Fukuda: Thank you very much.
9

10 Mr. Carnicelli: Director.
11

12
13 **E. DIRECTOR'S REPORT**
14

- 15 1. **MICHELE MCLEAN, AICP Planning Director, transmitting the following**
16 **application to the Maui Planning Commission pursuant to the provisions of**
17 **the Maui Planning Commission's Special management Area Rules that the**
18 **following permit transfer has occurred by approval letter dated March 18,**
19 **2019.**
20

21 **Ms. Carol K. Reimann, Vice President on behalf of Wailea MF-7 LLC**
22 **requesting a transfer of ownership of the Special Management Area (SMA)**
23 **Use Permit, Planned Development Steps I, II and III for the Wailea MF-7**
24 **LLC, located at Kai Malu Drive, Wailea, Island of Maui, Hawaii; TMK: (2) 2-1-**
25 **008:116 (SM1 2006/0038, PD1 2006/0004, PD2 2006/0004, PD3 2007/0004) (P.**
26 **Fasi)**
27

28 Ms. McLean: Thank you Chair, the next item on the agenda is just for notification purposes and
29 this is notice that Carol Reimann, Vice President on behalf of Wailea MF-7 LLC has transferred
30 the ownership to...from Wailea MF-7 LLC to Wailea Resort MF-7 Partners LP for the SMA Use
31 Permit, Planned Developments 1, 2, and 3 for the Wailea MF-7 LLC property. Are there any
32 questions on the transfer?
33

- 34 2. **SMA Minor Permit Report**
35

- 36
37 3. **SMA Exemptions Report**
38

39 Ms. McLean: Next you have the SMA Minor and Exemption Reports. Are there any questions
40 on any of those projects?
41

- 42 4. **Discussion of Future Maui Planning Commission Agendas**
43

- 44 a. **April 23, 2019 agenda items**
45

46 Ms. McLean: And lastly is the memorandum for your April 23rd meeting. It looks like there are
47 two public hearings for bed and breakfast permit or excuse me, three public hearings for bed
48 and breakfast permits as your only public hearing items.
49

1 Mr. Carnicelli: Great. Kahu Hill.

2

3 Kahu Hill: Mahalo Chair. I just want to tell all of you that's been an honor to work with you and
4 serve on this Commission. It's very humbling to sit as the Hawaiian Cultural Advisor in this seat
5 on the Planning Commission and with South Maui. I have learned so much about the island, so
6 much more about Hawaii and been able to participate and I commend all of you for your
7 volunteer work it's a lot of work and I just wanted to let you know between us before I give my
8 resignation letter to the Mayor that I will be stepping down. My last meeting here will be in May,
9 I believe May 14th and I can say my alohas and I hope get hugs then and I really hope that
10 there'll the right person, I know there will that can sit here and represent the Hawaiian culture as
11 well in making decisions and being pono. So mahalo, mahalo to all of you. It's been honor to
12 serve you and I'll see you at least two more times.

13

14 Mr. Carnicelli: And you will absolutely get hugs.

15

16 Ms. Gomes: And a lei.

17

18 Kahu Hill: And lei.

19

20 Ms. Gomes: Unlike Hudson who just bounced out.

21

22 Kahu Hill: No, no, I want the lei, that's the whole thing to get noticed. Yeah, so mahalo.

23

24 Mr. Carnicelli: And you know, we'll...I don't want to speak to your wake before you're gone, but
25 I actually think you know, you've been a fantastic job as our very first you know, cultural
26 practitioner member of the Commission, so it's like thank you very much. You've set the bar
27 high, let me just put it that way.

28

29 Kahu Hill: Or might have to put a little lauhala mat over here for someone to sit right here, make
30 them all comfy. But yeah, I just...I pule, I leave my prayers here for the next person that will sit
31 here and I thank the Mayor as well for nominating me for five years just with the events of today
32 and in the process I realize this is the time for me to make that movement to go. So mahalo.
33 Mahalo Corp. Counsel too, I'll miss you guys.

34

35 Mr. Carnicelli: Any new business? Seeing none, the Maui Planning Commission meeting of
36 April 9, 2019 is now adjourned.

37

38 **F. NEXT REGULAR MEETING DATE: APRIL 23, 2019**

39

40 **G. ADJOURNMENT**

41

42 The meeting was adjourned at 3:27 p.m.

43

44

Respectfully Submitted by,

45

46

47

CAROLYN TAKAYAMA-CORDEN
Secretary to Boards and Commissions II

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RECORD OF ATTENDANCE

Present

Lawrence Carnicelli, Chair
Stephen Castro
Tina Gomes
Kahu Alalani Hill
Larry Hudson (resigned from Commission at approximately 2:22 p.m.)
P Denise La Costa
Kellie Pali
Keaka Robinson (excused at 1:20 p.m.)
Christian Tackett, Vice Chair

Others

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