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**MAUI PLANNING COMMISSION
REGULAR MINUTES
NOVEMBER 27, 2018**

A. CALL TO ORDER

The regular meeting of the Maui Planning Commission was called to order by Planning Director Michele McLean at approximately 9:04 a.m., Tuesday, November 27, 2018, Planning Conference Room, First Floor, Kalana Pakui Building, 250 South High Street, Wailuku, Maui.

A quorum of the Commission was present. (See Record of Attendance.)

Due to both the Chair and Vice-Chair not being in attendance the Commission elected a Chair Pro Tem for the meeting.

Ms. Michele McLean: Aloha. Good morning. I'm the Planning Director, Michele McLean, and this morning we do not have a Chair or Vice-Chair in attendance. And so members, we can elect a Chair Pro-Tem to preside today. So if you would like to offer any nominations we can proceed. Commissioner La Costa.

Ms. P. Denise La Costa: I nominate Commissioner Carnicelli.

Kahu Alalani Hill: I second.

Ms. McLean: It's been moved and seconded for Commissioner Carnicelli. Is there any discussion? All those in favor please say aye. That looks unanimous. Would you like to move over here Chair for the day?

It was moved by Ms. La Costa, seconded by Kahu Hill, then

VOTED: Lawrence Carnicelli to Chair Pro Tem.

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

Mr. Lawrence Carnicelli: Good morning everyone. Gosh, it's so much different over here. It's like the same thing, but totally different. So I will officially call the -- what's today date? -- November 27th, 2018 Maui Planning Commission meeting to order. My name is Lawrence Carnicelli. I will be your Chair Pro-Tem. Also in attendance Commissioner Pali.

Ms. Kellie Pali: Good morning Chair.

Mr. Carnicelli: Good morning. Commissioner Kahu Hill.

Kahu Hill: Aloha Kakahiaka Chair.

Mr. Carnicelli: Good morning. Commissioner La Costa.

Ms. La Costa: Aloha Chair.

1
2 Mr. Carnicelli: Good morning. And Commissioner Tackett.

3
4 Mr. Christian Tackett: Good morning Chair.

5
6 Mr. Carnicelli: Also in attendance is Corporation Counsel David Galazin, and Planning Director
7 Michele McLean. So I guess what we'll do is go to our...we'll go to our first item of business
8 and I will turn it over to Director McLean.

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10
11 **B. PUBLIC HEARINGS** (Action to be taken after each public hearing.)

- 12
13 **1. STATE OF HAWAII KAHOOLAWE ISLAND RESERVE COMMISSION**
14 **requesting a Special Management Area Use Permit for the proposed**
15 **construction of the Kaho'olawe Island Reserve Commission education and**
16 **outreach center consisting of one (1) two-story building of approximately**
17 **24,000 square feet, outdoor performance area, plant nursery, parking and**
18 **related improvements located at 2780 South Kihei Road, Kihei, Maui,**
19 **Hawaii 96753, TMK (2) 3-9-004:151 (SM1 2018/0008) (C. Thackerson)**
20

21 Ms. McLean: Thank you Chair. You have three public hearing items before you today. The first
22 is one that is near and dear to my heart and that is a request from the State of Hawaii
23 Kaho'olawe Island Reserve Commission for a Special Management Area Use Permit for the
24 proposed construction of the Kaho'olawe Island Reserve Commission education and outreach
25 center consisting of one two-story building of approximately 24,000 square feet, outdoor
26 performance area, plant nursery, parking and related improvements located at 2780 South Kihei
27 Road in Kihei, at TMK: 3-9-004: parcel 151. Candace Thackerson is the project planner.

28
29 Ms. Candace Thackerson: Aloha mai ka ko and Happy Holidays Commissioners. The project
30 before you is located within the Special Management Area. It's near the Kihei Boat Ramp, so
31 that's why it is before you today. You will be the final approving authority on this matter. It will
32 not go on to any other body after this. I also just wanted to mention that the applicant has also
33 applied for a Shoreline Setback Determination as they are located on the shoreline which is
34 included on page-7 of your staff report. The shoreline setback has been determined to be 77.8
35 feet, and the project will take place entirely outside of the setback.

36
37 The applicant is here today and they're going to give a brief presentation on the project. So in
38 effort to not repeat ourselves, I'll go ahead and turn it over to them. Thank you.

39
40 Ms. Malia Molina: Good morning Commissioners. My name is Malia Molina and I am with
41 Munekiyo Hiraga. And today, I, along with our project team will be presenting information on the
42 proposed education and operation center for the Kaho'olawe Island Reserve Commission
43 (KIRC).

44
45 Before we begin I'd like to introduce our project team. So the applicant for the project is the
46 Kaho'olawe Island Reserve Commission, and from the Commission we have Michael Nahoopii

1 who is the Executive Director for KIRC. The architect on the project is RIM Architects and from
2 their office we have Kurt Mitchell and Jonathan Sim here. The civil engineer for the project is
3 Sam O. Hirota Inc. and Steve Tomei from their office is here with us today. The traffic engineer
4 for the project is Austin Tsutsumi & Associates and from their office we have Tyler Fujiwara.
5 And the planners on the project are Tessa Munekiyo Ng and myself from Munekiyo Hiraga.

6
7 The purpose of today's presentation is to first provide you all with information on the proposed
8 KIRC education and operation center. We had filed the SMA Permit application on June 29th of
9 this year, and during their September 4th meeting, the Urban Design Review Board unanimously
10 voted to recommend approval to the Maui Planning Commission. Today we're requesting
11 approval of the SMA Use Permit from the Commission for the proposed project. Now I will hand
12 it over to Mike to briefly go over the history and the purpose of the KIRC.

13
14 Mr. Mike Nahoopii: Aloha, mai ka ko . . . (inaudible. Spoke in Hawaiian) . . . Michael Kuakini
15 Nahoopii. I am the Executive Director for the Kaho'olawe Island Reserve Commission. Been
16 there for...wow, 10 years now. I spent most of my time on Kaho'olawe since . . . (inaudible) . . .
17 in fact Kaho'olawe Ohana and then I was the former Navy Commander for the island, and then
18 the project manager, one of the project managers for the cleanup of the island. So I've spend
19 almost 30 years on Kaho'olawe in some role or form.

20
21 What we want to present today is about Kaho'olawe Island Reserve Commission. We're a State
22 agency. We're administratively attached to the Department of Land and Natural Resources;
23 only administratively attached. And our focus is the natural restoration of the island, restoring --
24 protecting the natural cultural resources of the island, preserving its history and heritage, and
25 also making sure that volunteers and visitors to Kaho'olawe are safe and they have a very
26 meaningful experience on Kaho'olawe.

27
28 The purposes of this education operation center is we wanted to develop this native Hawaiian
29 community center so we can engage the public to learn more about Kaho'olawe, and also have
30 some tangible benefits of what we're doing on Kaho'olawe. We wanted to become the point of
31 entry, the connection between Kaho'olawe and Maui and the rest of Hawaii. Right now a lot of
32 the work we do is on the island, but we want to be able to take the lessons we learn from
33 Kaho'olawe and share it with the rest of the, with the rest of the public in Hawaii. We want to
34 consolidate all our operating facilities in one place. We're kind of dispersed out between
35 Wailuku at our admin offices, and our boat operations which are down at the site right now. We
36 want to make sure that the history of Kaho'olawe is remembered. We were talking about the
37 other day the students that come and volunteer to Kaho'olawe today never remembered the
38 bombing. They are young enough that Kaho'olawe was never owned by the Navy during their
39 life time. So we want to make sure that heritage and history is perpetuated and that the next
40 generation learn of the struggle that the people just before my generation had to do to get the
41 island back. So we want to make sure that story is remembered and told and preserved.

42
43 We also want to make sure that we have a community space. We want to provide activities and
44 how they relate to Kaho'olawe and relate to Kanaloa, the god of ocean, and relate to community
45 use on Maui too.

1 And then lastly one of the objective that the legislature had for us was to develop financial
2 sustainability and we would like to be able to do that on the Kihei site. We are restricted by law
3 from any commercial activities on Kaho'olawe. So this is one of the reasons the State gave us
4 the property was that so we can try to generate some revenue so that we can perpetuate the
5 restoration of Kaho'olawe throughout. And then I'll turn this back over so they can talk about the
6 actual details of this application. So thank you very much.

7
8 Ms. Molina: Thank you Mike. So as he had mentioned, the KIRC is proposing to develop an
9 education and operation center on a property that covers approximately 8.26 acres in Kihei. So,
10 you see here, the property is outlined in red. To the north we have Kamaole III Beach Park and
11 the Kihei Small Boat Ramp. And then to the south of the property we have the Kihei Surfside
12 Resort and Keawakapu Beach. And so the property is located on the makai side of South Kihei
13 Road.

14
15 Here we can see the subject property is adjacent to the Kihei Small Boat Harbor, and it is
16 currently occupied by the KIRC boat house, seen here, which shelters the KIRC vessel, the
17 Opuu, the primary means of transportation for the staff, volunteers and supplies traveling
18 between Maui and Kaho'olawe.

19
20 Also located on the property is a gravel access road, as well as a native, a small native
21 Hawaiian plant nursery, a maintenance building, a traditional thatched hale, interpretive trails,
22 and educational signage throughout the area.

23
24 The subject property is located with State, within the State Land Use Urban District, and it's
25 within the Urban Growth Boundary and Park area of the Maui Island Plan. The property is also
26 zoned Park by the County and the Kihei-Makena Community Plan. The center is a permitted
27 use within the park designation as it is considered to be a government facility. Part of the
28 property is situated along the shoreline, but all work related to the project will be located outside
29 of the shoreline setback as determined in the certified shoreline survey from July of this year.

30
31 The proposed project is located on land owned by the State which is a trigger for Chapter 343 of
32 Hawaii Revised Statutes. As such an Environmental Assessment or an EA was prepared and a
33 Finding of No Significant Impact, of FONSI, for the project was issued in May of 2000. At their
34 June 5th, 2018 meeting, the KIRC found that the 2000 EA and FONSI were still valid for the
35 proposed project. Current information and analysis have been included in the SMA Use Permit
36 Application.

37
38 The applicant is proposing to build a permanent education and operation center on the subject
39 property to support the KIRC's mission. Currently the KIRC's offices are located in the Wailuku
40 Industrial area which is approximately 16 miles away from the subject property where many of
41 its interisland functions actually occur. The proposed development consists of the construction
42 of one two-story structure that will be accessible through a main entrance off of South Kihei
43 Road, across the street from Alakoa Street which is on the mauka side of South Kihei Road. In
44 addition to various administrative and educational spaces, the proposed development includes a
45 paved parking lot along with an allotted amount of grass parking spaces. A replacement bio

1 secure native Hawaiian plant nursery, an outdoor performance and gathering area, as well as
2 landscaping and utilities improvements.

3
4 Throughout the development of this project the applicant conducted various meetings and
5 presentations internally as well as with community groups to give general information about and
6 seek input on the proposed project and its design. The design team tried to focus on creating a
7 project that was both culturally salient and sensitive to the community's concerns about
8 development in the Kihei area. The actual design of the structure was developed with input
9 from KIRC Commissioners at their June 5th meeting while the project received community
10 feedback from meetings which such group like the Maui Native Hawaiian Chamber of
11 Commerce, Kihei Community Association, and the Aha Moku Council.

12
13 So here's an aerial view of the proposed development. You can see that the proposed parking
14 lot is adjacent to the proposed structure which incorporates various nautical and native
15 Hawaiian symbols into its design. For example, there are eight beams in the shape of canoe
16 sails uplifting the makai facing façade to represent not only the eight ili of Kaho'olawe, but also
17 the eight Hawaiian islands. This is the view of the upper and lower levels of the structure which
18 will be designed to utilize the natural topography and slope of the project area. In other words, if
19 you're looking at the mauka side of the structure from South Kihei Road it will seem as if the
20 building is only one-story high.

21
22 The applicant intends to develop the proposed project with various sustainability features such
23 as compliance with LEED silver standards, low flow fixtures, and energy star certified
24 appliances, renewable and high recycled materials for interior and exterior finishes, and possibly
25 photo voltaic technology.

26
27 There are a few archaeological sites on the subject property. An Archaeological Inventory
28 Survey, or AIS, was prepared, was approved by the State Historic Preservation Division, or
29 SHPD, in December of 2001. The AIS identified four surface sites and 13 total features and
30 recommended that no further work or preservation was necessary for one of the surface sites.
31 However the KIRC intends to preserve all four of the sites as well as utilize the sites for
32 educational and informational purposes. Three of the sites already have SHPD approved plans
33 which will be implemented including an archaeological preservation plan and a revised burial
34 treatment plan. In general the applicant intends to continue its coordination with SHPD, and to
35 prepare and implement an archaeological monitoring plan if deemed appropriate.

36
37 In relation to drainage, the proposed development will include vegetative swales and an onsite
38 retention basin to collect runoff from the project. Vehicular access to the project will be through
39 the new driveway at an intersection between Alakoa Street and South Kihei Road. An updated
40 Traffic Impact Analysis Report was prepared in May of 2018, and found that the project would
41 generate approximately five to 10 additional vehicles on South Kihei Road per peak hour, both
42 a.m. and p.m. which translates to a one to three percent increase in traffic. Furthermore, all
43 study intersections will continue to operate at similar levels of services with or without the
44 project.

45

1 The existing water meter at the project site will be replaced by a 1 ½ to 2-inch water meter and
2 a fire meter will be installed.

3
4 Lastly, the proposed project will connect to the existing sewer manhole located on South Kihei
5 Road.

6
7 As I previously mentioned, the proposed structure has been designed to take advantage of the
8 site's natural topography and slope. It will be set back 49 feet from South Kihei Road and it will
9 be in compliance with the 35-foot height guideline as indicated in the Kihei-Makena Community
10 Plan. As part of the South Maui Coastal Heritage Corridors initiative to create a trail extending
11 from Kealia Pond to Makena, there exists, there exists a shoreline trail originating from the
12 adjacent Kihei Small Boat Harbor parcel that goes to the subject property. This trail will not be
13 impacted by the proposed development and will remain accessible to pedestrians and harbor
14 users via the project entry and the small boat, small boat harbor parking lot.

15
16 The proposed project has been reviewed with respect to the following criteria: Chapter 205A,
17 Coastal Zone Management Program Objectives and Policies, Chapter 205A-26, SMA
18 Guidelines, Section 12, and Section 12-202-12 of the SMA Rules for the Maui Planning
19 Commission. The project is consistent with the goals and objectives of these rules and policies.

20
21 In summary we respectfully request approval of the SMA Use Permit for the proposed KIRC
22 education and operation center. Thank you all for your time and we look forward to fielding any
23 comments or questions you may have about the project.

24
25 Mr. Carnicelli: Thank you. At this time what we'll do is we will take public testimony on the item.
26 What I do ask is that everybody be respectful. You will be granted three minutes. At the three
27 minute mark, Carolyn will let you know that your three minutes is up. I will ask you then to
28 please wrap up. Want to hear from everybody. However, just be -- we've got a lot of people
29 here today, we've got a full agenda, so we want to ask that everybody please keep their
30 remarks to three minutes just out of respect for everybody else. So with that said, I've got Uncle
31 Les. Please state your name.

32
33 Mr. Les Kuloloia: Aloha Commissioners. My name is Uncle Les Kuloloia . . . (inaudible. Spoke
34 in Hawaiian) . . .

35
36 Mr. Carnicelli: Thank you. Welcome.

37
38 Mr. Kuloloia: I just wanted to come forward. Thank you all for giving me the opportunity.

39
40 Mr. Carnicelli: Excuse me Uncle Les. I just have one quick question for you. Do you promise to
41 tell the truth?

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43 Mr. Kuloloia: I always did.

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45 Mr. Carnicelli: Okay. Thank you. Proceed.

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Mr. Kuloloia: Or are you promising to hear the truth?

Mr. Carnicelli: That is the question. That's the question right there. Please continue.

Mr. Kuloloia: Thank you Chair. Thank you Chair. I just wanted to come forward because I come forward in support of the occupation of the young generation that occupy the island of Kaho'olawe because of conspicuous reasons, articulated questionings of the takings of Hawaiian lands by Caucasians and foreign military peoples. We find that Kaho'olawe addresses a lot of issues that surrounds the shoreline of Hawaii including the shorelines from Maalaea, Lanai, Molokini . . . (Inaudible. Spoke in Hawaiian) . . . and the surrounding borders . . . (Inaudible. Spoke in Hawaiian) . . . waiver and taken over by presidential executive orders by Eisenhower, and even prior to 1778 the coming of Captain Cook.

I'm concerned to approve this. I totally approve the initiative spirit of the young generations and we need continue asking questions because so much layers of information that goes with the archaeology of Kaho'olawe is being each day loss in the different interpretations of each CIA, political process planning, Maui County Planning. We have five stakeholders here that represents an interest that you don't know what the island is about actually. So I'm trying to understand this process of this Planning Commission, how do you fit in providing access from over here to over there? Very simple words. Or from over there, come back over here at Keawakapu. Very simple words. Very simple words.

I want to ask that kind questions, who the lands belong to in the past after the military take over. Where the State and County is now using this process for production, sociology and economics. I wanna see how this process fit into protecting my interest, the Kuloloia lineage that represents and antique that was here previously to the bombing of Pearl Harbor. . . . (inaudible) . . . history of 1810, before the history of the overthrow, before the history of the mahele, before the history of, of 1778. I'm taking it further. I'm approving this process so that you will give it right to come back and say, wait a minute, I've got a question.

Ms. Carolyn Takayama-Corden: Three minutes.

Mr. Kuloloia: Yeah, I got a question. I'm trying to express best to this body so that I can come back during this process when my grandchildren had said, grandpa said this, did you answer his question? So that's what I'm coming to the board. And I go forward and approving --

Mr. Carnicelli: Please conclude.

Mr. Kuloloia: Yes Chair. I approve the process but with reservations because I have ties to the island of Kaho'olawe.

Mr. Carnicelli: Thank you. Commissioners, is there any need for clarification? Commissioner Pali.

Ms. Pali: Hi. Thank you for your testimony. If nothing was done. If this does not move forward,

1 my question to you is is nothing serving you now? Is, is...if this doesn't get done, do you still
2 know then who the lot land belongs to, does nothing being done, does it currently protect your
3 interest? I'm just trying to contrast right now with nothing versus an educational piece that can
4 maybe allow the legacy to be continued through education and knowledge of the younger
5 generation.

6
7 Mr. Kuloloia: I'm going to try to answer your question. The project brings forward an illusionary
8 image of a place that all of you have to approve for something that perhaps it will set my interest
9 of the past and present it as a museum for education which I do not represent or want to be
10 represented as a museum here on Maui or on Kaho'olawe. And that's what I say I been
11 museumed enough in my culture by a process like this. I hope I answered your question.

12
13 Ms. Pali: Follow up question. A quick follow up question. Do you have a specific suggestion
14 that we could use to create a happy medium of this museum versus the reality of our history? Is
15 there some sort of suggestion or proposal so that we could do our best to honor your opinion on
16 today?

17
18 Mr. Kuloloia: Honestly, no. Honestly, no because this is so fast track. Even the Kaho'olawe
19 Island Reserve Commission don't know what their purpose and real goals is. Yeah, because of
20 the stakeholdership that cause this place belongs to somebody with an entity in the future that
21 have nothing to do with State, Federal, County, public, tourism, the whole works under the
22 United States system.

23
24 Ms. Pali: Thank you.

25
26 Mr. Carnicelli: Commissioner Kahu Hill, did you have a question.

27
28 Kahu Hill: No. Mahalo.

29
30 Mr. Carnicelli: No, okay. Thank you very much. Although is I do --. Does the applicant have a
31 question for the testifier? No, okay.

32
33 Mr. Kuloloia: Thank you Chair. Mahalo.

34
35 Mr. Carnicelli: Next is Jenica Ashlie.

36
37 Ms. Jenica Ashlie: Thank you. After that last gentleman's remark, mine --

38
39 Mr. Carnicelli: Excuse me. I'm sorry. Do you promise to tell the truth? First, state your name.

40
41 Ms. Ashlie: My name is Jenica Ashlie.

42
43 Mr. Carnicelli: Do you promise, do you promise to tell the truth?

44
45 Ms. Ashlie: I do.

46

1 Mr. Carnicelli: Thank you. Proceed.
2

3 Ms. Ashlie: I just wanted to say after this last gentleman's concerns, mines seem tripe. I'm here
4 but they're very important to the stakeholders of Keawakapu Condos, and I'm the secretary and
5 our board has asked me to represent our owners. We live right across the street from the
6 proposed project. Our main entrance to our parking lot into our entrance of our buildings is
7 South Kihei Road and Alakoa. So it's the same, we share the entrance. So people --. And we
8 have a low building. It's only two low rise, 18-unit building. And so I have a couple of questions
9 that our owners have asked me to put forward and I don't know who will respond. But the hours
10 of operation, the concern is noise and light pollution. As cars come in that there's going to be
11 light and noise. Where right now it's, it's quiet and it's a natural habitat. And the other thing are
12 there going to be traffic lights there. There was recently on South Kihei Road just a walkway
13 light put in, and so now with more traffic there's going to be obviously the need for more...traffic
14 support for the cars and for people and crossways.
15

16 The educational program, I'm a master gardener. I'm envisioning that you're going to do a
17 beautiful native plant surround which will improve the atmosphere along South Kihei Road.
18 Right now when I hiked it recently there was a couple of homeless areas where people are
19 staying so I see a lot of good but from a -- I'm just here representing our interest for light and
20 sound pollution and if those things have been considered.
21

22 Mr. Carnicelli: Thank you very much. Is there any need to clarify the testimony? Does the
23 applicant have any questions for the testifier? You'll get a chance to do a final presentation
24 after testimony so you can address whatever concerns that are brought up by the testifiers. But
25 at this point if you have no questions for her specifically then --. Okay, thank you. Vernon
26 ...(inaudible)... I apologize if I'm butchering everybody's name. Please state your name.
27

28 Mr. Vernon Kalanikau: No worries. Yeah, Vernon Kalanikau.
29

30 Mr. Carnicelli: Do you promise to tell the truth?
31

32 Mr. Kalanikau: Yeah, for sure.
33

34 Mr. Carnicelli: Okay. Thank you.
35

36 Mr. Kalanikau: So I call him my uncle. After listening to his testimony we gotta really consider
37 some of his mana'o that he was sharing and consider that. I came here to because of the Aha
38 Moku Council for Kula Kai. We met with Mike Nahoopii and his team. And we, we like
39 everything about what they trying to do in that area. So I came here to support and to ask for,
40 you know, kokua with the SMA part. But after listening to uncle, we have to include that, that
41 mana'o. The kupuna, that's important. We have to think about that.
42

43 For my ohana before me, my dad and before that, we have kuleana too that ahupuaa Kamaole
44 and all of Keawakapu, and all also the adjacent property near Sarento's and Mana Kai which is
45 another issue. And then, and then this KIRC project came along that we recently found out two
46 weeks ago. So I was happy that you made time, Mike, to sit with us and a representative from

1 the Kaupo Council Ahu Moku. And, we, we like everything about the community reach outreach
2 program and the educational component. The only concern that I have for them was the
3 paving. We gotta figure out that we cannot use asphalt in that particular area. That's just right
4 off the top. We gotta figure what else we can do with the paving for the parking lot. And the
5 other one was iwi. You know, they did point out two sites, historical sites, and in one location
6 where they made a burial treatment plan already for that. But there's the other side that I know
7 of, but we already talked about it that when the process moves forward, if it moves forward, with
8 SHPD and the amount of community work, we on the same page as that. So that where I
9 coming from today, you know, but we gotta keep uncle's thoughts in mind too, yeah, we cannot
10 forget. Mahalo.

11

12 Mr. Carnicelli: Thank you. Is there any need to --? Commissioner La Costa.

13

14 Ms. La Costa: Thank you Chair. Can you please explain to me why you do not want asphalt?
15 I'm not a contractor and I don't quite understand that.

16

17 Mr. Kalanikau: Yeah, I not one biologist and all that kind chemical kind stuff, but you know it's
18 just something just --. And, and when listening to like the experts on the effect it has to the reef,
19 the shoreline is right there. So I just saying, you know, 30, 40 years ago you know our kupuna
20 talked about that. But it's either yay or nah. You know, we no more all the specifics and then
21 here we are today. You know it has some affect to the reef and the water. So if we going
22 complain about you cannot park...pave by Sarento's which that not going happen, they're just
23 next door, State lands. So we gotta figure this out DLNR. So that's where the Aha Moku
24 Council came in and provide recommendations. But in this situation, we support everything
25 about it. The parking was red flagged for our Council. And also I cannot speak for Kihei
26 Community Association, they don't want that either. They have to do their own comments or
27 whatever. But, but you gotta keep uncle in check right? No forget. Thank you.

28

29 Mr. Carnicelli: Kahu Hill.

30

31 Kahu Hill: Mahalo. Aloha and mahalo for mentioning about our kupuna, uncle Les Kuloloia. I
32 wanted to know about you mentioning about your kuleana.

33

34 Mr. Kalanikau: Oh, yeah, that's one tough one. I don't know if I should share it here, but I shared
35 it with Mike and his team. So, you know, this is, where the pier boat ramp is, you know, still get
36 parts, remnants of a little part where you could drive out. You know that was like our camping,
37 one of our camping sites along with . . . (inaudible) . . . place in Makena. So before we off load
38 the truck, we were kids, before we off load the truck, dad would always go give his hoku to all
39 the graves in that area. Also it's closer to where Mana Kai is. And then, and then we can off
40 load the trucks, set up camp and go play. But at times we couldn't because he, depending on
41 how he feel the mano comes in. So every time he feeds the mano, before we go do our thing or
42 sometimes we gotta get out of water and then, and then he gotta do his thing.

43

44 The grave part, you know, we weren't allowed to go follow, but I never listen. I, you know, go
45 niele and then get scoldings and I still go. So that's me, I know. But the mano is part of our
46 family. Even when we go Makena and camp he always, you know, gives his offering with the

1 mano so, so that was before. Not to say that now that going happen with myself you know.
2 Now I stepping into something, I think now I going get inspired...what I need to do to continue
3 the kuleana. So that was done from my father and those before me.

4
5 Kahu Hill: Mahalo. And I would like from clarification if it's from you or from Mike as we move
6 forward and KIRC as far as taking care of the burial sites or whose kuleana that's going to be
7 clearly.

8
9 Mr. Kalanikau: Yeah, and just so you guys know, I'm all cool with that as long I still alive and
10 breathing it's going to be okay with that.

11
12 Kahu Hill: Mahalo.

13
14 Mr. Kalanikau: Yeah, thank you.

15
16 Mr. Carnicelli: Thanks Vernon. Just one quick question. Is...so would we're here for an SMA
17 Permit?

18
19 Mr. Kalanikau: Yeah, this my first one.

20
21 Mr. Carnicelli: No, you're great. You're great. You're a very good speaker. So here's my
22 question though is kind of following up on what Commissioner Pali asked Uncle Les, and there's
23 these other concerns about just its purpose and why it's being there. Unfortunately that's not
24 what we're here to decide here today.

25
26 Mr. Kalanikau: Correct.

27
28 Mr. Carnicelli: But one of the things that we can do in an SMA, part of our kuleana is to provide
29 conditions. We can add conditions to a permit to say, hey listen, we would like a permeable
30 parking lot, you know, things like that. So, you know, Commissioner Pali asked uncle Les is
31 there anything we do, and he off the top of his head being asked that, you know, didn't
32 necessarily have anything. You also have concerns for what he said, so is there something --
33 I'm going to put you on the spot then -- say is there something in addressing his concerns that
34 we might be able to address in putting conditions on this SMA?

35
36 Mr. Kalanikau: Yeah 'cause of his ohana and his connection with Kaho'olawe, and you know, for
37 myself, if come to stuffs with Makena or Kaho'olawe that's the guy or one of the guys. So he
38 still kupuna so we might not agree with how he come across or he not going to tell you
39 everything. But I'm sitting there just have this instinct connection that he sharing stuff that he
40 might not telling you guys everything right now, but, but he will. And you guys gotta, you gotta
41 work with him or he work you guys, however you guys do that. But that's just, that's just
42 something that's a red flag for me because I came here with what I wanted to say. But you just
43 gotta...yeah, the conditions.

44
45 Mr. Carnicelli: Okay, thank you. I appreciate it.

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Mr. Kalanikau: Yeah, I call him my uncle.

Mr. Carnicelli: Any other questions? Does the applicant have any questions for the testifier? Okay. Thank you.

Mr. Kalanikau: Thank you.

Mr. Carnicelli: Is there anyone else here today that would like to testify on this particular item? Please come forward.

Ms. Carmen Hulu Lindsey: Aloha mai kakou.

Mr. Carnicelli: Please state your name.

Ms. Lindsey: Carmen Hulu Lindsey, your Maui OHA trustee.

Mr. Carnicelli: Do you promise to tell the truth?

Ms. Lindsey: I promise.

Mr. Carnicelli: Thank you. Please proceed. You have three minutes.

Ms. Lindsey: Thank you. I also would like to say that I am a Commissioner for the Kaho'olawe Island Reserve Commission, representative of the Office Hawaiian Affairs. I stand here in total support for the project. I think it's a very exciting project particularly for our young people so that they learn more about this beautiful island, Kaho'olawe.

We are very fortunate to have Mike Nahoopii to be our Executive Director. He is hard working, efficient, and a cultural practitioner. So he is very, very sensitive to our Hawaiian ways and traditions. In his own words, I'd like to state him like the . . . (inaudible) . . . worldwide voyage, this is the journey to educate and to provide resources. Our center will show people coming to Maui who we are as a nation and all of our community the story of Kaho'olawe. As a native Hawaiian educational center it will exhibit the struggle for Hawaiian identity and make sure that the next generation knows our story well. As a mental and physical portal to Kaho'olawe within the . . . (Inaudible. Spoke in Hawaiian) of Honaula it is already the access point for all of our volunteers accessing the reserve to assist with its restoration, perfection, and preservation. Now access will be extended through school visit, historical and interactive Kaho'olawe exhibits, and auditorium and workshop classrooms for use by community groups and more. Now this is a beautiful statement because it's an exciting project and one that all can enjoy. The Kaho'olawe Commission stands in total support and they ask your consideration for approval. Thank you.

Mr. Carnicelli: Thank you Ms. Lindsey. Does anybody have any need for clarification? Kahu Hill.

1 Kahu Hill: Mahalo and aloha.

2

3 Ms. Lindsey: Aloha.

4

5 Kahu Hill: I just wanted a little clarification. After hearing, if there kupuna putting you in the
6 house today and looking through about the museum and about this place of education, is, are
7 they teaching more before Mike was sharing about, you know, things that happened on the
8 island and Kaho'olawe? The museum, do we have, do you have any cultural advisors speaking
9 about before the war or about the indigenous endemic plants, about, about this history, the
10 ancient history? Is that included in the museum?

11

12 Ms. Lindsey: I think I would like for Mike to answer that when he comes up following, following
13 me.

14

15 Kahu Hill: Mahalo.

16

17 Mr. Carnicelli: Thank you. Any other questions, clarifications? Does the applicant have any
18 questions for the testifier? Okay, thank you.

19

20 Ms. Lindsey: Thank you.

21

22 Mr. Carnicelli: Go ahead. Come forward please.

23

24 Mr. Mike Weilberger: Good morning.

25

26 Mr. Carnicelli: Please state your name.

27

28 Mr. Weilberger: Mike Weilberger.

29

30 Mr. Carnicelli: Mike, do you promise to tell the truth?

31

32 Mr. Weilberger: I do.

33

34 Mr. Carnicelli: Please proceed, you have three minutes.

35

36 Mr. Weilberger: Okay. I'm a local resident just up the street from there, from the proposed
37 project and a boat captain. I work out at the boat ramp once in a while. It's been -- I'm a
38 newcomer. I've been here for 30 years, but -- I'm in full support of the KIRC project. It seems
39 like the best and highest use for public lands. It's a unique area right there, we've got a lot of
40 DLNR property and it can be a great thing, so I really do want the SMA Permit to be, Use
41 Permit, to be given. But I would like it to follow the guidelines and specifically 1A in 205A-26 that
42 says "it will ensure adequate access." There's a two and a half acre parcel of DLNR land just
43 north of the Surf Side -- sorry -- just north of the Surf Side Condominiums. And Surf Side is
44 pretty much . . . (inaudible) . . . private land status. They've reduced access. There's no
45 parking nearby. You'd have to go around the makai side of the building on a narrow path to get
46 to this two and half acre lawn. They made it beautiful. It looks like a golf course if you like

1 those. And the KIRC project is right on top of it, right above it. The extreme southern edge of
2 the KIRC project has been labeled future development, just past the turning base and for the
3 trail above. And I think that really needs...some parking. And right where they past the boat
4 house where it turns, and it runs along the driveway that goes to the Five Palms and to the Surf
5 Side. And there's a lot of things going on that area on the other side of that road. I think we
6 really need to consider the area as a whole. And if we don't provide more parking for residents
7 to use and if we don't make some access to that property that's next to the Surf Side, then
8 we've basically lost it. Right now you can get to it through the path along the shoreline from the
9 boat ramp, or around the south side of the Kihei Surf Side Condos. And so I think it's a great
10 chance for the KIRC project to include access to that. Maybe some ADA access for a turn base
11 again for cars. And it probably wouldn't take away from the ability to move the boat in and out
12 of the boat house. That's one thing.

13
14 It's also, 1B, it says they're going to provide adequate public recreation and that would probably
15 do that. So they're not --. They've got a 1,000 feet of South Kihei Road frontage, and a few
16 hundred feet of shoreline. But the real thing is they're -- that's the only way to get into that
17 property that is currently is public use. Hope they'll provide access.

18
19 Mr. Carnicelli: Thank you Mike. Any need for clarification from the testifier? Seeing none. Does
20 the applicant have a question for the testifier? Okay, thank you Mike. Anybody else wishing to
21 testify on this item? Please come forward. Good morning. State your name.

22
23 Ms. Debbie Perez: Debbie Perez.

24
25 Mr. Carnicelli: Debbie, do you promise to tell the truth?

26
27 Ms. Perez: I do.

28
29 Mr. Carnicelli: Okay. You have three minutes.

30
31 Ms. Perez: I wasn't planning to have to get up and say anything. I actually am a resident of
32 Keawakapu Views. I've lived there for nine years. And we got notice of this like a registered
33 letter to our house and we had no idea this was going on. Unfortunately Alakoa Street, if you
34 look at the residential area, that's the only access for most of the houses, well, for Kihei Road
35 that's our access for that whole development in there. So we do have concerns about this
36 project, and the traffic study of the five to 10 vehicles per hour during peak hours. I don't know
37 where that was come up with. But having a 24,000 square foot building and then saying there's
38 only going to be five to 10 vehicles doesn't make any sense to me. And then with the outdoor
39 performance area and the auditorium and the revenue generating, I completely don't
40 understand the non -- how people are saying there's not going to be implications on this. So we
41 need to have some things addressed on that especially for all the residents, the condominium
42 people. I think we're kind of in surprise about the whole thing. You know, from what I heard on
43 this today it said it was fast tracked. So we just need to understand that.

44
45 Also there is a path that goes from the boat ramp to the grassy point, and we would definitely
46 want to make sure that that path is maintained because we walk that path every single day.

1 And also for us right now we're getting a double whammy because we heard about some other
2 land directly on the other side of Kihei Road that is going to be changed so that's like to two land
3 changes for us that were just park and empty area.

4
5 And we also have concerns about the look. We saw some of the plans, but, you know, a 24,000
6 square foot building, two-story, is pretty big. I mean, I don't know how big it is at the whale
7 center, but 24,000 feet to me, I don't understand why it would need to be that size. That seems
8 huge to me especially for that area.

9
10 I'm sorry that my thoughts are scattered but as I've said I wasn't thinking I was going to be
11 speaking.

12
13 Mr. Carnicelli: Thank you Debbie. Any need for clarification from the testifier? Does the
14 applicant have any questions for the testifier? Thank you Debbie. Is there anybody else that
15 would like to testify on this particular item? Please come forward.

16
17 Ms. Tiare Lawrence: Aloha, my name is Tiare Lawrence, and I promise to speak the truth,
18 Lawrence.

19
20 Mr. Carnicelli: I have to ask you to say, but do you promise to tell the truth?

21
22 Ms. Lawrence: Yes. I wanted to --

23
24 Mr. Carnicelli: Please proceed.

25
26 Ms. Lawrence: -- after listening to some testimonies I wanted to come up and say that I am
27 personally in strong support, and I'm sure a lot of people in our community is in strong support.
28 This is State land and I see this as perfect public use. You know, there's a lot of talk about
29 younger generations being able to go over there and be educated, but I also wanted to share
30 light on kupuna. A lot of kupuna are unable to go to Kaho'olawe so this provides a venue for
31 kupuna to come and be educated and to enjoy the museum. So I wanted to come up and say
32 that.

33
34 As far as the concerns that was previously stated, as a native Hawaiian and somebody who was
35 born and raised here we've seen so many changes. I personally would like to see our public
36 lands be used like this rather than a parking lot. You know, as you know the State leases a
37 bunch of land in Kihei for parking lot use for the timeshare, and the condos, and for tourism
38 interest, I see this as being a perfect public benefit for only our children but our kupuna as well.
39 So I strongly urge you to support the SMA Permit. And, you know, there might be some issues,
40 but I think, you know, through community we can work those things out and make it a beautiful
41 project. And far as view plains is concerned the community back then before a lot of these
42 buildings were built, also the same thing, you're going to hinder my view. So, you know what I
43 mean, it's just a Catch-22. But, this is for public use, this is for education, and this is how our
44 State ceded land should be used. Mahalo.

45

1 Mr. Carnicelli: Thank you. Any need for clarification? Does the applicant have any questions
2 for the testifier? Thank you. Is there anybody else...that would like to testify on this item?
3 Okay, seeing none. Without objection we'll close public testimony. And then I'd ask the
4 applicant to come back up and you can make the final presentation, address whatever concerns
5 were brought up and thank you.
6

7 Mr. Nahoopii: Okay, thank you very much. Mike Nahoopii, again, the executive director,
8 Kaho'olawe Island Reserve Commission. I'd like to thank the people who came forward and
9 who brought their concerns about our project. You know, we're a community project so that's
10 really what we want to do. And the timing for this whole project, one of things that we see in this
11 project is that we're providing the shell, we've providing the infrastructure and our next phase is
12 we still have to go get the funding for this thing. You know, so the biggest thing, our next
13 process is to get, is to design how do we --? You know we want to address this whole question
14 about educating and learning. We're -- our next phase is to plan to develop an educational
15 group, a working group to how to present the story of Kaho'olawe. We want to engage to
16 protect Kaho'olawe Ohana, the ohana from Mokuula. Not Mokuula, but Aha Moku, Kula Kai.
17 We also want to talk to the families of the area, and how do we tell the story. Because right now
18 nothing is stick and stones of how do we present the story of Kaho'olawe. And then from that
19 point, once the...our next phase is to design how we educate, design the program from there.
20 And then we're going to get the detailed designs of the architecture within the building. So right
21 now we want to make sure that we know what our future is going to be before we design where
22 we're going to hang all the lights and all this kind of thing. We still have to work on that.
23

24 So we still have that opportunity. That is our next phase is to create the problematic part of the
25 site. Our push here was to be able to get the SMA to show the legislature when we go back
26 and get the funding and say, hey, we're shovel ready, we, we have, no, this is a real thing. This
27 is not something, a dream that we're going to put on a shelf, and 20 years from now it may get
28 worked on. It took us this long to get to this phase because we had to convince the people that
29 Kaho'olawe, the restoration of Kaho'olawe means something.
30

31 When they approved the EA back in 2000, from that period to today, we had to prove to the
32 legislature that the KIRC, as an organization, is able to effectively manage the island. We can
33 be financially sustainable. We had to go through a State audit and we're one of the few
34 agencies to ever get a State audit. And our only discrepancy is we have no money. So, I
35 mean, so the Governor has finally accepted us. We're now in his budget. It's the first time in
36 20-something years the State is putting us in the general funds. So it's a slow process and we
37 understand it's going to continue to be a slow process. But we do want to engage and we see
38 this as one of our first engagements as how do we do that process, and how do we share with
39 everyone so that everyone has a fair share of this facility. We're building this for everybody. It's
40 not for us. It's not for, you know, this one particular set of people. We want to do this for our
41 community, especially for Native Hawaiians, and especially for Native Hawaiians who have a
42 deep concern for Kaho'olawe. This is what we're here for. This is what our mission is.
43

44 Probably the other technical details, I guess questions people had, we're a State agency. We
45 don't work late and so --. How many government offices you ever see open late at night? Most
46 likely hours of operation, we're like the bank almost. We do intend to have some night time

1 activities because a part of is, is, as community events. Or maybe somebody's cousin wants to
2 get married and they want to have a party over there, so, you know, those are the kind of things
3 you do with community centers. We kind of will operate this as, you know, you've got the Kihei
4 Community Center, same kind of hours of operations they would have.

5
6 The light pollution objectives, I'll let that -- we have our engineers here and our architects to talk
7 about some of the details about that.

8
9 With the archaeology on the site, we -- there is a burial as Vernon was talking about that's on
10 the site. Our plans is to eventually build a buffer around those burial areas, and preserve them
11 in place. The other archaeological sites that are on the property are previous habitation sites, in
12 pre-contact time and we want to --. And that's part of the story of the land, and that is what
13 we're trying to do with this property is to tell a story not only of Kaho'olawe, but of the Kihei area
14 that we're in. And we want to integrate those archaeological sites into the story of how people
15 lived pre-contact. We want to be able to utilize them as part of a learning process. Our
16 museum board -- I don't want to use the term museum -- it's more of an educational facility is
17 we want to have a people balance. Kaho'olawe is multi-faceted and that's one of the stories
18 that we try to tell people is that Kaho'olawe is not just about the bombing. It's not just about
19 protest movement. Kaho'olawe was about ranching. Kaho'olawe was about a . . . (inaudible) . .
20 . Kaho'olawe was about Kalakaua coming to cleanse himself prior to his coronation. It's about
21 Kanaloa. It's about Kamahoalii about the shark god. It's stories of migration. It's about sailing
22 canoes, and the way to Tahiti. So we want to be able to present all those aspects of
23 Kaho'olawe so that the whole story of Kaho'olawe is told. And so people can understand that
24 Kaho'olawe is more than just that red piece of spec up there on the horizon that used to be
25 bombed. And even some of the next generation don't remember it being bombed because now
26 it's more about restoring the land.

27
28 And lastly we want to also educate people on the way we restore land it gives people hope that
29 as they come to Kaho'olawe or learn about the restoration, if you can restore one of the most
30 environmentally damaged, devastated landscape in Hawaii, there is hope for the rest of Hawaii.
31 So that is one of the other few stories is that you can do this here, you can do it anywhere. And
32 then people can take energy and that synergy from what we're doing, take it back to the whole
33 communities, spread it out to everybody else, and then we can all heal the rest of Hawaii and all
34 the issues we have.

35
36 I have some other people who will talk about, I think, the view plains. I think we do have a slide
37 about view plains, and about traffic, right. Oh, and asphalt, and asphalt. Thank you.

38
39 Ms. Molina: Thank you Commissioners. And thank you to all those who had testified. To
40 address --

41
42 Mr. Carnicelli: Just state your name for the record.

43
44 Ms. Molina: Malia Molina from Munekiyo Hiraga. To address, I believe, it was Ms. Ashlie's
45 comment about noise and light pollution. To give a clearer picture of what noise is to be

1 expected out of the project, outdoor activities hosted by the KIRC are to be limited until 10 p.m.,
2 and a noise permit as applicable will be obtained by the applicant.

3
4 In terms of light pollution is it's --. Yeah, yeah. So outdoor activities hosted by the KIRC will be
5 limited to 10 p.m. and a noise permit as applicable will be obtained by the applicant. In terms of
6 light pollution, if it's okay with the Commissioners, I would like to defer to our architect on the
7 project, Jonathan Sim.

8
9 Mr. Jonathan Sim: Good morning. My name is Jonathan Sim. I'm the architect on the project. I
10 promise to tell the truth.

11
12 Mr. Carnicelli: You actually don't have to promise of some odd reason.

13
14 Mr. Sim: Well, I do. So in regards to the light pollution concern in design of this particular
15 facility, for the site lighting we took into account the dark sky concern that we have especially to
16 our neighboring, to our neighbors. So we integrated down lighting specifically to provide
17 sufficient foot candles to the travel paths to ensure that there is safety when individuals utilize
18 the facility in the hours where the sun has set. So we have some images. I think we have some
19 images depicting that.

20
21 And in regards to the native planting, I know there was a question about that earlier. So what's -
22 - so currently majority of site there's a lot kiawe or invasive species of planting that currently
23 occupy the parcel. The intent by the landscape designer and the team was to incorporate 90
24 percent Polynesian or native planting onto the site. And also utilize those plants and the
25 cultivation of those plants as educational tools to show the initiatives that are being undertaken
26 on the island of Kaho'olawe. And so there's an educational site component to that too.

27
28 There was another question I believe in regards to the view corridors and with respect to the
29 neighboring parcels' views out towards the ocean. Currently the facility it has been identified as
30 24,000 square foot. That is absolutely correct; 24,000 square foot. But you also have to
31 understand that the foot print of the facility itself is 10,000 square feet. The building itself as it,
32 as it is adjacent to South Kihei Road, South Kihei Road sits perpendicular to our site. It's
33 approximately sitting plus 44 feet above sea level. The second floor of our facility is at plus 43
34 feet above sea level. At the highest point of our building we are at plus 63 feet above sea level.
35 The neighboring, the neighboring residences perpendicular to our site, looking out towards the
36 ocean, the ground level of their residence is at plus 64 feet. So standing at ground level, they
37 are already taller than the highest point of the facility. And it has been designed as such to incur
38 the lowest silhouette as possible to blend as much into the landscape as possible. The existing
39 vegetation that actually is across the street is much, is actually higher than what our building
40 would be at. We have these slides indicating from the survey, survey information that we were
41 able to gather the heights of the individuals mauka of South Kihei Road to our facility.

42
43 And these are some slides were super-imposed buildings or the artist rendering of the building
44 relative to what you see on top. So on top is the existing condition and you can see the height
45 of the trees as they exists. On the bottom of that particular slide you will see the anticipated

1 design concept for the KIRC education and operation facility, and the height of that facility is
2 how it is as it is shown is lower than their existing trees.

3
4 Mr. Carnicelli: Thank you Jonathan. We'll just let him finish . . . (inaudible) . . . and then ask
5 questions. Go ahead Malia. State your name.

6
7 Ms. Molina: Thank you. Malia Molina. And now for the traffic, the issues with traffic that were
8 brought up by the testimony, I'd like to call up Tyler Fujiwara from Austin Tsutumi and
9 Associates to respond.

10
11 Mr. Tyler Fujiwara: Good morning Commissioners. I'm Tyler Fujiwara, Austin Tsutumi and
12 Associates. So the property itself is actually generating a total 58 vehicle trips during the
13 morning peak hour, and 65 vehicle trips during the p.m. peak hour. So the five to 10 vehicles on
14 South Kihei is actually based on just the distribution of all the entering and exiting traffic going
15 along South Kihei Road further north, up towards Kihei and further south, towards Wailea-
16 Makena area. There's also some traffic that's heading up on Piilani Highway so we're looking at
17 maybe five to 20 vehicles on Piilani Highway.

18
19 And for the concern about the actual intersection of South Kihei Road and Alakoa Street, we did
20 a signal warrant, and based on the turning movements going into and out of Alakoa Street and
21 the project site, we're finding that signal likely not be warranted at that intersection.

22
23 Mr. Carnicelli: Thank you.

24
25 Mr. Nahoopii: Follow up. I just had one more thing to follow up without traffic --

26
27 Mr. Carnicelli: State your name please.

28
29 Mr. Nahoopii: Mike Nahoopii.

30
31 Mr. Carnicelli: Thanks Mike.

32
33 Mr. Nahoopii: This is have to follow up with parking and traffic on the site. We have multiple
34 night time events on the property as part of a Mahina Ai project that was kind of a community
35 welcome to Kaho'olawe issues. And as part of administratively attached to DLNR, we have a
36 very close working relationship with the Boating Division. And we already have working
37 agreements with boating for night time use of the property that they have adjacent to us for
38 additional parking. And we've used it before for additional parking. We have the boat harbor
39 parking and then also the upper parking, and then they have the further site parking. So, in
40 addition to what we have on our site for parking and overflow parking, we're also looking at
41 incorporating our, our sister agencies and utilizing their sites as overflow as needed if there is a
42 large event. So we hope not to create, you know, any more street or any overflow somewhere
43 else. Thank you.

44
45 Mr. Carnicelli: Thanks Mike. Is that all -- are you all finish with your presentation?
46

1 Mr. Nahoopii: Yes.

2

3 Mr. Carnicelli: Okay. Then before we go to Q&A from the Commissioners, I'm going to just take
4 a quick five minute break. We will come back at 10:15 a.m.

5

6 *(The Maui Planning Commission recessed at 10:08 a.m., and reconvened at 10:15 a.m.)*

7

8 Mr. Carnicelli: Maui Planning Commission is back in session. So at this point I will go to
9 questions from the Commissioners for the applicant. Since you have your mouth full I'll go to
10 Commissioner La Costa.

11

12 Ms. La Costa: Mahalo Chair. Yes, Mike, could you please come to the microphone? Thank
13 you. So PV was mentioned as a possibility.

14

15 Mr. Nahoopii: Yes.

16

17 Ms. La Costa: Do you know much sun we have here?

18

19 Mr. Nahoopii: Yes.

20

21 Ms. La Costa: So why is it not integrated into your initial project?

22

23 Mr. Nahoopii: It's a part of the design and it's in our estimates. I have to get the legislature to
24 approve the cost of it. It depends on how much money they give me. So if they give me the
25 funds for it, it's going to be in there. But I'm going to ask for it too, so, for the PV and the
26 system.

27

28 Well, one of the things we'll have to, you know, in our original concept was we want to do all the
29 things that we do on Kaho'olawe because we just, you know, one of the things that we just done
30 is we PV'ed the island. So we are completely on PV now, power, out there for our operations
31 on Kaho'olawe. We just built a 100 kilowatt PV system with 82 watt batteries. And we do want
32 to put alternative energy systems in there. And we also want to retain the water flow that's in
33 the property, in the retention basins because that retention basin is going to be one of our main
34 planting areas for crops. So utilizing onsite resources for future use, you know, for part of our
35 process, part of the work that we're doing.

36

37 Ms. La Costa: I should have prefaced my, my remarks by this as I had the pleasure to go to
38 Kaho'olawe to help replant, and it is an amazing spiritual, incredible experience so I appreciate
39 the opportunity to do that. It was five years ago, but mahalo. I really appreciate that.

40

41 So on exhibit-4, it does show a future expansion area. Do you have any idea what that might be
42 reserved for?

43

44 Mr. Nahoopii: This is the makai side of the property?

45

46 Ms. La Costa: Right.

1
2 Mr. Nahoopii: So we have two things. The makai side of the property it's all kiawe brush and
3 scrub lands. Our goal is to -- do we have a slide on that? Our goal is to eventually replant the
4 scrub and the, the kiawe brush to native coastal trees like Ko, and Milo, and to replant the
5 understory into either Aki Aki grass, or either wetland type of habitat grasses, and more of what
6 you see on Kaho'olawe which would be those coastal strands. We want to try to see if we can
7 recreate coastal strands. This is the makai side of that access road. And then on the right hand
8 side which is the south side that is the area where our native plant nursery will be built. We do
9 have a temporary nursery which is two cottage boxes with a shade . . . (inaudible) . . . in
10 between. But we want to have something that is going to be bio-secure so when we bring
11 plants to Kaho'olawe, we're not bringing any fire ants or weeds, and try to prevent the
12 introduction of those alien species to Kaho'olawe.
13
14 Ms. La Costa: Thank you. I appreciate that. One more.
15
16 Mr. Carnicelli: Go ahead.
17
18 Ms. La Costa: Mahalo Chair. When the concern was, was discussed about asphalt, would you
19 be willing to look at alternative?
20
21 Mr. Nahoopii: Oh, yeah. Yeah, we're looking at anything that --. Yeah, we'll get the engineers.
22 I'm more of the heart of the, of the project.
23
24 Mr. Carnicelli: Bring the head center forward.
25
26 Mr. Steve Tomei: Morning. Steve Tomei from Sam Hirota Inc.
27
28 Mr. Carnicelli: Go ahead.
29
30 Mr. Tomei: Oh, I thought you were going to ask me the question?
31
32 Mr. Carnicelli: I think the question was about the permeable surface for the parking structure, or
33 for the parking lot.
34
35 Mr. Tomei: Yeah, well, the question was asphalt, right?
36
37 Mr. Carnicelli: Correct.
38
39 Mr. Tomei: So, the, the -- there's alternatives. You could go with concrete or with pavers.
40
41 Mr. Carnicelli: Please speak into the mic just so we can hear you. Sorry.
42
43 Mr. Tomei: Yeah, so there are alternatives other than asphalt. You can go with concrete or with
44 pavers. That's about it.
45
46 Mr. Carnicelli: Well, I mean, if I could, we have had other projects come forward where, you

1 know, we had the pavers where there's the grass, you know, parking lot which you have part of
2 yours is that and part of it is asphalt. But there's also permeable surfaces that isn't just like say,
3 tarmac or concrete, but there's also permeable surfaces. So I think that's kind of what we're
4 headed is I'm assuming that that's not how it's designed currently, but --

5
6 Mr. Tomei: No. Like Mike said we're open to -- I mean, we're looking at various alternatives for
7 the parking itself.

8
9 Mr. Carnicelli: Candace?

10
11 Ms. Thackerson: Staff planner Candace Thackerson. Should the Commission feel this need,
12 we can include it as a condition later. And I just briefly drafted up that to the satisfaction of the
13 Department the applicant shall install permeable paving to assist in filtering pollutants and
14 reducing surface runoff within the parking area. And evidence of such shall be included in the
15 final compliance report.

16
17 Mr. Carnicelli: Is the -- Mike, are you okay with that language?

18
19 Mr. Nahoopii: Yeah, we're open to anything. And one thing that I wanted to remind that we also
20 took a look at the weather patterns, the historical rainfalls in the area, and design the grade and
21 the slopes and the retention areas and the swales and everything to retain all water runoff from
22 the buildings, the . . . (inaudible) . . ., the building, the parking lot on the property. It was a part of
23 our consideration that we looked and studied this entire land, and that everything stays in on the
24 property and nothing runs off into the ocean. So that already has been a part of our
25 consideration for this.

26
27 Mr. Carnicelli: Okay. Great. Thank you.

28
29 Ms. La Costa: Please Chair.

30
31 Mr. Carnicelli: Actually I'm going to Public Works.

32
33 Ms. Rowena Dagdag-Andaya: Rowena Dagdag-Andaya with the Department of Public Works.

34
35 Mr. Carnicelli: Say it again.

36
37 Ms. Dagdag-Andaya: Rowena Dagdag-Andaya with the Department of Public Works. I
38 appreciate Planner Thackerson's proposed condition. And I just wanted to add that sometimes
39 you don't want to limit to just permeable pavement, but incorporate a more broader general term
40 like low impact development concepts. Because LID, low impact development, it could be the
41 use bio-retention fills, like, or a rain garden on the property including porous concrete or, you
42 know, different types of impervious solutions, impervious concrete solutions. So I don't know if
43 you want to, you know...condition it to include a look at low impact development.

44
45 And I think for Public Works we also want to be involved in the development of such a plan and
46 to be able to review it as well. Because in the end we're going to be looking at storm water

1 quality when we review their building permit application, and BMP's as well, when they start
2 their site construction.

3
4 So, I think a couple of things, I just would want to include something like low impact
5 development concept into that condition. And also to include the Department of Public Works in
6 any review.

7
8 Mr. Carnicelli: Okay. Thank you Rowena. Candace?

9
10 Ms. Thackerson: Yeah, I can easily --. Staff planner Candace Thackerson. I can easily add that
11 to the satisfaction of the Department, and that would be the Planning Department. But I can
12 also say and the Department of Public Works. And instead of permeable paving, we can say,
13 shall utilize low impact development concepts to assist in filtering pollutants and reducing
14 surface runoff within the parking area, and add the same condition but easily swap those
15 terminologies out.

16
17 Mr. Carnicelli: Awesome. Thank you. You good?

18
19 Ms. La Costa: I just have one more.

20
21 Mr. Carnicelli: One more question? Okay, go ahead.

22
23 Ms. La Costa: Thank you Chair. Mike, please?

24
25 Mr. Nahoopii: Yes?

26
27 Ms. La Costa: Again mahalo. Do you ever plan on taking people from the educational center to
28 Kaho'olawe on quote on quote tours, or is it going to be maintained like it is now?

29
30 Mr. Nahoopii: Well right now we take volunteers for work access. As you understand, as I
31 mentioned earlier, the island, commercial activity -- commercial adventures, commercial
32 activities are prohibited within the reserve. So people coming up to the island are a part of our
33 volunteer program. And I think our intention is that would be the transition point of they would
34 either arrive at the center area stage in our operational center side and go to Kaho'olawe.
35 When they come back, you can only see so much from a ground perspective. You see what
36 Kaho'olawe is today. Hopefully they can come back and they go into our educational center
37 and learn more about Kaho'olawe as it was at the past. And then also, enhance the experience
38 they have on the island. Because this would continue, it would be a way that they can continue
39 this relationship with Kaho'olawe as they depart this island and keep this connection throughout
40 their lifetime.

41
42 Ms. La Costa: I'm sorry that wasn't actually my question. I beg your pardon if I was confusing.
43 Are you --. I understand about the volunteers. No, I'm talking about tourists. If they go to the
44 center and they see everything, and they say can we go over to the island? Are you ever going
45 to allow that?

1
2 Mr. Nahoopii: We will allow volunteer groups. So we actually have taken mainland groups as
3 orders as like let's say mainland civic clubs or an organization as a group and they came and
4 volunteered. So if they're a part of our volunteer process, but we don't take people from the
5 center, jump on the boat, go to check out the island, come back; that's not our intention.

6
7 Ms. La Costa: Okay. Thank you very much.

8
9 Mr. Nahoopii: It's to work. You go to Kaho'olawe to work.

10
11 Ms. La Costa: Yes you do.

12
13 Mr. Carnicelli: Commissioner Tackett do you have any questions for the applicant?

14
15 Mr. Tackett: Yes, I do. Sorry, not exactly for, for the applicant. More for what was discussed
16 about the, the verbiage for the pavement. When you, when write -- how did you word it? What
17 was the wording on the type of pavement allowed?

18
19 Mr. Carnicelli: We can also work on that once we're at the motion level and when we're actually
20 willing to approve this. Or if you want to try to work it right now we can.

21
22 Mr. Tackett: No I can wait.

23
24 Mr. Carnicelli: Okay. As far as word-smiting I would like --. Right now, if we have questions for
25 the applicant specifically. You good?

26
27 Mr. Tackett: I'm good.

28
29 Mr. Carnicelli: Okay. Commissioner Pali, do you have questions for the applicant? Okay. Kahu
30 Hill, go ahead.

31
32 Kahu Hill: Mahalo Mike. I do have a question that P.D. La Costa, Commissioner La Costa had
33 asked about the photo voltaic. I didn't see it in the presentation or in the plans. Would hope
34 that you would get funding for that. Is it here that we can see that possibility and --

35
36 Mr. Nahoopii: I don't think we had it on the drawing. But basically you take the roof that we
37 have and that roof will be photo voltaic. So that's the only --. It's just, it's just, the color of the
38 roof that's going to be copper, it will be more of the photo voltaic panels, will be across. We
39 have such a broad. It was part of the design that we have the roof facing the right way, the right
40 angle that it just incorporates itself into the roof.

41
42 Kahu Hill: Mahalo.

43
44 Mr. Nahoopii: So you don't really see any change too much.

45
46 Kahu Hill: Okay. And I also wanted to ask when will the AMP be submitted for approval?

1
2 Mr. Nahoopii: That was already approved. So is when we do the construction, right? Yeah,
3 we're waiting for --. I had conversations with SHPD because I sit next to the head all the time.
4 They...they --. Well let's see. How do I put it, I don't throw them under the bus? They are slow.
5 So I am waiting for them to get to us in their list of priorities of reviews. This is for their
6 comments on to this. Yeah. Yeah. He said going be a while. Yeah. Because he's -- they -- I
7 think currently there is no SHPD representation on Maui. That person left. Is there somebody
8 acting, an archaeologist at that point.

9
10 Ms. McLean: That's correct. There is no Maui archaeologist presently.

11
12 Mr. Nahoopii: Yeah. And I think they lost some more archaeologists at the State level so they're
13 looking at all of the big construction projects, and all the stuff . . . (inaudible) . . . bogged down,
14 so I'm not exactly sure where, where they are on us, but I keep bugging them about it so. I sit
15 next to him every Tuesday so.

16
17 Kahu Hill: Mahalo. More prayers that we also get that for the County. I wanted to ask another
18 question Mike when you were talking about education and they had looked at, in reading some
19 of this, about the . . . (inaudible) . . . going back to 1470 AD to 1600 or 1660 AD. Are you
20 teaching, are you going to be asking the kupuna, the historians, do you have what you're
21 sharing? Are you so open like kupuna, like uncle Les and others to come and give their mana'o
22 to, to add to this overtime? Because as you mention, you know, the kids they may have never
23 seen the bombing, as well as kupuna may never have been heard, you know, that are still here.

24
25 Mr. Nahoopii: Yes, we actually are partnering with the University of Hawaii's Oral History Center
26 who is now being run by Professor Davianna McGregor. We're in a partnership to --. Well, right
27 now we have a grant application. We're trying to capture the oral history of the kupuna of
28 Kaho'olawe, related to Kaho'olawe. We're hoping the funding for that goes through. But we
29 had to slowly do our own oral history with whatever funds we could find with different grants.
30 We had tried to capture some of the ceremonies that are done today. We did have a, a back in,
31 I think, it was 2003, 2006, the early warriors who were all the people who came on early protest
32 movements or the occupational movements. We captured all that in video and have that
33 available. That is the part of the things that we want to be able to share at the center is all those
34 oral histories, all the videos that we presented. And not only just in the physical realm of the
35 building, of the facility, but how do we integrate the physical part of the center with the online
36 portion, with the virtual side, with access through your phone, multi-media communications?
37 How do we integrate a physical building with how do we communicate in a broader sense? So
38 those are the kind of things, the stories that we want to be able to do. It's not just limited to you
39 have to physically go there. But this center becomes the hub and the way to communicate
40 outwards through all the various ways we connect through social media and everything.

41
42 Kahu Hill: Mahalo Mike.

43
44 Mr. Nahoopii: Thank you.

45
46 Mr. Carnicelli: Do you have a question about the SMA?

1
2 Ms. La Costa: I have a clarification on the PV.

3
4 Mr. Carnicelli: Okay, go ahead Commissioner La Costa.

5
6 Ms. La Costa: Mahalo. I'm really big on green. I'm a child of the 60's so it's very near and dear
7 to my heart. The PV that you talked about is not in the current drawings, so are you going to
8 modify those before you go to the legislature to ask for funding so that they can see that's your
9 intention?

10
11 Mr. Nahoopii: It's in the plans. It's in our ask. It's part of our ask. We don't, I believe we don't
12 have to modify the building at all right? No, the buildings doesn't need any architectural
13 modifications. It was planned to have PV, we just didn't show it on the graphics, but we can, we
14 can actually show that eventually on the graphics to have the PV panels on the building. It just
15 blends in to the roof.

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

18
19 Mr. Carnicelli: Great. Any other questions? I have just a couple of questions myself. One is
20 going to be...we haven't talked at all about shoreline access. I mean I think it was sort of briefly
21 made whatever it is. But, I mean, I've walked that path a number of times. One of the testifiers
22 brought it up the parcel that you're not in control of and I get that that's, you know, next door.
23 But, if you could and at the same time address shoreline access and public parking, you know,
24 public beach access parking. If you could address those two things.

25
26 Mr. Nahoopii: Okay. Yeah. So the shoreline access is that great trail that goes along the
27 coastal portions. Part, part of our, you know, community outreach is maintaining that. And
28 actually we're in the process of updating one of the . . . (inaudible) . . . that is built along that
29 property, the sign is kind of faded. So we're making changes, we're replacing that. We had
30 someone donate funding to replace that sign, so we're hoping to get that thing installed.

31
32 We're also looking at eventually, you know, right now the, there's not going to be any decrease
33 in the access, and there might be more increase. But as we eventually take a look at that
34 southern, the coastal side, it's dense kiawe, brush, thickets. Our goal is to eventually open that
35 up to Ko, and you know, as I've said Ko and Milo, and Aki Aki grass and native shrubs. And we
36 are going to have walking trails through the property to increase access through the property,
37 and also increase access to those shoreline areas. So, you know, we're still designing where
38 we can and cannot go. Once -- we're going to have to eventually slowly cut away the trees and
39 see what's there, under there, so that we can create trails and pathways.

40
41 But we do want to create, part of our Mahina Ai program we had was we built pathways through
42 the land mauka of the access road. And along the pathways we put educational exhibits of the
43 types of planting we're doing on the island, how do we utilize rain catchment, how do we build
44 these rock bowels to capture soil, examples of our restoration efforts. And we hope to redo
45 those too along the walkway so it's educational and access routes.

46

1 Mr. Carnicelli: Thank you Mike.

2

3 Mr. Nahoopii: And then parking, right?

4

5 Mr. Carnicelli: Okay, parking.

6

7 Mr. Nahoopii: So I think right now the plan shows 72. 72 parking spaces? 72 parking spaces.
8 25 percent of them are grassed. Also allow access for, I think, there's two bus parking spaces
9 for buses going to the property. And then if need be that turn or roundabout area could be a
10 potential overflow parking area that, you know, in the long term, if that's the desire, we can
11 gravel that entire area and create an overflow parking space, over there too if needed.

12

13 Mr. Carnicelli: Okay, I'm going to --. I'm a visual learner. I like pretty pictures. Can you point,
14 can point here there is beach access now, and then where it's going to be once this is
15 completed.

16

17 Mr. Nahoopii: Right now beach access is this --

18

19 Mr. Carnicelli: Wait, wait, you need to be on the record.

20

21 Mr. Nahoopii: Okay, so right now the beach access is from the neighboring harbor and along the
22 coast line trail that goes through here. So that's the current beach access.

23

24 Mr. Carnicelli: Got it.

25

26 Mr. Nahoopii: And but people, we always have people walking around the road and they go
27 through the road and they kind of cross the property and going over the neighboring property
28 which, which is not a problem for us. Hopefully in the future this thicket here, this is the burial
29 site. This is actually a modern burial with grave stones. Our goal is to have a buffer around this
30 area, so that's to keep the people out of that area.

31

32 Mr. Carnicelli: Is just in the interest of time --

33

34 Mr. Nahoopii: Yeah.

35

36 Mr. Carnicelli: Because this is a really, really good project, but we're already an hour and half
37 into it. And so it's just like I love the fact that you're coming from the heart and everybody likes
38 this thing, we're getting caught in the . . . (inaudible) . . . I'm, I'm guilty of it right now. So I'm
39 good. I understand the, the question, or the answer to the question. Candace, is there, is there
40 public beach access parking is part of this? Is that a thing or no?

41

42 Ms. Thackerson: Staff planner Candace Thackerson. We have required beach parking for
43 shoreline properties when they're hotels and condos. But for a public community center or
44 educational outreach we don't have any requirements to provide parking.

45

1 Mr. Carnicelli: Okay, great. From what I gathered, SHPD isn't completely gotten back to us
2 with the archaeological?
3

4 Ms. Thackerson: Again, staff planner Candace Thackerson. Yeah, it was routed to SHPD.
5 Well, they accepted the EA back in 2000. We sent them an updated one and no they don't
6 have a current archaeologist as we've stated before for Maui. So on, on page-4 of your
7 recommendation -- the green pages -- there is a condition that does say on number six that
8 ground disturbance activity shall be carried out in compliance with the archaeological monitoring
9 plan --

10

11 Mr. Carnicelli: Go it.

12

13 Ms. Thackerson: -- that shall be approved. They have to get it approved before we'll give them
14 a grading permit, a foundation permit, or a building permit. And then they have to submit that
15 they did that in the preliminary compliance report. So no one is going to put a shovel in the
16 ground until that's done.

17

18 Mr. Carnicelli: Got it. Okay, thank you Mike. No other questions? Okay, so I guess at this point
19 --

20

21 Mr. Nahoopii: Thank you very much.

22

23 Mr. Carnicelli: Yeah, thank you Mike. Great job by the way by you and your entire staff. I will
24 entertain a motion.

25

26 Ms. Thackerson: Oh --

27

28 Mr. Carnicelli: Oh, recommendation from --. Maybe you should do that. Maybe you should go
29 ahead and read the recommendation from the Department.

30

31 Ms. Thackerson: In consideration of the foregoing, the Planning Department recommends that
32 the Maui Planning Commission adopts the Planning Department's report prepared for the
33 November 27th, 2018 meeting, and the Department's recommendation to approve the project
34 subject to the 10 conditions. And I'll go ahead and add the extra condition. And Rowena and I
35 have been word smiting, smithing, whatever smiting back here. So we would prefer and it's up
36 to the Commission, of course, that to the satisfaction of the Department and the Department of
37 Public Works, the applicant shall utilize low impact development concepts within the site to
38 assist in filtering pollutants and reducing surface runoff. Acceptance by the Department and
39 Public Works of said designs shall be granted prior to issuance of grading, foundation, and
40 building permits, and prior to any ground altering activities evidence of fulfillment of this
41 condition shall be submitted as part of the preliminary compliance report.

42

43 Mr. Tackett: My only question for that is, is black top, does it, does it fall into low impact or does
44 it not? Because it seems to be...that's what was opposed here.

45

46 Ms. Thackerson: I'm sorry, clarification on that?

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Mr. Tackett: Asphalt? Does asphalt fall into those categories or does it not?

Ms. Thackerson: And I will have to defer to Public Works if they consider asphalt as part of low impact development.

Ms. Dagdag-Andaya: I think Commissioner, Rowena Dagdag-Andaya for the record, when you're looking at low impact development, you're looking at things like permeable concrete. And it's been used in several projects out in South Maui and even in Central Maui. You're also looking at things like grass crete. So those kinds of treatments or solutions are what the department would be looking for, not necessarily asphalt.

Mr. Tackett: So, so under no circumstances does asphalt fall into those definitions, correct?

Ms. Dagdag-Andaya: My understanding is it won't be. But when you're looking at that condition, yeah, you're, you're looking for solutions to --

Mr. Tackett: Correct. Yeah.

Ms. Dagdag-Andaya: -- yeah, asphalt concrete.

Mr. Tackett: Okay.

Ms. Thackerson: I believe it's the intent of the condition.

Mr. Tackett: Okay. Because I think I believe that's what, what people are afraid of is the, is the oil compounds going into the ocean. I think that, I think that's the root of the concern that, that was spoke about. So I think probably anything that doesn't have that would probably achieve what the, what the public was asking for.

Mr. Carnicelli: Great, thank you Candace and Commissioner Tackett. So, do we have a motion?

Ms. La Costa: Quick question please Chair?

Mr. Carnicelli: Yeah?

Ms. La Costa: Can we specifically exclude black top or that type of paving that has petroleum base in it?

Mr. Carnicelli: We can...write the condition how we choose to write it.

Ms. La Costa: Okay, I would like to see that in the condition so that they are assured it will not be used. Mahalo.

Mr. Carnicelli: Commissioner Kahu Hill.

1
2 Kahu Hill: I would like to move the Planning Commission adopts the Planning Department's
3 recommendation and approval of the SMA with the conditions outlined as well if we can also
4 add a condition that the kupuna can be involved in this process. Can I do that?
5

6 Ms. Thackerson: Staff planner Candace Thackerson. We can craft a condition if the
7 Commission feels that is necessary. It's also been made as representations by the applicant.
8 They stated that they intend to, you know, address the kupuna and various other groups. As
9 they start to flush out ideas for it which is legally binding representations that are made here.
10 That's a little bit easier. Later on when our zoning and enforcement division is going through
11 and doing these conditions checking to make sure they're fulfilled it's more of a site visit type of
12 thing or documentation of such. But, that was a representation that was made, so the applicant
13 will have to satisfy that regardless.
14

15 Mr. Carnicelli: So could you restate your motion? I tell you what, how about this? Is why don't
16 you state your motion and then we'll add -- we'll do amendments to figure out the additional
17 stuff. So why don't you make --? Yeah, just make a motion and then we can, we can tweak the
18 motion as we go.
19

20 Kahu Hill: So I'll redefine. So I'd like to make a motion that the Planning Commission adopts the
21 Planning Department's recommendation and approve the SMA with the conditions outlined.
22

23 Ms. La Costa: Second.
24

25 Mr. Carnicelli: Moved by Kahu Hill, seconded by La Costa. So...as I understand it we now have
26 the -- the motion is with the 10 conditions --
27

28 Ms. Thackerson: Plus one.
29

30 Mr. Carnicelli: Plus, plus the additional one that was stated. Does the additional one that's
31 stated exclude petroleum based paving?
32

33 Ms. Thackerson: No. Staff planner Candace Thackerson. No, I did not specifically state that,
34 but I believe the intent of the condition where I do say in there assist in filtering pollutants and
35 reducing surface runoff addresses it. I believe the intent is there, and Public Works will be the
36 accepting one.
37

38 Mr. Carnicelli: I would agree. Does the Commission agree? Are you guys okay with that?
39 You're not okay with that? Okay, since we're a bare quorum, we're going to have 100 percent
40 of us, you know, agree on everything here. So, what would you like it to say? La Costa please.
41

42 Ms. La Costa: Commissioner La Costa. I would like it to specifically exclude asphalts and
43 petroleum based...products.
44

45 Mr. Carnicelli: So while you're working on that Candace --

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Ms. Thackerson: Yeah, I know I'm like word smithing as I go.

Mr. Carnicelli: You go ahead and work on that and we'll come back to that. So --

Kahu Hill: I'd like to speak to the motion to.

Mr. Carnicelli: Hang on real quick. Before we do that I would also, I would like to make an amendment to the motion to include the following conditions as read by, as read by Director McLean.

Ms. McLean: That to the satisfaction of the Department the applicant shall continue to maintain the coastal trail that crosses the makai area of the subject property.

Mr. Carnicelli: Do I have a second on the amendment to the motion?

Ms. La Costa: I second.

Mr. Carnicelli: Moved by Commissioner Carnicelli, seconded by Commissioner La Costa. Any discussion on the amendment to the motion? Okay, seeing none, all in favor of the amendment as read by the Director raise your right hand? That's five ayes. The amendment is now a part of the motion.

Additionally... I would like to make a motion to amend the...condition three of the Department to include the additional language as read by the Director.

Ms. McLean: Thank you Chair. Condition three currently states to that to the satisfaction of the Commission or the Department, the applicant shall develop the property in substantial compliance with the representations made to the Commission in obtaining the SMA Permit. And to the end of that sentence is proposed to add including consultation with kupuna.

Kahu Hill: Mahalo.

Mr. Carnicelli: Do we have a second to the amendment to the motion?

Kahu Hill: Second.

Mr. Carnicelli: Seconded by Kahu Hill. Any discussion on the amendment to the motion? No? All in favor of the amendment to the motion please raise your right hand? That's five ayes. Ms. Thackerson?

Ms. Thackerson: Hi. Staff planner Candace Thackerson. I have the language. So I think this will, I'm just going to insert it into the condition. So it will read that to the satisfaction of the Department and the Department of Public Works, the applicant shall utilize low impact development concepts within the site to assist in filtering pollutants and reducing surface runoff. Asphalt and petroleum based products shall not be utilized. Acceptance by the Department and

1 Public Works of said design shall be granted prior to issuance of grading, foundation, building
2 permits, and et cetera with the evidence of such. So I just inserted that line afterwards. You're
3 welcome.

4
5 Mr. Carnicelli: Do I have a motion to amend the motion as read by Candace Thackerson? No
6 we're just going to amend -- we're amending. There's currently a motion on the floor.

7
8 Ms. Pali: . . . (inaudible) . . .

9
10 Mr. Carnicelli: Okay. So Commissioner Pali has moved to amend the main motion. Do I have a
11 second? Seconded by Commissioner La Costa. Any discussion on that? Seeing none, all
12 those in favor? That is five ayes, it passes.

13
14 Ms. Thackerson: Thank you.

15
16 Mr. Carnicelli: Okay, so now we're actually to the motion itself to approve the SMA Permit. Any,
17 any more discussion on the main motion? Seeing none. Oh, go ahead Kahu Hill.

18
19 Kahu Hill: Mahalo. I just wanted to say that it's very rare that this comes up before the
20 Commission about an island, and it's so sacred and the spiritual significance an Uncle Les
21 Kuloloia being here testifying is deep in my heart. And I'm remembering my kupuna . . .
22 (inaudible) . . . David Kalakea, and the time with Charlie over at the Ocean Center and that day
23 of the blessing. And bringing that in, the kupuna coming in for the Ocean Center and
24 recognizing the amakua, recognizing what needs to be recognized. I can remember being in
25 Maui Meadows every night watching the bombing with my mom, and then clean up and the
26 helicopters going over. In time watching how KIRC has malama the island and the aina, and
27 the restoration of indigenous and endemic plants, and how fragile things are, the island is. It's
28 been an honor as well to be a part of, of blessing one plant . . . (inaudible) . . . in Kahului and
29 being a part of that's name and Kanaloa. And I recognize Kanaloa, Pukahi Kanaloa, Elua
30 Kanaloa, Kupau, and moons and the mana and the kauna and your protocols. And it is my, my
31 belief that you will sustain, you will educate, you will protect, continue to protect the island. And
32 that in doing this that it will literally be for education but it really will lead to understand and to
33 keep sacred what is sacred and move forward with this. So it's my honor to support KIRC and I
34 totally believe it's in the right hands to move forward with the kupuna. And mahalo for letting me
35 share.

36
37 Mr. Carnicelli: Thank you Kahu Hill. Anybody else would like to speak to the motion? I'm just
38 going to say that thank you for the work that you do. And also that, you know, there was -- I
39 want everyone to know so that all of the testifiers were heard...different concerns. When you
40 look at what is the inner task we're here today is an SMA Permit. The actual use and how the
41 thing is going to unfold, I think that Mike, you and your staff have heard that and are going to
42 incorporate those people and those concerns. And so but the thing that we are looking at here
43 is shoreline access, view plains, runoffs, and things of that nature, I feel as though you also
44 taken care of. Also just, just so people understand that we're tasked with...preserving public
45 view plains, not private view plains, so I just want that to be heard and understand that, you
46 know, we weren't not listening, but that is a part of it. Then my last thing that I'm going to say is

1 good luck with the ledge. So all in favor please raise your right hand. That's five eyes.
2 Congratulations.

3
4 Ms. Molina: Thank you.

5
6 Mr. Carnicelli: Just briefly before we go to anything else, there are a few cars that are parked
7 illegally and you're lucky Taguma still isn't in charge here.

8
9 **It was moved by Kahu Hill, seconded by Ms. La Costa, then**

10
11 **VOTED: To Approve the Special Management Area Use Permit, as**
12 **Recommended by the Department with Recommended Conditions**
13 **and Additional Amendments by the Commission as Discussed.**

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

17
18 Ms. McLean: If anyone has a car that is parked in the Kaohu Street lot, there is black Honda
19 CRV, a white Lexus LX570, a gray Toyota Tacoma, a grey Lexus CT200H, a grey Honda
20 Odyssey and a blue Honda Fit. If any of those vehicles are parked in the Kaohu Street lot, you
21 need to move those. Thank you.

22
23 Mr. Carnicelli: Okay, I am going to take a one minute recess to go put my Planning
24 Commissioner sticker under my windshield because I might be one of those things.

25
26 Ms. McLean: Even if you have a Commissioner pass, that's an employee parking spot. You
27 cannot park there. You can park in the gravel, the gravel lot right down here. Not across the
28 street in Kaohu.

29
30 Mr. Carnicelli: One minute recess.

31
32 *(The Maui Planning Commission recessed at 10:52 a.m., and reconvened at 10:54 a.m.)*

33
34
35 **2. R.D. OLSON II INVESTMENTS, LLC requesting a Special Management Area**
36 **Use Permit for the Keolani Triangle Retail Center, a 4-unit commercial retail**
37 **space in two structures, with supporting infrastructure, onsite parking, and**
38 **loading zones, located on 0.779 acres in the M-2 Heavy Industrial District at**
39 **520 Keolani Place, Kahului, Island of Maui, TMK: (2) 3-8-079:015.**
40 **(SM1 2017/0005) (K. Scott)**

41
42 Mr. Carnicelli: Maui Planning Commission is now back in session. Continuing on with public
43 hearing items, Director.

44
45 Ms. McLean: Thank you Chair. Your second public hearing item is a request from RD Olsen II
46 Investments LLC for a Special Management Area Use Permit for the Keolani Triangle Retail

1 Center, a four unit commercial retail space in two structures with supporting infrastructure,
2 onsite parking and loading zones located on 0.779 acres in the M2 Heavy Industrial District, at
3 520 Keolani Place, in Kahului, at TMK 3-8-79 parcel 15. Keith Scott is the project planner.

4
5 Mr. Keith Scott: Good morning Commissioners.

6
7 Mr. Carnicelli: Good morning Keith.

8
9 Mr. Scott: Keith Scott, County planner. I do want to add to that description that the total square
10 footage of the buildings is 4,800 square feet. One building is 1,800 square feet and another to
11 be subdivided into three units of 1,000 square feet each.

12
13 Okay, alright, Jordan Hart of --

14
15 Ms. McLean: Chris Hart & Partners.

16
17 Mr. Scott: Yeah, sorry. Jordan Hart is going to make a presentation for you with respect to the
18 project and give you a lot of details . . . (inaudible) . . .

19
20 Mr. Carnicelli: Thank you.

21
22 Mr. Jordan Hart: Good morning Commissioners. My name is Jordan Hart of Chris Hart &
23 Partners.

24
25 Mr. Carnicelli: Good morning Jordan.

26
27 Mr. Hart: Good morning. Aloha. As mentioned by Mr. Scott we're here to talk about this SMA
28 Major Permit for the Keolani Triangle project. The owner and developer is RD Olsen
29 Development. Here with me today is Mr. Anthony Wrzosek to represent the applicant. Planning
30 consultant, Chris Hart & Partners, Brett Davis and myself are planners for this project.
31 Landscape architect is Mr. David Sereda of Chris Hart & Partners. Access GFA is the project
32 architect, Mr. Randy Itaya is here. DCI Engineers is the civil engineer, Mr. Manny Nuno. And
33 traffic engineer, Austin Tsutsumi & Associates, Tyler Fujiwara.

34
35 So the project site is shown in red. It's in Kahului. The easiest way to describe it is, it's right
36 across the street from Costco. It's between Kanaha Pond and Costco. Basically northwest of
37 the existing Wailea Residence Inn there's an undeveloped triangular shaped piece of property,
38 and that's the subject parcel. This is a partially zoomed in aerial photograph. So Keolani Place
39 is used to be the old route to get to the airport, and then the Old Haleakala Highway is on the
40 west side of the project site. Zoomed in even further, Marriott Courtyard is to the east. Costco
41 Wholesale is to the west, across the Old Haleakala Highway. Opposite the intersection is
42 Krispy Kreme, and then to the north is the Kanaha Pond.

43
44 While we're on this photograph I do want to point out a couple of crosswalks that bring you,
45 circulate pedestrians. This project proposes to complete the, the sidewalk network in the project
46 area, but crosswalks here bring you across the Old Haleakala Highway. There's another

1 crosswalk near the Marriott Courtyard that will bring you towards Costco. There's a crosswalk
2 across Costco's entryway so I'm just outlining the pedestrian routes.

3
4 This project -- this is a photograph looking over the project site towards the east, Haiku area.
5 Old Haleakala Highway is here, the Marriott Courtyard is here. This project, this site photograph
6 is looking towards the west at Costco, over the project site. Old Haleakala Highway is here.
7 Keolani Place would be you're standing on the sidewalk of Keolani Place.

8
9 This project, this photograph is looking basically north, northwest down Old Haleakala Highway.
10 Costco is off the photograph to your left. The Wailea Res or the -- sorry, the Marriott Courtyard
11 is over your right shoulder behind you. Kanaha Pond is here beyond these kiawe trees.

12
13 In this project or this photograph you're at the entrance to the...the Marriott Courtyard, looking
14 west over the project site towards Costco. Keolani Place is here. Old Haleakala Highway is
15 here. And then this looking long ways west across the project site.

16
17 So the primary access is off of Keolani Place. The project's acreage is 0.78 acres in size. State
18 Land Use Urban, Heavy Industrial Zoning, Community Plan for Light Industrial development.
19 It's in the Urban Growth Boundaries of the Maui Island Plan. And we are in the Special
20 Management Area, and we're here to ask for a Special Management Area Major Use Permit for
21 the development of this project. The proposed development and the proposed uses are
22 consistent with the existing land uses designations. So the total proposed project site is 4,800
23 square feet in size. There's two buildings. One building is 1,800 square feet. The second
24 building is 3,000 square feet.

25
26 The first building includes a drive-thru and outdoor dining. The second building includes three
27 retail spaces. As I mentioned earlier, sidewalks are going to be provided along the project
28 frontage to complete the existing sidewalk network in the area. 46 parking stalls with three ADA
29 stalls are provided as well as one off-street loading zone. The primary access is
30 proposed...through Haleakala Highway with secondary accesses on Keolani Place and
31 Haleakala Highway. There's basically two shared access ways with the Marriott Courtyard
32 which will be shown in the project site plan further.

33
34 As far as landscape plan, primary tree materials are Pink Tacomas, Milos, Plumerias, Coconuts,
35 and fish tail palms...with ground cover shrubbery and ground cover mixed throughout. There's
36 use of native and drought tolerant plants included in the project.

37
38 Some of the requests that we got from the Urban Design Review Board was that we increase
39 our landscape planting. We did do that along the, the Old Haleakala Highway frontage. We also
40 added two green walls so this would be suspended vegetation walls along the project, the
41 building walls in order to add to the vegetation and...landscape architectural aesthetics.

42
43 At this point I'm going to bring up Randy Itaya to describe the land -- or the project's
44 architecture.

45

1 Mr. Randy Itaya: Good morning. I'm Randy Itaya from Access GFA. We're the design architect.
2 The...the view that you see here is looking north with the...Keolani Place towards the north, and
3 Old Haleakala Highway to the south. And you can see the new driveway. It's a right in, right in
4 driveway to the site. There will be two buildings. The one you see number one indicate is going
5 to be a drive-thru restaurant or retail space. The one with two on it is going to be three, up to
6 three retail spaces, potentially one with a restaurant. The architectural design is basically it's
7 very contemporary, clean, but we did add through the request that the Design Review Board we
8 added some regional components such as the...it's hard to see but there's a band going across
9 the parapet, the top of the parapet which has a...a kind of an alternating reverse triangular
10 pattern which is...it's...based on like a very traditional regional pattern, like kapa, sorry. And
11 then at the base we're using a, a slate, or not a slate but...basalt kind of stone based which is
12 regional to the area.

13
14 And this the view is looking south. You can see the Keolani Place at the bottom and then Old
15 Haleakala Highway going down towards . . . (inaudible) . . . and then in the background you can
16 see the Courtyard area, the existing building. And you get another view of the drive-thru retail
17 building in the frontage and then the three tenant space in the back.

18
19 Mr. Hart: At this time I'd like to bring up Manny Nuno to talk about the project infrastructure.

20
21 Mr. Manny Nuno: Good morning Commissioners. My name is Manny Nuno with DCI Engineers.
22 I'm the civil engineer for this project. I just wanted to take a moment to talk about the
23 infrastructure. We'll start with water. There is an existing domestic water meter on this
24 property. It's a small meter. But we understand that we can expand this to serve the property
25 depending on what the different uses of the spaces are, the different tenants and the fixture
26 units. And that still hasn't been determined yet, so we don't know a full size of what that near
27 capacity will be.

28
29 We do have existing infrastructure for domestic water throughout the site, both on Haleakala
30 and Keolani Place, and so that it's readily available to us and we have the capacity for it. This
31 site is also planning on using potable water for irrigation. However the irrigation is designed so
32 that when recycled water is available it can be easily switch which means all the infrastructure is
33 set up for it. It's just a matter of switching to it as soon as it's available. So everything will be in
34 place for that.

35
36 The estimated potable drinking water is 4,679 gallons per day. That comes directly from the
37 Department of Water Supply's table for land use designation. So that's, that's the capacity that
38 the department has established based on the use for the land and whatever is going to go on
39 that based on the acreage of the overall property.

40
41 The irrigation water demand is approximately 3,000 gallons per day. Again, that's the more
42 landscaping that we have in there that demand increases but that also comes based on land
43 use and in what we plan on doing with that in terms of landscaping etcetera.

44
45 In terms of the infrastructure, the drainage. In the developed condition we do see an anticipated
46 increase of 2.17 CFS. And that's important to know that that would be if we were not mitigating.

1 What we are planning to do is use mitigation measures which could be either subsurface or
2 surface measures to control that excess runoff and essentially control the outlets so that we see
3 no increase coming from the site. And that would be consistent with the Maui County standards
4 for storm water design.

5
6 The waste water for this project is estimated to generate 2,775 gallons per day of waste water.
7 That's consistent with the land use for commercial space of this size. And then we have more
8 than enough capacity within the existing system to handle that. The waste water from this site
9 flows south in existing sewer main line, and it's transported to the Kahului Wastewater
10 Reclamation Facility. Again, they have adequate capacity for this particular project. And the
11 grand scheme compared to several other developments it's considered a relatively low
12 generation for water and waste water.

13
14 Having said that, next I'm going to bring over Tyler and he'll talk about the infrastructure as it
15 relates to the traffic for the site.

16
17 Mr. Fujiwara: Morning again. Tyler Fujiwara, Austin Tsutumi and Associates. So we completed
18 a traffic study. We analyzed various unsignalized and signalized intersections along Hana
19 Highway, Haleakala Highway, Dairy Road, and also Airport Access Road. Based on our
20 analysis we found that most of the study intersections are forecasted to operate similar level of
21 service with or without the project.

22
23 Being that it's a retail center, we analyzed the existing weekday a.m. and p.m. peak hours, as
24 well as the Saturday mid-day peak hours. And this was conducted in May and July of 2017.
25 Methodologies are consistent with County and State standards.

26
27 We found that at the Haleakala Highway and Costco main access and Courtyard Marriott
28 driveway intersection a signal may be warranted based on forecast traffic. So the traffic study
29 assumes that a signal may be implemented there.

30
31 Overall the project is anticipating to generate about 101 weekday a.m. peak hour trips, 117
32 weekday p.m. peak hour trips, and 197 trips during the Saturday mid-day peak hour. Based on
33 the intersection analysis for all the unsignalized and signalized intersections we found that the
34 level of service would be, again, generally the same so operations will be minimal, impacts will
35 be minimal. But we will continue to coordinate with the State Department of Transportation and
36 Maui County Department of Public Works for any, you know, follow up mitigations that may be
37 required.

38
39 Mr. Hart: Based on analysis the public agencies and reviewing comment, it's anticipated that the
40 proposed project is not going to have a significant impact on public services including
41 recreational facilities, schools, police and fire protection. There was an archaeological
42 assessment conducted for the project site with subsurface testing. No cultural resources were
43 identified. There was modern deposits of asphalt that were uncovered. We received comment
44 on that archaeological assessment from SHPD with a series of requested revisions. We've
45 completed those revisions and resubmitted it to them. As mentioned earlier in the day SHPD is,

1 is significantly understaffed including on Maui right now and so, you know, we are awaiting for
2 those comments but we have completed our work there.

3
4 There is additional mitigation proposed is the preparation of an archaeological monitoring plan.
5 That's basically a standard comment of SHPD at this time, and we're aware of that and we're
6 preparing to do that.

7
8 That concludes the presentation that we have. In summary this is an urban infill project. We're
9 within all of the urbanized land use designations in the County's urban growth boundary. We've
10 prepared a modest and responsible project consistent with the Special Management Area
11 Rules, and respectfully request your support. Thank you.

12
13 Mr. Carnicelli: Thanks Jordan. At this point, would anybody like to testify on this item? Please
14 step forward.

15
16 Mr. Tom Croly: Aloha Chair. Tom Croly.

17
18 Mr. Carnicelli: Tom, do you swear to tell the truth?

19
20 Mr. Croly: Yes I do.

21
22 Mr. Carnicelli: Okay, please, please proceed.

23
24 Mr. Croly: I don't know if this is the appropriate time to address this, but first I support this
25 project. It looks like the right use for this, for this remnant piece of land if you will. However, as
26 all of us are regular users of Costco we know just how, how congested that area gets right
27 there. And I was picturing as I was sitting there looking at this, left hand turns coming in there,
28 left hand turns trying to get out while you have those cars queuing up to go into Costco, while
29 you have the people trying to make that left out of Costco, it didn't seem in the traffic analysis
30 that they had thought about that. And it would --. I don't know if this is the appropriate time for
31 that condition, but it would seem like either a left hand turning lane should be there, or a no left
32 turn coming out or in should be, should be considered. I don't know what the answer is, but I
33 just pictured what that would look like once, once it's in place and my trying to get in and out of
34 Costco. But I'll give you that two cents to chew on. Thank you.

35
36 Mr. Carnicelli: Do we have any questions for the testifier? Does --. Okay, the applicant actually
37 has a question for you Tom. Oh, no. Okay. No questions for you. Would anybody else like to
38 testify?

39
40 Mr. Albert Perez: Good morning Commissioners.

41
42 Mr. Carnicelli: Please identify yourself.

43
44 Mr. Perez: I am Albert Perez.

45
46 Mr. Carnicelli: Albert, do you swear to tell the truth?

1
2 Mr. Perez: I do.

3
4 Mr. Carnicelli: Please proceed. You have three minutes.

5
6 Mr. Perez: I would just like to echo Mr. Croly's concern. I was wondering if the Commission
7 could put a condition on. It seemed to me that the analysis said it already needs a traffic light so
8 we're not going to make it that much worse but...without the traffic light it will make it worse.
9 So, I would like to suggest that that might be an option for the Planning Commission.

10
11 The other thing I wanted to mention is that the Wailuku-Kahului Community Plan talks about
12 keeping commercial retail uses from spreading into industrial areas. This is designated light
13 industrial in the community plan. It's designated heavy industrial in the zoning. I don't think that
14 we're doing that. Of course, you could counter and say, well, we should have said that a long
15 time ago before Costco went in and the Marriott went in there and everything. But I just want to
16 point out that there is that inconsistency with the community plan. Thank you.

17
18 Mr. Carnicelli: Thank you. Any questions for the testifier? Would the applicant would like to ask
19 the testifier any questions? No? Okay, thank you Albert. Would anybody else like to testify on
20 this item? Then without objection we will close public testimony and open it back up to the
21 applicant to do a final presentation or to address any concerns.

22
23 Mr. Hart: Sure. Thank you Chair. Jordan Hart, Chris Hart & Partners. A few things I would like
24 to say. First, there's no left turn in or out proposed as a part of this project. It is right in, right
25 out. There is a shared driveway access agreement with the existing Courtyard, but those are
26 existing intersections. We're not proposing anything there. Again, this project is only right in,
27 right out, and those are convenience access and exits with the existing flow of traffic that you're
28 entering.

29
30 The final thing I would like to say is that the County of Maui did create the restricted heavy
31 industrial M3 zoning designation specifically to address the conflict that was arising between the
32 use of light and in this case a remnant very small heavy industrial parcel in the commercial
33 uses. And so we believe that by creating that, and also preparing to move those heavier, more
34 noxious uses outside of the community use areas like an area of like Costco or Krispy Kreme or
35 a hotel, you know, we don't think heavy industrial is actually the appropriate use in that location.
36 While the commercial uses that we are proposing are consistent with the property zoning and
37 also consistent with the community plan by the permitted uses as represented in the Planning
38 Department's recommendation for approval for this Special Management Area Use Permit.
39 Thank you.

40
41 Mr. Carnicelli: Thanks Jordan. Commissioners, do you have any questions that you need to
42 have addressed at this time? Commissioner La Costa.

43
44 Ms. La Costa: Thank you Chair. I have a couple of questions. One of my concerns is traffic, so
45 could your traffic engineer please come up. Mahalo. I am concerned looking at this about left
46 hand turns. You can say no left hand turn all you want but people are going to do that and it's

1 going to cause not only accidents but congestion. So if you're going to Costco to shop, get gas,
2 whatever, and you decide oh I want to stop by and grab something from the stores, how are you
3 going to mitigate that? Because I see really big issues with people turning where they're not
4 supposed to like they do everywhere on the island.

5
6 Mr. Fujiwara: I think to the extend we could, we could design the curbs along the right in, right
7 out access to restrict those left turners. You know, there's also possibilities to put up delineators
8 which are basically stakes on the road to discourage those left turners and eliminate the
9 possibility of them turning left. So that is something we can work with the Department on.

10
11 Ms. La Costa: Thank you. I appreciate that.

12
13 Mr. Carnicelli: Kahu Hill.

14
15 Kahu Hill: Just on that, that you look at not only that but also for the pedestrian traffic. I was
16 looking through your reports and about the MPD and they're concerned about the traffic
17 corridors right there between Old Haleakala Highway and Keolani Place both for vehicles and
18 for pedestrians. So just looking at the safety measures even in this. Looking at the pedestrians
19 walking on the sidewalks usually the road got plenty more cars than is shown in here. We all
20 know that, that how busy that is. So I just really want to make sure that you have that very
21 mindful and you have plans whether it's a stop light or not of how this is going to occur. I think
22 the right in, right out is also something that has to happen, but how to ensure this and people
23 safety. I think you mentioned there are three pedestrian crosswalks. How are those going to
24 look? Are those going to have light features or how is it going to protect people?

25
26 Mr. Fujiwara: Yes so about...I believe it's maybe about 300 feet to the east of the project, you
27 have the existing traffic signal at Dairy Road and Haleakala Highway. So you have that
28 pedestrian crosswalk that's provided with a pedestrian signal to safely cross Dairy Road if they
29 were to, you know, go to and from the Costco area. I would say the likelihood of pedestrian
30 interactions in the area would probably lean more towards the Courtyard Marriott and the project
31 site. You know, Costco is a bulk, bulk item store so I wouldn't anticipate too many pedestrian
32 crossings there.

33
34 Mr. Carnicelli: Wait, wait. Speak into the mic.

35
36 Mr. Hart: Excuse me. Jordan Hart. I apologize. We were having a side conversation. I just
37 wanted to point out that the crosswalks that I was mentioning are existing. And the primary
38 crosswalk, you know, my opinion the primary crosswalk is at the apex of the project site where
39 you might cross Old Haleakala Highway to go towards Costco. That's an existing crosswalk at
40 the signal.

41
42 Mr. Carnicelli: While you're here Tyler I just got a quick question for you. Could you go back to
43 the other, that landscape and site plan, that was --? Yeah. So Tyler as I look at it if I'm on
44 Keolani Place I can turn into the Marriott shared driveway and then turn left into the subject
45 property, correct?

46

1 Mr. Fujiwara: You would turn right into the subject property.

2
3 Mr. Carnicelli: Well depending upon which way I'm coming from, right? But I can turn into --.
4 Yeah, you're right, then I would turn right into the subject property, not left. You're right.

5
6 Mr. Fujiwara: The Keolani Place intersection, the shared access is actually a right in, right out
7 access currently.

8
9 Mr. Carnicelli: Okay. So then if I go directly below that on to Old Haleakala Highway, and I can
10 get in and out there now, currently.

11
12 Mr. Fujiwara: Correct. Yes.

13
14 Mr. Carnicelli: Currently is that right in, right out only? Let's get some free software over here.
15 Okay, so on Old Haleakala Highway, yeah right there, is that right in, right out?

16
17 Mr. Fujiwara: So currently it's a full access interaction. So there's left in and left out allowed. So
18 the intention of the project is to use this as the left in entrance. If people are coming from Dairy
19 Road, they have the option to come on to Haleakala Highway, make a left to go in to the project.
20 Alternatively they could also just keep going straight on Keolani and turn right here. So there's
21 a couple of different options on access into the site from Dairy Road.

22
23 Mr. Carnicelli: Rowena, do you want to weigh in on this please?

24
25 Ms. Dagdag-Andaya: Sorry the question. Sorry, Rowena Dagdag-Andaya. The question is
26 whether or not the --? I'm sorry, can you repeat?

27
28 Mr. Carnicelli: Well, I don't really --. I just --. I would you like for you to weigh in on because the
29 big concern from the testifiers and from I believe us here, the Commissioners, is going to be
30 traffic. We haven't gotten to run off and storm water or anything like that. But currently we're
31 talking about traffic. And the concern is somebody coming say, you know, from Dairy Road,
32 and saying alright, I want to turn left because there's, there's the Starbucks, right. Everybody's
33 going oh my god I want to go to Starbucks and so then they're going to try to take a left into the
34 right only, and they're going to like I can't get in there and traffic from Costco is all back up, and
35 say okay, I can turn left here, into the shared driveway. So Tyler had mentioned something
36 about possibly needing a street light. Currently, is that intersection is where we would want a
37 street light or is it ingress or egress out of Costco? Because we suddenly got, you know, some
38 pretty --. I mean, Costco is, you know, a lot of traffic especially on Saturday afternoon when I
39 don't go. But is that something that is ultimately the department might recommend that we need
40 to put in street light?

41
42 Ms. Dagdag-Andaya: For this project, I don't...you know the traffic counts for this project in
43 particular don't warrant. I mean, it's not necessarily tied in with this project alone. I think there
44 may have been something when Costco was developed back in 2013. Between 2011 and
45 2013. I can't --. I thought I saw something in one of our comment letters or a response to one
46 of our comment letters from the applicant saying that there was some kind of monitor, a traffic

1 monitor for that Costco intersection on Haleakala Highway. And I think at that time there may
2 have been some discussion about future 2020, in 2020 traffic warranting a traffic signal at that
3 location. I don't know if it would be tied in with this particular project because you have Costco
4 and the Marriott Courtyard right there. And it wouldn't be the County in filing that traffic signal
5 as . . . (inaudible) . . . That's something that we would have to look at.
6

7 Mr. Carnicelli: Well, here's my concern. Isn't numbers, is that traffic count? It takes one guy
8 sitting there with his blinker on to back traffic all the way up to Dairy Road, you know, heading
9 on to Haleakala Highway. So it's not a traffic count thing necessarily, but it's just, you know, like
10 a design thing in a way. It seems like, okay, if I'm want to take a left hand turn in to, you know, if
11 that's going to be a Starbucks, that drive-thru is going to be Starbucks or, I don't know, it's going
12 McDonald's or whatever it might be, that's my concern, one car.
13

14 Ms. Dagdag-Andaya: Trying to make that left turn.
15

16 Mr. Carnicelli: Trying to make that left turn, yeah.
17

18 Ms. Dagdag-Andaya: Off of Old Haleakala Highway.
19

20 Mr. Carnicelli: And I'm assuming that we can't condition somebody else's property.
21

22 Ms. Dagdag-Andaya: Not through this project, yeah.
23

24 Mr. Carnicelli: I mean like we can't say, hey, that's going to be right in, right out, because it's
25 owned by somebody else.
26

27 Ms. Dagdag-Andaya: Okay so the concern is making sure that that intersection or that right in,
28 right out that nobody makes a left turn there. Is that --?
29

30 Mr. Carnicelli: Well, I'm not worried about the right in, right out. That's going to be what it is,
31 right? We've taken care of that. It's the share access on Old Haleakala Highway with the
32 Marriott. That's, that's the concern.
33

34 Ms. Dagdag-Andaya: Okay. It's a shared access off of Haleakala Highway. Okay. Because
35 right now it's just a -- yeah, it's a free --. They're not --.
36

37 Mr. Carnicelli: So Tyler I have a question for you then. Have you studied what it would take or
38 putting a shared left hand turn lane off of Old Haleakala Highway? Like if we had a shared lane
39 there, storage lane?
40

41 Mr. Fujiwara: Okay, maybe I'll back track a little, just to clarify. So the red is the project site.
42 We are proposing a right in, right out access here. This would be the access from Haleakala
43 Highway if you were making a left turn from Haleakala Highway into the project site. Currently,
44 based on the traffic volumes a signal would not be warranted at this specific location.
45

46 Mr. Carnicelli: Okay.

1
2 Mr. Fujiwara: The warranting intersection we're talking about is the main Costco access further
3 down here. So your concern is about left turners from the project site.

4
5 Mr. Carnicelli: No. No. My concern is left hand turns from Old Haleakala Highway on to the
6 shared access with the Marriott. That's my concern is that, is that left hand turn. Like on, on the
7 picture right there, I'm traveling from left to right, and right where you've got your dot, I'm now
8 trying to make a left hand turn. Because I've been in that, you know, that turn lane heading the
9 other direction that's backed up that far, you know, coming out of Costco.

10
11 Ms. Pali: Is that a middle lane right there?

12
13 Mr. Fujiwara: Well, we currently have the left turn lane here, so it's an existing --

14
15 Mr. Carnicelli: But that's a left hand turn lane onto Dairy Road from Old Haleakala Highway.

16
17 Mr. Fujiwara: No, this is Haleakala Highway. This is from Haleakala Highway going into the
18 Courtyard Marriott.

19
20 Mr. Carnicelli: There's a left hand turn lane there.

21
22 Mr. Fujiwara: Correct.

23
24 Mr. Carnicelli: Okay.

25
26 Mr. Fujiwara: And based on our traffic counts, the existing traffic turning into this, the left turn
27 lane, is only 11 vehicles in the afternoon p.m. peak hour.

28
29 Mr. Carnicelli: Okay.

30
31 Mr. Fujiwara: So right now this is a relatively low used left turn storage lane.

32
33 Mr. Carnicelli: Okay, and now that I, because I never turned left into Marriott from there so I
34 didn't know that there was a left hand turn lane, and some people have now shared with me that
35 there is one. So my concern is mitigated and I'm sorry, Commissioners, for . . . (inaudible) . . .
36 all of that 11 minutes of your time. Commissioner La Costa.

37
38 Ms. La Costa: Thank you Chair. Actually that was valuable because I have been forced into
39 that left hand turn lane by someone coming the other way, and so that also would have to have
40 some kind of mitigation so the people from Costco don't decide that that turn lane is also a lane
41 to sit and wait to turn onto Dairy Road. Because that has happened to me and I don't want my
42 car crashed. So where you have it, my concern also about the right-right, the left into the right
43 rather, also, is there and people need to be aware that they cannot use that left hand turn lane
44 to go to Dairy Road because they currently do that.

45

1 Mr. Fujiwara: So your concern is about the left turn lane from Haleakala Highway, turning left
2 onto Dairy Road?

3
4 Ms. La Costa: No. If I might, can I show you? Chair?

5
6 Mr. Carnicelli: Take the mic with you.

7
8 Ms. La Costa: Thank you. Okay, so this turn lane currently is to go into the Marriott.

9
10 Mr. Fujiwara: Correct.

11
12 Ms. La Costa: There are cars that come from Costco and decide that, gee, it's a long line, I'm
13 just going to sit and wait here to be able to turn on to Dairy Road which is here. So there has to
14 be -- my concern is the mitigation not only the right-right here, but also here so that people don't
15 decide that this is a turn lane going onto the Dairy Road because they do currently use it as
16 such. So if you're going to have a project here, possibly, then that's another consideration for
17 the traffic.

18
19 Mr. Fujiwara: And, you know, one thing I mentioned earlier was about the delineators, you
20 know, possibly putting it along this striping here. And one of the benefits would be to restrict the
21 left turners coming out of the project at the right in, right out access. It would also eliminate the
22 issue that you were just mentioning about vehicles spilling back into . . . (inaudible) . . .

23
24 Ms. La Costa: Correct. And that's what I was saying. Thank you.

25
26 Ms. Dagdag-Andaya: Chair?

27
28 Mr. Carnicelli: Go ahead Rowena.

29
30 Ms. Dagdag-Andaya: So yeah I concur with Tyler because we've done that in front of Long's at
31 Kehalani along Waiale Road where we used a lot of delineators to prevent those types of
32 movements from happening, so we've done it before.

33
34 Mr. Carnicelli: Alright. Okay.

35
36 Mr. Fujiwara: I would say though that, you know, conditions at this intersection has improved
37 though the past couple of years in part because of the Airport Access Road. It's, it's re-routed a
38 bunch of vehicles coming, entering the airport through Airport Access Road. Recently they've
39 also redone the recirculation so primarily vehicles exiting the airport are using the Airport
40 Access Road as well which is lowering the vehicle trips going down Keolani Place. So that in
41 itself helps the left turners from Haleakala Highway going on to Dairy Road by giving them more
42 green time to make that turn.

43
44 Mr. Carnicelli: Thank you. Commissioners, do you have other questions for the applicant?
45 Kahu Hill.

1
2 Kahu Hill: Mahalo. Just one question. You did mention about it. I just see in the archaeological
3 assessment for the SHPD that there were so many revisions already so I don't see that it's been
4 accepted. You are saying that they're busy, and I'm just wondering if you have any idea of
5 timeline as far to see if they'll approve.

6
7 Mr. Hart: Jordan Hart, Chris Hart & Partners. So just a point of clarification what I, what I meant
8 to say is that -- I hope I did say this -- is that we made the revisions and resubmitted. No, as far
9 as when it will be accepted my understanding is that there was just a recent staffing change, a
10 senior person staffing change, and so I don't know that that person has been replaced yet. And
11 so I have no -- and this is the same for all projects, you know, the prior applicant said the same
12 thing. I don't think that anybody can tell you how quickly SHPD is going to be completing
13 reviews right now. But, we're, you know, intending to do monitoring and intending to have that
14 approved before we start ground disturbing activities, so, you know compliance with those
15 issues is not a concern for the project. We're intending to do those things. As far as when
16 SHPD completes their review that's one of the big unknowns out there.

17
18 Kahu Hill: Yes Keith.

19
20 Mr. Scott: Thank you. Keith Scott, staff planner. When we wrote the staff report and
21 recommendations we did not know that they intended to do monitoring irrespectively. So we
22 have a condition number 10 that I would like to eliminate and replace. And what I would
23 suggest we replace it with is that the State Department of Land and Natural Resources, State
24 Historic Preservation Division shall have accepted an Archaeological Monitoring Plan as final
25 prior to the issuance of a grading, grubbing, or building permit. Satisfaction of this condition
26 shall be evidence with the submission of the preliminary compliance report. So we will make
27 sure that the archaeological monitoring plan will have been approved prior to any work being
28 done on the project.

29
30 Kahu Hill: Mahalo.

31
32 Mr. Carnicelli: Thanks Keith. Commissioner La Costa.

33
34 Ms. La Costa: Thank you Chair. Mr. Hart please. Thank you Jordan. Explain to me about the
35 drive-thru retail. I was counting parking places and I don't know how many. I can see pictures,
36 but I know there is specific requirements for parking for interior seating and...can you tell me if
37 they meet it because according to what I was calculating they don't.

38
39 Mr. Hart: I believe we do. We do meet the current parking ordinance. Let's see 46 stalls.
40 There's basically a combination of calculate...like if it's an eating and drinking establishment,
41 there's a calculation of a basic parking requirement for the kitchen area, and then a separate
42 square footage calculation for serving and dining area. And so we've done our, our preliminary
43 calculations based on the anticipated design that we'll submit to building permit. And we do
44 comply.

45

1 Something else to bring us is that...let's say we got it wrong, and we under calculated here, and
2 we go to building permit, we will not get our building permit regardless of whether the Planning
3 Commission gives us an SMA Major Permit. So, for the SMA level review, you know, there's
4 the impacts of whether or not people can find parking, and there's impervious surface issues
5 and things like that. But we still have to go to the building permit, to Public Works, and submit
6 our building permit application. And then Planning Department, Zoning Enforcement
7 Administration Division redoes our parking calculations, and we must comply with parking
8 ordinance at that time. So that's, that's the final verification before we get our building permit
9 that we, we -- that our anticipated calculation based on our concept level plans reflects our
10 actual final design at building permit.

11

12 Ms. La Costa: Chair?

13

14 Mr. Carnicelli: Go ahead.

15

16 Ms. La Costa: I'm not quite finished with you yet. Please come back. Thank you. The parking
17 lot, it is, and the building is right by Kanaha bird sanctuary. So the question comes to my mind
18 the same thing as you're talking about with KIRC. Will the asphalt or whatever you're going to
19 use affect the bird sanctuary because it is in such close proximity?

20

21 Mr. Hart: I'll bring up our civil engineer to talk about drainage system.

22

23 Ms. La Costa: Thank you.

24

25 Mr. Nuno: Manny Nuno with DCI Engineers. To answer your question, no, we don't anticipate
26 any affect even with the proximity. Everything around the site uses asphalt or the intent of this
27 particular project is to capture the runoff, detain it onsite, and get it taken right into the municipal
28 storm drain system. It's very much consistent with other projects in the area, consistent with
29 other projects throughout Maui. So, no, we do not anticipate any effect on the bird sanctuary,
30 and there should be no direct contact with the runoff going towards that sanctuary.

31

32 Mr. Carnicelli: Go ahead.

33

34 Ms. La Costa: Thank you. So when you connect to the sewer lateral, how far is it and does it go
35 towards the sanctuary because I know where the Kahului Wastewater is? I'm just concerned
36 about any kind of issues. If there's a pipe break or excess runoff if we have huge rains,
37 etcetera.

38

39 Mr. Nuno: There is currently a storm drain line on Old Haleakala Highway and it is directly
40 adjacent to the site. Right now it's about half way in the property. There's an existing catch
41 basin in the street, and that is where we would propose to connect. Does that answer your
42 question?

43

44 Ms. La Costa: Mahalo. I appreciate it.

45

1 Mr. Carnicelli: Anybody else have a question at this time? So I actually I have a question for you
2 Rowena is --. No, we're not going to talk about solar. I'm sorry. Is...is...because this sits so
3 close to Kanaha, I'm actually sort of curious if...having a hard surface actually go into the
4 drainage system would be better than having it percolate into the ground so close to, you know,
5 Kanaha. I mean, you're the engineer so I mean if you could just sort of speak, speak to that.

6
7 Ms. Dagdag-Andaya: So we have two things going on. You got...you know when you look at
8 drainage, you look at the storage, at the volume, and what the applicant needs to is comply with
9 our drainage rules for designing how they handle any, you know, the excess runoff created by
10 their project. So they have to comply with that.

11
12 The other, you know, the other new thing that the County implemented a couple of years ago is
13 our storm water quality rules. So they need to comply with that as well. So you've got storm
14 water filtering, making sure, because we're now Kahului, Paia, Wailuku area is in an NS4, you
15 have that higher standard with respect to the treatment of storm water and making sure that,
16 you know, ensuring that you have a higher quality storm water going into our systems. So, you
17 know, with the other project that we just reviewed, one thing that you can do is require that the
18 developer incorporates low impact development. Because low impact development basically is,
19 you know, the use of different techniques to filter storm water and make sure that you mimic the
20 preexisting conditions and kind of mitigation what would, you know, what post construction
21 would look like. So you could do that. You could require them to put in low impact --. I mean
22 have a plan for low impact development.

23
24 So, yeah, you've got two things going on. Storage of volume which is handled through our
25 drainage rules, and the other thing is storm water quality which they're going to need to do
26 anyway at the building permit level. But you could also require in their SMA condition that they
27 include low impact design or low impact development concepts into their design.

28
29 Mr. Carnicelli: Okay, thank you for that clarification. Jordan, would the applicant be open to that,
30 that condition?

31
32 Mr. Hart: In the context and the size of the project, I don't think that we can do wholesale but I
33 think that we can work with the Department and incorporate components into it. But I think that
34 as far as the space that we, we do need to rely on some subsurface and so I do think that we
35 can incorporate additional measures. We can incorporate the planters into for the drainage
36 system in our green space areas. But I don't know that we can --. I'll bring the civil engineer up.

37
38 Mr. Carnicelli: Okay.

39
40 Mr. Nuno: Once again Manny Nuno with DCI Engineers. To answer that question, we can
41 incorporate low impact design, some component of a low impact design into the project without
42 restricting that to a particular component, like, a pervious pavement or something like that, that
43 would be challenging on this particular site. However, in terms of incorporating low impact
44 design, as we mentioned that we have to meet the County standards for storm water quality,
45 yes, that is something that we can incorporate into the project.

1
2 Mr. Carnicelli: Okay, thank you. So then I guess the question is how do we, how do we do that?
3 Are we going to start word smiting again? Or is it not necessary because it's going to be a part
4 of the process? Rowena, what do you think? I mean I'm sitting here wanting to defer to the
5 experts on this one. Yeah, I mean, you know, like the condition that we, we drafted, Candace
6 and you drafted for the previous application.

7
8 Ms. Dagdag-Andaya: Want me to read it to you Chair?

9
10 Mr. Carnicelli: Sure.

11
12 Ms. Dagdag-Andaya: I had to screen shot it from Candace. That to the satisfaction of the
13 Department and the Department of Public Works, the applicant shall utilize low impact
14 development concepts within the site to assist in filtering pollutants and reducing storm surface
15 runoff. Acceptance by the Department and the Department of Public Works of said design shall
16 be granted prior to issuance of grading, foundation, and building permits. And prior to any
17 ground altering activities, evidence of fulfillment of this condition shall be submitted as part of
18 the preliminary compliance report.

19
20 Mr. Carnicelli: Jordan?

21
22 Mr. Hart: We're supportive of that condition.

23
24 Mr. Carnicelli: Great. Thank you. Any other questions from the Commission? Keith?

25
26 Mr. Scott: Yes sir?

27
28 Mr. Carnicelli: Would you like to give the Department's recommendation?

29
30 Mr. Scott: Sure. So the Department recommends that you accept the Department's report and
31 approve the project with...12 conditions now. Number 10 the substitute that I read earlier, and I
32 can read again if you like. And the 12th one would be the one that Rowena just read for you.

33
34 Mr. Carnicelli: Great. Thank you. Do I have a motion on the floor? Jordan?

35
36 Mr. Hart: Excuse me Chair. I apologize.

37
38 Mr. Carnicelli: Sure.

39
40 Mr. Hart: The applicant would just like to make sure that they're proposing to do the delineators,
41 to work with DOT to get permission to install delineators and if that needs to be documented or
42 clarified, I just want to make sure that's understood.

43
44 Mr. Carnicelli: Oh we got you. Yeah, we're going to put that one in there for sure.

45
46 Mr. Hart: I apologize for interrupting.

1
2 Mr. Carnicelli: Thank you. So the Chair will entertain a motion at this juncture. Would anyone
3 like to make a motion? Okay, then I'll make the motion. The Chair moves to approve as
4 recommended by staff. Is there a second? Second by Commissioner Pali. Would someone
5 like to speak to the motion? Being that I moved, I would like to speak to the motion first. I think
6 there are some concerns. What I would also like to do is the Director and I are going to put in
7 some additional language about the right in, right out, to make sure that is in the permit. And
8 we'll put delineators in there. So as far as the traffic goes it's not perfect. I do get it that it's
9 supposed to be heavy industrial but when you look at the current uses around there, it just
10 doesn't make any sense to put heavy industrial there. I think that it's consistent with the
11 surrounding uses. You know, when I looked at what we're supposed to use as the criteria for an
12 SMA Permit in my belief I believe that they meet the criteria so I will be supportive of the motion.
13 Would anybody else like to speak to the motion? Commissioner Pali.

14
15 Ms. Pali: I think I would concur with Commissioner Carnicelli in that developing this might allow
16 us to be able to manage just this vacant lot properly. I think that it also be a benefit to not just
17 the tourist industry that goes to and from the airport, but also the, the locals that are doing
18 interisland hopping. And as long as the proper County and State laws are followed, and the
19 traffic is mitigated as promised I think that it will be fine. So that's my thoughts.

20
21 Mr. Carnicelli: Thank you. Commissioner La Costa.

22
23 Ms. La Costa: Thank you Chair. This is rather my soap box, and I wasn't allowed to bring it up
24 earlier so I will now. I think that it is a good project, but I don't see anything in there but solar,
25 and I'm a huge proponent of solar, and so that is something that you might want to look in your
26 design. Thank you.

27
28 Mr. Carnicelli: Anybody else would like to speak to the motion? So I would like to make an
29 amendment to the main motion as read by the Director to condition number four.

30
31 Ms. McLean: Condition number four is the first sentence currently reads that to the satisfaction
32 of the Commission or the Department the applicant shall develop the property in substantial
33 compliance with the representations made to the Commission in obtaining the SMA Use Permit.
34 And it's proposed to add to the end of that sentence including that the property's direct access
35 to Old Haleakala Highway shall be restricted to right in and right out only.

36
37 Mr. Carnicelli: Do we have a second to the amendment? Seconded by Commissioner La Costa.
38 Any discussion on the amendment? Seeing none, voting on the amendment to the main
39 motion. All in favor please raise your right hand? That's four ayes. Against? None.
40 Commissioner Tackett is abstaining which is five ayes, the...it passes. So we now we're going
41 to the main motion which is to approve the SMA -- or I guess I'll let you go ahead and do your
42 job.

43
44 Ms. McLean: The main motion would be to approve the SMA Permit subject to the conditions in
45 the staff report and recommendation which includes the modification of condition four, the
46 modification of condition 10, and the addition of condition 12 on low impact designs.

1
2 Mr. Carnicelli: All in favor please raise your hand. That's three ayes. Opposed? Two. Motion
3 fails. So, being that we're a bare quorum we need a 100 percent approval. Would anybody
4 else like to make a motion?

5
6 **It was moved by Mr. Carnicelli, seconded by Ms. Pali, and**

7
8 **The Motion to Approve the Special Management Area Use Permit as Recommended by**
9 **the Department as Amended by the Commission, FAILED.**

10
11 **(Assenting – L. Carnicelli, K. Pali, A. Hill)**

12 **(Dissenting – C. Tackett, P D. La Costa)**

13 **(Excused – S. Castro, T. Gomes, L. Hudson, K. Robinson)**
14
15

16 Ms. Pali: I'll make a motion to defer until we have more people on the board.
17

18 Mr. Carnicelli: Do we have a second? Second by Commissioner La Costa. Would anybody like
19 to speak to the motion? Okay. Commissioner Tackett.
20

21 Mr. Tackett: So I was the only nay vote. My nay vote comes from the inconsistencies that have
22 already been allowed to go forward. And then when I look at the inconsistencies I agree with
23 the fact that it wouldn't make any sense to put something else in that area because it, it -- you
24 can't have manufacturing next to a hotel so I, I agree with those types of things. But I think that
25 there's a lot of development that is further up the road that's going to be happening sooner or
26 later. And the fact that, that exceptions were made does not necessarily make this the right
27 project for this particular spot with the, with the --. If the traffic could barely get by passing right
28 now, as it gets developed further on in the future, there's going to be issues with it. So I, I have
29 problems with the particular configuration of this project because of the traffic, because of the
30 water, and because of the inconsistencies. So I'm not in favor of it under this particular
31 configuration so that's my stance on it. Thank you.
32

33 Mr. Carnicelli: Thank you. Anybody else would like to speak to the motion? So just a point of
34 clarification deferral to the next available time slot, the next available meeting.
35

36 Ms. McLean: Sure.
37

38 Mr. Carnicelli: Just for clarification standpoint. All in favor of deferral please raise your hand.
39 That's five ayes, you've been deferred until basically -- I guess work with the Department on
40 when the next available slot is.
41

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

43
44 **VOTED: To Defer the Matter until the Next Available Meeting and More**
45 **Members are Present.**
46

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

4 Mr. Hart: Thank you Chair. And if it's possible if we could get clarification, you know, presuming
5 we're coming back to try and receive an approval of our SMA Major Permit. If we can get an
6 understanding of the adjustments that are expected to be made that will help us understand
7 exactly why, you know, the project isn't complying with the HRS 205A. So thank you.
8

9 Mr. Carnicelli: Okay. Commissioner Tackett did put his vote on the record as to the reasons
10 why he was in opposition. Is that good enough or do you want something additionally
11 presented?
12

13 Mr. Hart: Presuming you're not wanting me to go through the questions now at this time so
14 having said --
15

16 Mr. Carnicelli: No but he did make a record.
17

18 Mr. Hart: And I listened and --
19

20 Mr. Carnicelli: And that's why I'm just asking if . . . (inaudible) . . .
21

22 Mr. Hart: What I'm trying to clarify is that from my perspective and my understanding of HRS
23 205A it wasn't sufficiently clear on what kind of adjustments we need to make and so if there
24 could be some further direction on, you know, the inconsistency issue, the water issue,
25 associated developments nearby and their impacts to our site, that would be helpful for us.
26

27 Mr. Carnicelli: No, and that's extremely fair. That's extremely fair. So I guess what I'll do is then
28 just ask Commissioner La Costa and Commissioner Tackett to then go ahead and be able to,
29 you know, help the applicant understand what it is, or the Department I guess, understand what
30 it is that, as far as under the rules of which we have to operate, what needs to be addressed.
31

32 Mr. Tackett: So what you're proposing is a, is a high turnover at a busy intersection. So you're
33 proposing a drive-thru in a very busy intersection in a place that is not completely developed.
34 You're proposing to use drinking water to water plants. You don't have a SHPD update. So
35 there's multiple things that that I have issues with on this, on this property. I think I could go on
36 with a couple of more but those are my primary. I think...I think that's the most important issues
37 that I have with, with what you're, what you're trying to approve today.
38

39 Mr. Carnicelli: Commissioner La Costa.
40

41 Ms. La Costa: Thank you Chair. I concur with Commissioner Tackett on his reasons for not
42 wanting to approve the project as it sits. The traffic is the biggest concern for me, and the
43 ingress, egress I just think it is you're just asking for trouble even with the delineators...drive at
44 four o'clock sometime. I also, again, I will -- excuse me -- I'll beat the drum, I also want to see
45 something that has to do with solar for the project.
46

1 Mr. Carnicelli: Okay, at this point we have one more public hearing item but we also have lunch
2 here. Tom, you said you can do this in 10 minutes? Yeah, thank you. You know what. Let's
3 just do it all at once, let's not chop it up, so we're going to go ahead and break for lunch. We
4 will come back at one o'clock.

5
6 *(A recess was called at approximately 11:53 a.m., and the meeting was reconvened at*
7 *1:01 p.m.)*

8
9 Mr. Carnicelli: Good afternoon everyone. Maui Planning Commission meeting of
10 November 27th is reconvened. To continue on with our public hearing items, Director.

11
12 Ms. McLean: Thank you Chair. This is your third and final public hearing item on today's
13 agenda. A request from Rodell Notbohm for a Short-Term Rental Home Permit to operate
14 Rodell Notbohm STRH, a six-bedroom STRH located on a 13,851 square foot oceanfront lot in
15 the R-3 Residential District. The property is adjacent to Keawakapu Beach and located at
16 3066 South Kihei Road in Kihei at TMK: 2-1-010: 025. Jared Burkett is the project planner.

- 17
18
19 **3. RODELL NOTBOHM is requesting a Short Term Rental Home Permit in**
20 **order to operate Rodell Notbohm STRH, a six (6) bedroom STRH located on**
21 **a 13,851 square foot oceanfront lot in the R-3 Residential District. The**
22 **property is adjacent to Keawakapu Beach and located at 3066 S. Kihei Rd.,**
23 **Kihei, HI 96753, TMK (2) 2-1-010:025. (STKM T2018/0005) (J. Burkett)**

24
25 **There are already two existing permitted STRHs within 500 feet of the**
26 **proposed STRH property.**

27
28 Mr. Jared Burkett: Hi Staff Planner Jared Burkett. So good afternoon. The owner-applicant
29 Rodell Notbohm is seeking approval for a Short-Term Rental Home Permit at
30 STKM T2018/0005 for rental named Imi Ola which previously it was not named so it was under
31 his name. Since he has asked for it to be named Imi Ola. The address is 3066 South Kihei
32 Road and again it's oceanfront at Keawakapu Beach. The County zoning is R-3. There is one
33 home located on the property and that six-bedroom home will be used for short-term rental
34 home when the applicant is not occupying the home himself.

35
36 Two things have triggered this permit to be heard by the Commission. There are two short-term
37 rental homes within 500 feet property. You can see the location of those in Exhibit 5. The other
38 trigger to bring this application before the Commission are that two out of the three letters of
39 protests are adjacent lots to the subject property both of which are from out-of-state owners.

40
41 The applicant's consultant Mr. Tom Croly has a presentation that he will give and then he'll be
42 available to answer any questions that you may have. After the applicant's presentation, I'll
43 provide the Department's analysis and recommendation. If there are no objections I'll invite
44 Mr. Croly up to give his presentation.

45
46 Mr. Carnicelli: Okay, thanks Jared.

1
2 Mr. Tom Croly: Thank you Jared. Tom Croly on behalf of Rodell Notbohm who is here in case
3 you have questions directly for him. As Jared has already introduced this would be newly
4 establishing a short-term rental that has never, never previously operated that will be called
5 Imi Ola at 3066 South Kihei Road and it's for six bedrooms...it's for a six-bedroom house.

6
7 Some of the property details. The owner, Rodell Notbohm is here and utilizes the home for he
8 and his family with four children as a part-time residence. He comes here multiple times during
9 the year as much as every month but isn't here the entire month when he's in residence. The
10 proposal is that the home will be managed by private Paradise Villas who formerly were known
11 as Tropical Villa Vacations and just a word about them. They really are the premier property
12 management company on Maui. They deal with Four Seasons type of concierge attention to
13 their guests. They very carefully vet the guests that are staying. They want to know why they're
14 coming to Maui, what's the occasion, and they make sure that they place them in proper
15 accommodations for what their needs are. As you'll see this home may not be the right
16 accommodation for some families coming to Maui so it would be up to Tropical or
17 Paradise...Private Paradise Villas to ensure that the right type of guests are in this property.

18
19 Rentals would be limited to groups of 12 people or less. The property is flanked by two homes
20 and you'll hear from those folks today that are also non-residents of Maui and utilize their homes
21 as their vacation homes. I believe that you'll see this is a perfect location for a short-term rental
22 use such as this.

23
24 Jared did an inspection on the property and we have submitted all of the necessary
25 requirements to meet all the regulatory concerns. Smoke detectors in each bedroom, fire
26 extinguisher in the kitchen and upstairs, the adequate parking on site.

27
28 It's very important to note that any approved bed and breakfast or short-term rental is subject to
29 the house rules that you see here. Quiet hours from 9:00 p.m. to 8:00 a.m., all parking must
30 occur on site, a maximum of 12 occupants that's two per bedroom and in the case of a short-
31 term rental children two years and older are considered those people, okay. So it's not
32 12 adults and 12 children. It's 12 adults and children other than children under two. So an
33 infant doesn't count but anyone over two counts as one of those 12. And short-term rental
34 homes and this is as opposed to bed and breakfast homes are subject to a requirement that
35 allows no parties or group gatherings. So someone can't rent a short-term rental home and tell
36 their friends who are staying elsewhere hey come and we'll party at this place. The only people
37 that are allowed by virtue of the permit onto a short-term rental home are the registered guests.
38 And those people have to per...in the case of Private Paradise Villas they have to sign and
39 acknowledge the house rules prior to you know taking occupancy. There's also a notice for
40 oceanfront homes as this one is to inform the folks staying in the home that the beach belongs
41 to the public and they can't be shooing people out from in front of their beach. It's not their
42 beach. If people are making to the access they're not to tell people hey you can't come through
43 here. This particular home has a beach access just two doors to the north of it where the folks
44 do make access to Keawakapu Beach. We hope that these house rules as will be enforced
45 address the concerns that the neighbors with...who sent in letters of objection expressed.

46

1 I want to talk a little bit about the neighborhood. This area is defined to the north by Kihei
2 Surfside. You were just talking about the property just next to that and the Mana Kai both
3 vacation rental condos and it's defined to the south by the Wailea Ekahi vacation rental condos.
4 And then along this strip, most of us are familiar with it, the strip of homes along Keawakapu
5 Beach I guess we would call it millionaire's row, multi-million dollar homes that are generally
6 second homes for their owners. I looked at the real property tax records and found that only
7 four of the 30 homes along this stretch are registered as owner-occupied. So...and 24 of the
8 homes along here are registered as being owned by out-of-state owners. So presumably
9 most...the typical use of these homes is as vacation homes. This home is located directly
10 across the street from the County-owned parking lot at the corner of Kilohana Drive and
11 South Kihei Road. So directly across South Kihei Road is that parking lot which provides the
12 parking for the beach access for people using Keawakapu Beach.
13

14 I knew that this would be difficult for you to read up on the screen so I handed everybody out a
15 print out of this and I just again want to go over the area, this area so everyone understands
16 where we're talking about. Here's Kihei Surfside condo, here's the Mana Kai, here's the beach
17 parking that has been...you may have seen a lot of controversy about it at the County Council
18 level, next to that is the hotel that is the...I think today it's a Best Western Hotel or Day's Inn it
19 used to be. Next to that is the Hale Hui Kai vacation rental condos then begins the 30 homes
20 that front Keawakapu Beach. And each of the ones that I have a star on are ones that are in the
21 tax records shown as being owned by out-of-state owns and then the ones that say H.O. are the
22 ones that are homeowners, full-time residents living on site. And then the X's, the three X's that
23 you see here are the letters of objection. Again, you'll hear from some of those folks today and
24 the applicant's property is right there. Across the street the beach parking for Keawakapu
25 Beach and then a greenbelt area that kind of acts as a separation between this Wailea area and
26 South Kihei Road.
27

28 The circle that you see here is the 500 foot notification area. So everyone whose property is
29 within that got notification and I would also note the short-term rental that's up here on
30 Keawakapu or on Kilohana and then another short-term rental that's over here just three doors
31 down from the applicant's property on South Kihei Road. So those are permitted short-term
32 rentals and as Jared pointed out that's one of the reasons why we're here before you today. I
33 wanted to show you this and just have everyone understand the area because sometimes
34 what's before you are is this short-term rental or is this bed and breakfast being located in the
35 right place and to me this seems like no better place that one could be located. The area is
36 basically a vacation home area flanked on either sides by vacation rentals. I'll leave it at that
37 and be ready to answer any questions.
38

39 The applicant respectfully asks the planning commission to grant this approval of this permit for
40 two years. And just so you understand too the revocation procedure. If the applicant were to
41 break the rules that are required as part of their permit and that were reported by neighbors on
42 multiple times, by multiple neighbors on multiple times or by the Department through an
43 investigation or them being told that hey, this guy's parking in the street, this guy's making noise
44 outside of the times he should the permit can be revoked. So granting this permit doesn't mean
45 that it's there forever. It's means subject to the conditions that the permit is being granted by.

1 Thank you Chair that completes my presentation. If you have any questions for me or
2 Mr. Notbohm we're here.

3
4 Mr. Carnicelli: Thank you Mr. Croly. At this time we're gonna go ahead and open it up for
5 public testimony. And just to remind everybody from...if you weren't here earlier this morning,
6 everybody's testimony will be limited to three minutes. We do want to hear from everybody.
7 We want to hear what everybody has to say. However, we're going to limit it to three minutes
8 for each person out of respect for everyone else. So is there anyone that would like to come up
9 and testify on this item? Please state your name.

10
11 Mr. Woody Paylor: My name is Woody Paylor.

12
13 Mr. Carnicelli: Hi Woody, do you promise to tell the truth?

14
15 Mr. Paylor: I promise to tell the truth.

16
17 Mr. Carnicelli: Okay great. You have three minutes.

18
19 Mr. Paylor: Thank you very much. We've had a home on the island for about 20 years and
20 we've lived on the beach there for the last 10 years or so and we just love it down there. It's just
21 terrific. We do have a short-term rental house it went in a couple of years ago, I believe one
22 year ago, it's about three or four door down and we were wondering why we're getting another
23 one right away like a year later type of thing. And I just wanted to bring a couple of things in. I
24 enjoyed the meeting all morning. It's all those things about the traffic and everything, well you
25 walk outside our gate we have a crosswalk there. It's between the two houses and there's
26 people going over there pretty much all day. There's the parking lot across...the beach parking
27 lot holds about 125 cars. So you know on the weekends it's plumb full and they're coming
28 across. There's not many days or Sundays that that parking lot is not full. Sunday I had a...I
29 could hear the crash, but my wife and I have heard it several times. They're smacking right in
30 front...the tourist slow down and somebody hits them from the back and next thing you've got
31 an accident. They're waiting for the police, you gotta get it cleared away. Sometimes there's
32 kids walking across there, they're pulling their wagons and bringing their goodies from the car or
33 maybe from the Wailea Kai which is right across the street with a hundred homes. So it's a very
34 busy area. Also we have ambulance and fire trucks that come from the Fire Department they
35 go straight down Kilohana. That's the way they come a lot of the time. They're also parking on
36 Kilohana now too when the parking lot's full there will be up to 25 cars there. What I'm trying to
37 say it's a very busy place and I really don't think we need another rental there and that's what I'd
38 like to share. My wife has a couple of words to say.

39
40 Mr. Carnicelli: Does the applicant have any questions for the testifier? No? Okay, thank you
41 Woody. Would anybody else like to come forward?

42
43 Ms. Val Jenson: I'm Val Jenson. I'm live adjacent to the property.

44
45 Mr. Carnicelli: Okay, do you promise to tell the truth?

46

1 Ms. Jenson: I do and I promise to stay three minutes because you'll know that I do like to talk.
2 And I do want to say thank you to the Commission for allowing us to talk and sitting here three
3 hours this morning, I know you're passionate about Maui and that was clear with that you
4 wanted to bring up and I was so thankful to hear that before we came forward. So I stand
5 before you and I'm not familiar with Title 19, but I've done a lot of reading about it because it
6 isn't a vacation home for us. It's a retirement home. And I want to clarify that. It's really
7 important to me that I know the neighbors. We've been to neighbor's houses, we've gone for
8 dinner. I go to a local church. I volunteer at the Keawalai. We're very invested in this
9 community. We're not vacation. We don't rent it. And I...it's not a vacation home. Sewing
10 machines, I live here and so that's why I'm coming before you because it's important to me.

11
12 One of the things, and I did get it cleared already they have a posting on their sign that says it's
13 a vacation rental. I'm not sure how that happens because we did not disapprove Joe Sugarman
14 but the vacation rental is still clearly on the gate and they said, oh we'll take it down no problem.
15 Well, if you want a new permit that should have been down when you first came. So they may
16 lip service, but why is that still there. I question that.

17
18 The other thing, and it worries me. And we know that the permit is not transferrable, thank you
19 for that, but then on Section Zero of the Title 19 it clearly states the application for the short-term
20 rental home permit and the dwelling unit shall be owned by the occupant for at least five years
21 prior to the date of application. I have five more pages on this about how I feel about it, but if
22 we're doing our homework...and he seems very nice, Rodell seems very nice. I'd love him as a
23 neighbor, but I don't want people coming and going and we don't want to turn Maui into people
24 from off the island including ourselves coming in, buying up your real estate and turning it into a
25 rental fiasco.

26
27 There's more than five rentals within our area. We paid a lot of money, you bet we did to be
28 there. We chose that area after eight years up on...off the beach. We went to the different
29 islands before we purchased that home. It's gated. We wanted the privacy. And I ask you do
30 live next to a rental? Do you pay over a \$100,000 a year in taxes? We all do there and I think
31 and I pray that you have our back for what we do. And we chose that area to spend with our
32 family and we already know tourist coming in don't follow traffic laws. Woody talked about the
33 accident on Sunday, they rear ended. I was out in the yard working and I'll hear the smash and
34 that's not the first. We crawl out our driveway and I have no doubt that Rodell's daughter that
35 lives there crawls out as well. But people that come to island will not come crawling out our
36 driveways. We know that. We've seen it. We live there.

37
38 Ms. Takayama-Corden: Three minutes.

39
40 Ms. Jenson: Sorry two minutes.

41
42 Ms. Takayama-Corden: Three minutes.

43
44 Ms. Jenson: I guess my biggest thing is that they haven't owned the property for five years and
45 at that time I would like them to consider it and we will see how they treat you know our

1 neighborhood, the private that it is and there's lot of rental places in that area. Why do we need
2 more when you...it says that --

3
4 Mr. Carnicelli: Please conclude.

5
6 Ms. Jenson: Sorry, I had one more about, oh in your Title 19 also states the County's General
7 Plan use laws is to retain the character of the residential neighborhoods.

8
9 Mr. Carnicelli: Thank you.

10
11 Ms. Jenson: And I close with that. What is the character on that beach? Thank you.

12
13 Mr. Carnicelli: Thank you. Commissioners do you have any questions or clarification from the
14 testifier? No? Does the applicant have any questions for the testifier?

15
16 Mr. Rodell Notbohm: I'd like to make a statement.

17
18 Mr. Carnicelli: You'll have time. You'll have a chance to, at the end you get the last word as it
19 were, but do you have any questions at this point for testifier?

20
21 Mr. Notbohm: No sir.

22
23 Mr. Carnicelli: Okay, thank you. Thank you for your testimony. Would anybody else like to
24 come forward and testify at this time? Seeing none, then without objections we'll go ahead and
25 close public testimony. Okay...Mr. Croly? Is the Commission okay with reopening testimony?

26
27 Mr. Tackett: It's your call Chair.

28
29 Kahu Hill: Yeah, your call Chair.

30
31 Mr. Carnicelli: Well, okay. We'll allow it. Go ahead come forward. Please identify yourself and
32 you'll get three minutes.

33
34 Mr. Albert Perez: Thank you I don't need three minutes. Albert Perez.

35
36 Mr. Carnicelli: Albert do you promise to tell the truth?

37
38 Mr. Perez: Yes, I do.

39
40 Mr. Carnicelli: Thank you.

41
42 Mr. Perez: I'm the Director of Maui Tomorrow. You know we've talked about the issue of short-
43 term rentals, bed and breakfast at the Maui Tomorrow Board. And our feeling is that although
44 it's not ideal that the bed and breakfast situations is better. There's an owner on site. And it's
45 not so much like a hotel. What we we're talking about with these short-term rentals, we have
46 virtual hotels going on. And we all know we've heard about all the details. I went to a planning

1 conference I think Lawrence Carnicelli was there and they said that like the Outrigger on Oahu
2 owns a thousand of these short-term rentals that they rent out. You know they're single-family
3 homes, they're condos or whatever. So it's a virtual hotel.

4
5 I was not really gonna testify on this, you can tell I'm not prepared but I was triggered by the
6 phrases that were used to describe this area, Millionaire's Row. I don't, I don't like that. Four
7 out of 30 of these homes are occupied by owners. This is what's happening because we keep
8 granting these things. So I think that by granting a short-term rental home permit for this
9 property we're encouraging this process to continue because others will say, look they got it, I
10 can get it too. We need to put our...we need to put our foot down at this point. Our affordable
11 housing crisis is beyond critical. We need to be doing everything we can to encourage people
12 to rent to long term owners and just because it's a nice six-bedroom home doesn't mean that
13 some long-term owner can't live there. So I think we need to be doing everything we can to
14 preserve our housing stock instead of converting it to short-term rentals. Thank you very much.

15
16 Mr. Carnicelli: Thank you Albert. Commissioners you have any questions or comments? Okay,
17 Commissioner Pali.

18
19 Ms. Pali: Hi, I just would like some clarification. There was a couple phrases I tuned in on too
20 with one of the testifiers. And it was that she paid a lot of money to be here and so the reality is
21 we really can't stop the trend in real estate and the hikes in the prices. It's not just here on
22 Maui. It's all over our country right now. And so for me, I don't ever seeing any...I don't ever
23 see any local family affording this home as a primary residence. The other thing is...oh, so
24 what's your take on that because the bottom line is if you look at all of the homes here, there's
25 only four, four homes that have made it an owner occupant and I think that's great. I think if we
26 all had it our way we would like to see them all be primary residences, but I want to continue to
27 stress to everybody that here's publicly we don't grant, we don't make laws here. We are just
28 here for transparency of the public to see if the applicant has followed the laws. So I just want
29 to urge you and also maybe suggest that if we don't like what we're seeing we should take that
30 at County Council who makes the laws, that says these are things are allowed. I think for us as
31 commissioners and I'm speaking for myself, but we don't carry the burden of what's allowed and
32 what's not allowed. We just carry the burden of transparency and was the applicant following
33 the current laws that were already created. And so my struggle is how does this permit affect
34 traffic? How does it affect the noise? We have specific things that we have to look at and so
35 may I ask you to give you an opportunity. The law already permits these type of uses. There's
36 nothing we can do about that, but do you have anything specific that you can talk to on this
37 motion that we're here today to determine how this applicant may not be following the current
38 laws that we are here today to figure out?

39
40 Mr. Perez: That was --

41
42 Ms. Pali: A lot.

43
44 Mr. Perez: -- a lot. So...

45
46 Ms. Pali: Just the end part will be fine.

1
2 Mr. Perez: My response would be that we have a community plan that people put hundreds of
3 hours into. It talks about preserving the opportunity for a residential lifestyle here. A short-term
4 rental home is not residential and the people who are nearby who are raising objections they
5 have a right to quiet enjoyment. That's part of your bundle of property rights. So I think that the
6 planning commission does have a leg to stand on here in terms of just saying, you know, this
7 doesn't comply with the community plan and therefore, this permit is denied. So as far as local
8 people being able to live here I don't think that we can say categorically that local people can't
9 afford it. There may be somebody out there, you know who was born and raised here and who
10 has a lot of money, there could be a hui that comes in. There's a lot of different possibilities, but
11 what we are doing by granting these short-term rental permits is we're increasing the value of
12 those properties which makes it less likely that the people down the road will be able to afford
13 their long-term residential property. Thank you.

14
15 Ms. Pali: Yes, and thank you for giving me that. I was looking for something with teeth. Thank
16 you.

17
18 Mr. Perez: Okay, thank you.

19
20 Mr. Carnicelli: Does anybody else have any questions for the testifier? Seeing none, does the
21 applicant have a question for the testifier?

22
23 Mr. Notbohm: No

24
25 Mr. Carnicelli: Thank you Albert.

26
27 Mr. Perez: Thank you for letting me testify.

28
29 Mr. Carnicelli: So does anybody else want to testify before we close public...no I'm sorry,
30 you've already gotten a chance. You've already gotten more than your three --

31
32 Ms. Jenson: I wanted --

33
34 Mr. Carnicelli: You already gotten more than your three minutes. I appreciate it. I love your
35 passion. I love the fact that you want to speak, that's great, but you've already gotten your three
36 minutes. Is there anyone that would like...is there anyone else that would like to testify on this
37 particular item before we close public testimony.

38
39 Kahu Hill: Is she saying her husband's outside?

40
41 Mr. Carnicelli: Is there anyone else?

42
43 Kahu Hill: Would you like some water?

44
45 Ms. Jenson: I just wanted to let you know the tsunami ring that went off was Air Canada calling
46 the man that was to testify who got food poisoning off Air Canada flight. He's been in and out

1 and is sick in the bathroom and he would love his three minutes. But clearly you need to move
2 on. He's been throwing up since we picked him at 8 o'clock this morning. Thank you that was
3 all I wanted to say. We appreciate that.

4
5 Mr. Carnicelli: Thank you. So without objection, we'll go ahead and close public testimony.
6 Okay. I will now give the applicant a chance to do a final presentation.

7
8 Mr. Croly: Thank you Chair. Tom Croly again for the applicant. A few things were said in
9 public testimony that I didn't want to challenge directly but I just want to clarify for the record.
10 The community plan of Kihei does not in any way, shape or form forbid short-term rentals. It's
11 important to know that short-term rentals in Kihei pay the bulk of the taxes that fund the entire
12 island. More than four times the property taxes of all the hotels combined are paid by the short-
13 term rentals of Kihei and West Maui.

14
15 Also, the applicant has not owned the property for five years. However, the law was recently
16 changed in that regard. No more applications can come forward for someone who doesn't own
17 the property for five years but when that law was changed which was in September of this year
18 is when it went into effect this applicant's application had already been with the Planning
19 Department for several months. So he's not subject to that five-year rule which has kicked in for
20 new properties that would be purchased in the future or someone who has purchased a
21 property within the five years and hasn't yet made application.

22
23 I also want to point out that the applicant's use of this property is almost identical and what he's
24 asking for is almost identical to the use of the rest of the properties on this street. He comes
25 here and makes it his home several times a year just as the testifiers that you heard from do.
26 And this home specifically has on one side it's bordered by an area that's flowing out to the
27 ocean. There's kind of a retention channel that the waters that come down from Wailea would
28 separate this from the next neighbor. And on the other side by a rather large wall. So there
29 isn't a whole lot of interaction between these two properties both gated properties that where
30 you're really not going to meet your neighbor on a regular basis or even see your neighbor
31 because the separation that's created. So again, the applicant's desire to use the home as a
32 short term rental for the periods when he's not here again does not equate to a hotel. He's
33 using it most of the year for his own use and then he would, he would have guests here when
34 he's absent of that and those guests would be monitored by the agent who takes care of the
35 home. Thank you Chair.

36
37 Mr. Carnicelli: Thank you Mr. Croly. You're okay?

38
39 Mr. Croly: Yes.

40
41 Mr. Carnicelli: So at this time we will go ahead and open up for questions from the
42 Commissioners. Commissioner La Costa.

43
44 Ms. La Costa: Thank you Chair. This is either for Tom or Rodell, the owner. So there's a six-
45 bedroom home that we're talking about it. Will it be rented as...the home in its entirety or will it
46 be parceled so that four people can come in here and two people can come in there?

1
2 Mr. Croly: Very good question. The requirements of the permit of all the short-term rental
3 permits are that the entire property must be rented to one party. So while he could rent it, he
4 would have the option to rent it as a two-bedroom home to a couple that...you know, with two
5 kids and maybe give them a lower rate. The other four bedrooms would not be allowed to be
6 rented to someone else while it's being rented that way. So it would be just one party at a time.

7
8 Ms. La Costa: Okay. Thank you, appreciate that.

9
10 Mr. Carnicelli: Kahu Hill.

11
12 Kahu Hill: I wanted to know about the parking and for the six I see on Exhibit 2 it shows G1, G2,
13 and G3 and I'm very aware of that street and the parking. I don't see where...I mean there
14 could be up to 12 cars. We don't know if people are checking in if they're brothers and sisters
15 or how many cars there's gonna be. So do you know about this parking?

16
17 Mr. Croly: Yeah, the house has a garage and the garage has two parking spaces which we
18 have reserved for the owner's use exclusively. When he's not here he leaves his car in the
19 garage there. The requirement for a six-bedroom short-term rental is three parking spaces so
20 we only showed three parking spaces there. Yes, you could cram more parking, more cars onto
21 this property if you wanted to, but the parking needs of 12 people staying in there who
22 presumably are all of you know one group they're not each going to have a car. You know you
23 wouldn't have 12 cars among a group of 12 people if there were 12 people. And the Council
24 when they made the law relating to this said the normal parking requirements for this home
25 would be two parking stalls. That's what would be required if you built the home for residential
26 use. They felt if we're going to give someone the ability to rent it out as a short-term rental and
27 that short-term rental has four or more bedrooms in it then we want to add one more space and
28 three spaces is what's required. I could have showed more spaces on the parking plan
29 because there is space for more spaces there, but I didn't really want the neighbors to believe
30 that there would be more people coming there 'cause that's not the intent.

31
32 Mr. Carnicelli: Commissioner Pali.

33
34 Mr. Croly: I'm not sure if I fully answered the Commissioner's question.

35
36 Kahu Hill: Yeah, I'm believing you...you believing that with 12 guests with...that can have two-
37 year-olds, but babies or infant aren't included that the most amount of cars would be three
38 parking stalls, three parking places rather inside, inside the gate. But if they had a fourth car I'm
39 assuming or a fifth car or more, you're looking at outside on the road is that --

40
41 Mr. Croly: No, I'm saying there is more parking on this site that more cars could fit on there if
42 they wanted to. As well, if the owner needed to make more spaces available because a guest
43 requested that he could probably have his cars moved out of the garage and give them access
44 to the garage if necessary. I'm just saying that the requirement of the Code is for three parking
45 spaces and that's why three parking spaces are shown.

46

1 Kahu Hill: Three parking places for residential, right?

2

3 Mr. Croly: Three parking spaces when the property is permitted for a short-term rental.

4

5 Kahu Hill: Okay, mahalo.

6

7 Mr. Croly: If this was permitted as a bed and breakfast where each of those rooms could be
8 rented separately then there would be a requirement for in this case eight parking spaces, one
9 for each bedroom plus two for the owners. But as a short-term rental where it must be rented to
10 one party the requirement is only three. Thank you.

11

12 Mr. Carnicelli: Commissioner Pali.

13

14 Ms. Pali: Hi, I'm hoping maybe you can clarify this. I think I've gotten some conflicting
15 information in regards to the neighborhood and the value. We have a letter of opposition that's
16 in the packet that says he believes or this person believes that their neighborhood's value would
17 decline because of the permit and then I believe the gentleman who testified with Maui
18 Tomorrow I believe it was it said that if the vacation rental permit was approved it would
19 potentially increase the values. My question is do you have a comment on that? And number
20 two, is that even...is that something that's part of the application process. And then question
21 number two is, house rules. I believe that they are required to have house rules. Is the house
22 rules available and if so, does it address the sensitive traffic with the beach parking access
23 across and really highlight our locals coming to the beach and crossing right in front of your
24 driveway?

25

26 Mr. Croly: Thank you for those two questions. Remind me again the first question --

27

28 Ms. Pali: It was about it --

29

30 Mr. Croly: Oh, the values. You know I was present when the Bed and Breakfast Ordinance and
31 the Short-Term Rental Ordinance were promulgated with the County Council. And we had this
32 discussion over and over again. If we allow this uses it's going to drive property values up.
33 Then we had folks from Wailea saying if you allow this use it's gonna drive my property values
34 down. So I don't know that there is a true answer on that. What I can say though about that is
35 the homes along this stretch, the land values of each of those homes is are assessed at
36 \$10 million per acre. Some of the lots are a full acre, some of the lots are something less than
37 that. But the land value alone is \$7 to \$10 million that's the assessed value of the land. The
38 cost for these folks to build these homes with all the regulations that go about it's not unusual for
39 them to spend another \$10 million building a home along here. Now what that home will sell for
40 there's no shortage of people who can afford that \$20 million home whether they're gonna use it
41 as a short-term rental or whether they're not. I don't believe that that's an influencing factor in
42 this particular case particularly when we recognize that 24 of the homes are already owned by
43 people who don't make their full-time residences here and are not using them presumably not
44 using them as short-term rentals.

45

46 With respect to --

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2
3
4
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Ms. Pali: House rules.

Mr. Croly: -- the house rules and so forth. There's three places where the house rules are enforced. One is before the reservation is made each of the residents have to sign off that they have acknowledged the house rules that they are there. The second is in the home the house rules are posted and we certainly can add additional house rules if they're appropriate for a particular location such as this where you know that's a busy road out there so make sure that you stop that you know before going out to the road something like that. And then the third is that all of the neighbors that are immediately adjoining this property get the...a copy of the permit including the house rules and including the notification of people that they could call to notify if there were any infractions of the house rules that would take place. So the house rules are well covered in terms of being known by the folks who are subject to them and being known by the people who might report an infraction of them.

Mr. Carnicelli: Answered your question? Commissioner La Costa.

Ms. La Costa: Thank you Chair. Tom, two questions. First of all, how often is Rodell and his family...are Rodell and his family here?

Mr. Croly: I'd like to have Rodell answer that question.

Ms. La Costa: Okay, thank you.

Mr. Rodell Notbohm: I've got small kids at home.

Mr. Carnicelli: Please just state your name for the record so we know who we're talking to?

Mr. Notbohm: Rodell Notbohm.

Mr. Carnicelli: Thank you.

Mr. Notbohm: I've got two small children in home, in high school and in middle school. So I typically am out here every other week except for when during the summer when they're out of school sometimes we all come out here. This last summer me and my extended family, my parents and my brother and his kids came out here. So I'm typically out here every other week to answer your question.

Ms. La Costa: So looking at this...I'm sorry, Chair may I?

Mr. Carnicelli: Go.

Ms. La Costa: Thank you. So looking at this permit if you are here that often then I guess I'm kinda confused as to why it's necessary if, if this is basically your second home rather than an investment property.

1 Mr. Notbohm: Well, I wanna be able to share my home with others. There's times that I'm not
2 here that are actually very popular times. I'm typically in Seattle during Christmas for instance.
3 But I just want the ability to share my home when I'm not here. The long term plan for that
4 house for me and my family is my retirement home, but I'm not quite retired yet. But I was
5 fortunate enough to be able to buy the house in May of last year and been coming out every
6 other week essentially except for some less time during the summer...longer duration but less
7 amount of times during the summer because my kids are available more often. That's the
8 answer.

9
10 Ms. La Costa: One more please? Thank you. I would like to also address the house rules. I
11 don't know if Tom this is yours or Mr. Notbohm if this is yours. In that area because it is right on
12 the ocean, the reef is incredibly important and because we don't have a copy of the house rules
13 we can't see what is included and so it's important that it is understood that the health of the
14 reef and the respect for the reef is in those house rules so that people don't walk on it, et cetera,
15 et cetera, and I think that's a responsibility if you have guests there that they know how to treat
16 the aina and the kai.

17
18 Mr. Notbohm: Yeah, that makes sense to me and I think it makes sense to inform them about
19 reef safe sunscreens as well. And to address the parking, I will just say you could very easily
20 park at least six cars in that driveway area without even using the garage. It's quite a lot of
21 space.

22
23 Mr. Carnicelli: Any other questions from the Commissioners? I have one for Tom. It's just sort
24 of piggy backing off of what Commissioner La Costa had just brought up and because I know
25 you've been here and you're familiar with it, we've added the condition about educating guests
26 prior to arrival in the past. Is the applicant or you...I'm asking you rather than him just because
27 you understand what I'm talking about is, you know, are you guys okay with having adding that
28 type of conditions should this thing proceed forward?

29
30 Mr. Croly: Absolutely. And just as a matter of an update that was one of the bed and breakfast
31 permits that came before you a couple of months ago and that applicant has been working with
32 Mr. Lindsey to come up with, you know, some specific bullet points that we at the Maui Vacation
33 Rental Association will make sure that we share with all of our folks and making those a
34 requirement as part of the house rules, I don't see any problem with that. I'm sure the applicant
35 would be happy to do that as part of the --

36
37 Mr. Carnicelli: Let the record show he's nodding up and down saying yes.

38
39 Mr. Croly: Yes, thank you.

40
41 Mr. Carnicelli: Okay, thanks Tom. Any other questions?

42
43 Ms. La Costa: I have a question.

44
45 Mr. Carnicelli: Okay.

46

1 Ms. La Costa: This is procedural. Is it possible to redirect a question to one of the testifiers or
2 no? No? Okay. Thank you.

3
4 Mr. Carnicelli: Any other questions? Jared.

5
6 Mr. Burkett: Staff Planner Jared Burkett. I just wanted to point out that if you look in the staff
7 report on Page 7 that has the house policies which are the house rules, Section Q or Item Q.
8 Those are the standard policies and then the one that was submitted in their application
9 contains the standard policies but also has one more that states...have to find which
10 one...Guests must be aware that they are in residential...in a residential neighborhood and as
11 such sound that is audible beyond the property boundaries during non-quiet hours shall not be
12 more excessive than would be otherwise associated with the residential area which is kind of a
13 combination of the...they just split the first and second house policy on their paper up for Item 1
14 on Q. But...so I just wanted to point that out.

15
16 And if I may there's also something else that was brought up in the testimony that there was
17 potential illegal vacation rentals or rental use and the Department requires that staff research
18 this whenever we get an application. I researched it thoroughly I did not locate any ads,
19 advertisements for the vacation rental. We also have lodging rev that is searching out for
20 vacation rentals and they did not...locate any either. So that wasn't something that we could
21 use or otherwise we would have researched that further and even may put in a Request for
22 Service to have Zoning research it. And also, it is correct that the applicant did apply on
23 May 1, 2018 which was before the short-term rental home ordinance changed. It took effect on
24 September 27th so this falls under the old ordinance.

25
26 Mr. Carnicelli: As far as the five-year ownership requirement?

27
28 Mr. Burkett: Five, yes.

29
30 Mr. Carnicelli: Thank you. Commissioner Tackett.

31
32 Mr. Tackett: Could you please clarify that the purpose of the radius that they draw around each
33 property? What is the purpose of that radius drawn around each property?

34
35 Mr. Carnicelli: Director?

36
37 Ms. McLean: Thank you Chair. That has been a provision in the County Code for a variety of
38 permits that the Planning Department processes that some applications require that recorded
39 owners and lessees of property within a 500 foot radius be notified when an application has
40 been submitted and then if the application requires a public hearing that they be notified of the
41 public hearing, the date, time and place of the public hearing. And then certain applications like
42 STRH applications and B&B applications also use that same group of people to trigger a
43 different level of review. So if there were not the other operations within 500 feet or if there
44 weren't the protest letters received within 500 feet then Commission review would not have
45 been triggered for this application. It could have been approved by Staff. So there are a

1 number of things. It's notice of application, notice of public hearing, and then can trigger
2 Commission review.

3
4 Mr. Tackett: And when that review is triggered say in this case we have a property and then we
5 have neighbors that are, that are against it, direct neighbors what is the substance of that in
6 relation to the circle?

7
8 Ms. McLean: That is another one of the triggers not just the other permitted operations within
9 500 feet. If there were no permitted operations within 500 feet then those letters would have
10 triggered commission review.

11
12 Mr. Tackett: Okay, and what substance are we allowed to put to those letters?

13
14 Ms. McLean: That --

15
16 Mr. Carnicelli: Corporation Counsel.

17
18 Ms. McLean: Thank you.

19
20 Mr. Galazin: Thank you for that question Commissioner Tackett. When you're sitting up here
21 and reviewing any number of permits but specifically right now the STRH ordinance and we
22 touched on this a little bit at the last meeting...you allowed me to explain the sort of the
23 differences between the B&B Ordinance as well as the STRH Ordinance. One of the most
24 pertinent differences being that the STRH Ordinance has a number of different criteria above
25 and beyond what the Bed and Breakfast Ordinance has primarily because these operations that
26 are not owner-occupied. What you are to...the overarching thing that you want to keep in mind
27 when you...before you even take in the public testimony is when you're looking at Subsection N,
28 it says that the short-term rental home shall conform to the character of the existing
29 neighborhood in which they're situated. So that's what you want to look at first and that sort of
30 prescribes what you're viewing. And then it says that as the commission you shall consider the
31 following nine things in deciding whether or not it conforms to the existing character of the
32 neighborhood. One is...you know it's the existing land use entitlements, community plan,
33 community input, but if you're talking about the number and substance of protests that's that the
34 thing that you're gonna have to weigh as a body and if, you know, there's notification has gone
35 out to you know maybe a dozen, less than 20 properties and you've received three letters, you
36 didn't receive any in support but you've received three letters in opposition, two from either side
37 and one immediately adjacent to the southern parcel. You gotta take those and weigh what was
38 brought out in those letters versus what the applicant has demonstrated in the application and
39 you gotta take those and weigh what was brought out in those letters versus what the applicant
40 has demonstrated in the application. And that's sort of the crucial function of you folks as a
41 body is to decide how you balance those things. There's not one ...(inaudible)... line rule that's
42 always going to apply. You know protest letters that aren't specific to the application that are
43 just sort of like, well I don't like short-term rentals. I think it goes to what Commissioner Pali was
44 saying earlier that well the County Council decided that short-term rentals are an okay thing and
45 they're going to into residences so they're going to be in a residence somewhere that's
46 presumably in a residential neighborhood. So you've gotta consider what are the specific

1 impacts that are probable that people have raised in their protests. So you consider that, you
2 consider what's in there. You consider how many you've got in relation to how many potential
3 ones you could have gotten and then view things that way. And again, I am, you know
4 counselor, I counsel you, I give you advice but I don't have a vote in this, you know. I'm not
5 going to tell you have to vote one way or the other. I'll give you my advice and you're free to
6 listen to it or not as you so choose. But you know, I will try and do my best of my abilities keep
7 you on a path where you at least making a decision based on the relevant criteria. And when it
8 comes to public testimony there's subjectivity to it and you got to...you know, that's where you
9 folks land as a quasi-judicial function in this matter. Thank you.

10
11 Mr. Tackett: Thank you.

12
13 Mr. Carnicelli: If you want to...have a question for the applicant, that's fine.

14
15 Ms. Pali: Oh for this guy.

16
17 Mr. Carnicelli: No, that's Jared. He's the Staff Planner.

18
19 Ms. Pali: Sorry.

20
21 Mr. Carnicelli: You have a question for the applicant?

22
23 Ms. Pali: I do.

24
25 Mr. Carnicelli: Okay.

26
27 Ms. Pali: I think Tom.

28
29 Mr. Carnicelli: Tom.

30
31 Ms. Pali: So hearing what Corp. Counsel had to say I briefly went over the three letters of
32 opposition just to help give clarity to the Commissioners here and myself and I made sort of a
33 bullet point...I extracted the items and I would like you to be able to address these items. The
34 four main concerns were parking, noise, safety for the children, and their value. Out of the three
35 letters, three of them expressed the parking issues. Two of them expressed noise concerns.
36 One expressed safety for children and then two expressed decrease in value. What is the
37 applicant's response please?

38
39 Mr. Croly: Okay, so each of the concerns with respect to parking and noise and what was the
40 third one --

41
42 Ms. Pali: Safety.

43
44 Mr. Croly: Well okay, we'll get to safety. The noise and the parking issues are directly
45 addressed in the house rules that are a condition of the permit. So the house rules aren't just
46 did we get the person who we rented to abide by the house rules because if they didn't it's a

1 violation of the permit and the permit with multiple violations can be revoked. So it's not just as
2 simple as well, we can tell these people to do this, but if they don't, then you know how do we
3 control? Well, we control it by the guy could have his permit revoked. So I do think that that
4 we've addressed those concerns.
5

6 The safety concern. This home is on a busy South Kihei Road. The bus actually stops right out
7 in front of this property and it's a gated property. It's a property where you really can't wander
8 into unless you're going through a gate and if you're coming out of it, you're just a member of
9 the public on the street. It's bordered on both ends by busy vacation rental condos and so forth
10 where who knows who stays there as well. So it isn't as if there's no danger from a stranger in
11 this area who doesn't belong because that's who's in this area, strangers who are visiting this
12 area. So I don't think that's a reasonable concern to have about the use that has been
13 requested for this short-term rental permit.
14

15 And then as far as the value thing, again, it might bring values up, it might bring values down
16 depending on who you ask, but I don't think that's a criteria that should even come into play
17 'cause it's not a criteria that the County Council chose to even make part of this ordinance. And
18 I will say that I lobbied for the short-term rentals only to be applied for values...for higher valued
19 properties so that they wouldn't impact homes of values that residents typically live in. The
20 response of the County Council to my lobbying for that was no, everyone should have that this
21 opportunity. We don't want to be restrictive and say it should only be the rich guy who gets this
22 opportunity and not someone else. So that's again...it's not a part of this ordinance. The
23 County Council chose not to make it part of this ordinance. So there you go.
24

25 Mr. Carnicelli: Thank you Tom. Any other questions from the Commission? Then Jared if you
26 could please give us the staff recommendation?
27

28 Mr. Burkett: Staff Planner Jared Burkett. The Department found that the application is
29 complete and the applicant to be eligible to apply for this Short-Term Rental Home Permit.
30 There are no reports filed with the Police Department for this property. There are zero, no
31 requests for service for this property for the whole time it's been existing. They also have
32 designated Ms. Irene Ann Aroner, who will be the designated manager for this property upon
33 permit approval. And as was stated I conducted a site visit and confirmed that the property is as
34 it is represented on the application and that all conditions for approval have been met including
35 the posting of the house rules in the home, that there's an approved fire extinguisher that's
36 easily accessible, that there are working smoke detectors in the required locations and that the
37 designated parking is in place for the rental.
38

39 The application complies with the applicable standards for a short-term rental home permit as
40 described by Maui County Code Section 19.65.030, and therefore the Department is
41 recommending approval of the STRH for a two-year permit subject to the 12 standard conditions
42 that are described in the Department's recommendation. In consideration of the foregoing if the
43 Commission approves of this permit, the Planning Department recommends that the Maui
44 Planning Commission adopt the Planning Department's report and recommendation as its
45 findings of fact, conclusion of law and decision and order and to authorize the Planning Director
46 to transmit said written decision and order on behalf of the Planning Commission. Thank you.

1
2 Mr. Carnicelli: Thank you Jared. Do we have a motion from a commissioner? We gotta make
3 a decision. Commissioner La Costa.

4
5 Ms. La Costa: My motion is said so that a vote can be taken?

6
7 Mr. Carnicelli: Or just even you can put a motion on the floor so we can have discussion.

8
9 Ms. La Costa: I move that we deny the permit and go against what the recommendation is for
10 the --

11
12 Mr. Carnicelli: Okay, so a motion to deny the STRH Permit. Do I have a second?

13
14 Kahu Hill: I'll second.

15
16 Mr. Carnicelli: Okay, second. Discussion?

17
18 Ms. La Costa: In looking...excuse me, in looking at the map that we were provided and
19 understanding the location there is the said property, the subject property on either side there
20 are protests. To the north there is another protest or the south, excuse me. There's then again
21 a short-term rental next to that. So the people who have spoken against this project already
22 have one short-term rental within a hundred feet and the salient points for their opposition I
23 understand perfectly and I don't think that two short-term rentals that close together with
24 opposition directly adjacent to it should happen.

25
26 Mr. Carnicelli: Okay, thank you. Also if I could just remind the Commissioners that when we
27 vote affirmative in a motion to deny if that makes sense right? So kind of the opposite negative
28 thing. So when we vote...if we were to vote in favor of this motion it's important to establish a
29 record as to why based on the criteria. So that's just...is part of the discussion right now is if
30 you, you know are in favor of this motion or not, part of the discussion is to establish a record
31 because at some point in time, our Corporation Counsel will have to draft up a decision and
32 order based on what it is that we decide. So anyways, further discussion? Kahu Hill.

33
34 Kahu Hill: I know this area very well and used to frequent it coming down to that beach. Before
35 it was called Millionaire's Row my friend the Beppus and many others lived there and it's
36 changed and now it's in the newness of where it is. I see...I'm with looking at that this is a
37 beach access not just a beach parking. There's a beach access that the neighbors know,
38 people in this area and the locals know and there's so many children and people that come.
39 Keawakapu wasn't so busy back then. Now it's got so many people. We have so many more
40 people on the island, in Kihei, Wailea, Makena. So many people on the beaches, therefore, the
41 crossing of the street there is very important. It's right in, it's right in front this area I'm
42 concerned about N, Number 5, the potential adverse impacts. I'm concerned that 12 people
43 can make noise and make a party just by 12 people that don't live here and don't know the
44 rhythms for excessive noise. I am concerned about the traffic because of where they're
45 proposing for this home. It's a beautiful...beautiful area, but to have so many guests coming
46 that are not used to this area, coming in and out of that house with the way everything is

1 situated and the growing visitor population and the safety of the children that concerns me as
2 well I am looking at the next door to the three neighbors, the STRH and the number of the
3 protests on either side. So I have several reasons why I'm having a challenge with this and the
4 safety for the children and those people coming in and out are primary.

5
6 Mr. Carnicelli: Thank you. Commissioner Tackett.

7
8 Mr. Tackett: I also share those sentiments. The way I see it is everybody that would be
9 affected by it is against it, you know so it would be one thing if the two neighbors closest to it
10 were in favor of it and then there was a buffer between other people being opposed to it. But
11 what you have here is everybody directly around it is opposed to it. And those are the people
12 that are gonna have to live with it every day. And to me, what...what approving it would be
13 doing would be changing the neighborhood in which these people understood to be as they live
14 there. So that's the reason, that's the issue that I have with it.

15
16 Mr. Carnicelli: Do you want to speak to the motion? No? Okay, so Director if you could do your
17 best to summarize what has been stated on the record as far as for the motion to deny.

18
19 Ms. McLean: Thank you Chair, I'll tie it into the criteria that are listed in the STRH Ordinance.
20 So the standards against which you make your determination on this application come from
21 Section 19.65.030 of the Maui County Code and from the statements made, the criteria of
22 Section N, specifically Numbers 4, 5, and 6 have not been met. Number 4 relates to community
23 input and based on the letters received from the adjacent owners who were the most affected
24 by the operation as well as other letters and testimony from owners in the area indicate
25 opposition. Then Item Number 5, relates to potential adverse impacts including excessive
26 noise, traffic and garbage and there's a concern over traffic and safety with it being a busy road
27 with the nearby beach access and beach access parking. And thirdly, Number 6, the number of
28 permitted short-term rental homes surrounding the proposed short-term rental home property
29 and their distance to the property that there are too many short-term rental operations in this
30 area.

31
32 Mr. Carnicelli: Kahu Hill.

33
34 Kahu Hill: I didn't hear you say 7. You said 4, 5, and 6, but we were concerned about 4, 5, 6,
35 and 7 under N, unless I just missed that.

36
37 Ms. McLean: No, you're correct. Yes, 7 as well, the number and substance of protests to the
38 short-term rental home application and protests related to the cumulative short-term rental
39 homes in the neighborhood or area.

40
41 Mr. Carnicelli: Any other questions or comments from the Commission? So if you could then
42 restate the motion?

43
44 Ms. McLean: The motion would be to deny the SMA or excuse me, the STRH application
45 because it does meet the standards of Maui County Code, Subsection 19.65.030 (N), 4, 5, 6,
46 and 7.

1
2 Mr. Carnicelli: All in favor of the motion please raise your hand? That's four. Opposed? None.
3 The motion passes.

4
5 **It was moved by Ms. La Costa, seconded by Kahu Hill, and**

6
7 **VOTED: To Deny the Short Term Rental Home Permit as it does not meet the**
8 **standards of Maui County Code Subsection 19.65.030(n)(4),(5),(6),**
9 **and (7)**
10 **(Assenting – P D. La Costa, A. Hill, C. Tackett, L. Carnicelli,**
11 **K. Pali - Abstained)**
12 **(Excused – S. Castro, T. Gomes, L. Hudson, K. Robinson)**
13

14 Mr. Carnicelli: So, Corporation Counsel you will then draft a decision and order for us? Okay,
15 thank you. So Director moving onto Communication items.

16
17 Ms. McLean: Thank you Chair. This is from Mr. Gale Notestone who is Chair of the Hana
18 Advisory Committee transmitting the Hana Advisory Committee's recommendation on a request
19 from Mr. David Goode, Director of the Department of Public Works for a Special Management
20 Area Use Permit for the Keanae Road safety improvements project for the installation of rock
21 fall protection and guardrails, road realignment, widening, and restriping, relocation of fire
22 protection standpipe, and related improvements at TMK: 1-1-02: 005 (Portion), (2) 1-1-002 :009
23 (Portion), (2) 1-1-002: 010 (Portion), (2) 1-1-003: 041 (Portion), (2) 1-1-003: 065 (Portion) and
24 Keanae Road Right-of-Way (Portion) in Keanae, and the public hearing conducted on
25 August 27th and Keith Scott again is the project planner.

26
27
28 **C. COMMUNICATIONS**

- 29
30 **1. MR. GALE NOTESTONE, Chair of the HANA ADVISORY COMMITTEE TO**
31 **THE MAUI PLANNING COMMISSION transmitting the Committee's**
32 **recommendation on the following application:**

33
34 **MR. DAVID GOODE, Director, DEPARTMENT OF PUBLIC WORKS, COUNTY**
35 **OF MAUI requesting a Special Management Area (SMA) Use Permit for the**
36 **Keanae Road Safety Improvements Project for the installation of rock fall**
37 **protection and guardrails, road realignment, widening, and restriping,**
38 **relocation of fire protection standpipe, and related improvements at TMK:**
39 **(2) 1-1-002: 005 (Portion), (2) 1-1-002 :009 (Portion), (2) 1-1-002: 010**
40 **(Portion), (2) 1-1-003: 041 (Portion), (2) 1-1-003: 065 (Portion) and Keanae**
41 **Road Right-of-Way (Portion), Keanae, Island of Maui. (SM1 2018/0004)**
42 **(K.Scott) (Public Hearing conducted on August 27, 2018)**

43
44 **The Commission may take action on this request.**

45
46 Mr. Carnicelli: Keith.

1
2 Mr. Scott: Good afternoon folks. As was stated the public hearing for this project was
3 conducted by the Hana Advisory Committee. You referred it to them for the public hearing itself.
4 They are now reporting back to you with the recommendation to approve. I should note for you
5 that one of the additional permits that will be required is a Shoreline Setback Approval which will
6 be, assuming that you approve this SMA Permit, will be done administratively because it does
7 not require a variance.

8
9 And with that Colleen Suyama with Munekiyo Hiraga would like to go over what the project is so
10 you have a full understanding.

11
12 Mr. Carnicelli: Thank you.

13
14 Ms. Colleen Suyama: Good afternoon. I'm Colleen Suyama with Munekiyo & Hiraga. We're the
15 planning consultants. I'm not very good at this. I came from the . . . (inaudible) . . .

16
17 Mr. Carnicelli: Hey Keith why don't you help her out...or someone.

18
19 Ms. Suyama: Okay. Sorry. With our project team today, with the Department of Public Works,
20 Wendy Kobashigawa is here representing the Department of Public Works. Ty Takeno was here
21 earlier but he had an afternoon meeting that he had to go to. Our civil engineer is Mike Silva
22 with Fukumoto Engineering Inc. Next.

23
24 The reason we're here is that we're requesting approval of the proposed Keanae Road safety
25 improvements which is located within the Special Management Area. Next.

26
27 This is a map of the location. Hana Highway is on the bottom of the map, and the gray areas
28 shows Keanae Road into the Keanae peninsula. That is the section where they're having the
29 safety problem presently. Next.

30
31 This shows the steep embankment along the Keanae Road. And if you look in the middle of the
32 photo there's a tree that's been sheared off, and that's because of the rock falls that are
33 occurring in the area. Okay next.

34
35 There is a project need. The Keanae Road provides the only vehicular access to Keanae
36 Peninsula. Since 2000 they have been experiencing rock falls and landslides which have
37 occurred along Keanae Road. Road closures have resulted from the rock falls and the
38 landslides.

39
40 In terms of project, it includes the maintenance to stabilize the cliff west of Keanae Road. It will
41 include installation of rock fall protection consisting of a concrete barrier, netting, a rock fall
42 fence, improvements to the County's right-of-way such as road reconstruction and resurfacing,
43 road realignment, widening, and restriping, relocation of an existing fire protection stand pipe,
44 and installation of metal guard rails. There are other related improvements such as striping and
45 signage that will also be a part of the project.

46

1 This is the site plan. Keanae Road is on the bottom. The green is the, is the netting that would
2 be applied along the rock cliff. On the top portion is where you have your rock fall fence...your
3 rock fall fence. And on the portion on the left side is your concrete barrier. And along the cliff
4 edge there will be new guard rails that would be installed. And there is one stand pipe for water
5 protection, you know, fire protection that would be relocated and improved.

6
7 In terms of background, since 2010, the Keanae community has worked to try to resolve these
8 landslide issues. In March of 2018, we filed an SMA Use Permit application on behalf of the
9 Department of Public Works. On August 6th of this year we held a public hearing by the Hana
10 Advisory Committee, and thankfully the Hana Advisory Committee recommended approval of
11 the application.

12
13 In summary we are respectfully requesting the Maui Planning Commission approve the SMA
14 Use Permit for the Keanae Road safety improvements project. Thank you.

15
16 Mr. Carnicelli: Thank you.

17
18 Ms. Suyama: Yeah, and we're all available for questions if you have any.

19
20 Mr. Carnicelli: Great. Thank you very much. At this time if anyone would like to testify on this
21 particular agenda item please come forward.

22
23 Mr. Dan Clark: Aloha everyone.

24
25 Mr. Carnicelli: Please state your name.

26
27 Mr. Clark: My name is Dan Clark and I promise to tell you the truth. When you when ask Les
28 Kuloloia I was kind of hurt over here. It was like one court proceeding, but that's okay. It's a
29 good question. Anyhow, I don't lie and I don't steal so I, you know. But I am a resident of lower
30 Keanae. I was farm there. I raise taro and avocado and such. And I --

31
32 Mr. Carnicelli: Please speak into the mic just for the record. Thank you.

33
34 Mr. Clark: So over the years we've had these landslides that have been coming down off the
35 hills. The large trees that the -- and when it rains, it softens up the soil, the large trees are
36 blown by the wind, and pull the rock down. And we've had incidences where the stone is falling
37 on vehicles that are traversing that road up and down. We have people walking down or the
38 young kids going to YMCA that I'm always concerned about their welfare.

39
40 So we proceeded about eight years ago working in to try to find a resolve. And with the help of
41 the Department of Public Works, they good and of course Ty Takeno and at that time John
42 Smith, we were able to come up with a plan and move forward getting all the permitting. It's
43 been a long road and there's the DOT is on one section below the base yard, the DLNR and
44 another below the YMCA, and then the County owns the road so a combined effort, yeah. So
45 without all the help that the Council, you know, providing and finding the monies to do it, we
46 would be in the same scenario looking at possible injuries. I want to try and get around the end

1 of this and, and our community would appreciate if you would consider approving this SMA
2 Permit please because it is very important to us. And of course those that visit the Keanae
3 Peninsula, you know, come to see the beautiful peninsula, they don't know there's a four or five
4 ton bolder sitting perched on the side of that hill right now ready to come down along with some
5 cantilever rock over there. And we hope to take that down before anybody is hurt.

6
7 So, please consider this application and I know all of you are voluntary, you know, in these
8 positions. Man, listening to this, I've been long time since I've been in front of the Commission,
9 and you guys have your work cut out for you. I'm listening to Kaho'olawe, and I grew up in Kihei
10 along Keawakapu, and I was on my diving grounds. I remember those bombs going off all
11 night, and the pictures falling off the wall you know what I mean. So Maui has come a long way
12 and one of the key things out there I think you need to consider and it's going to be hard
13 challenge for you is the saturation. The saturation of, you know, influx of people there's has to
14 be some kind of balance. The roads have become very used and...and I know the tax dollar
15 and everything is very necessary but there is a quality of life issue, yeah, you know, for
16 everyone who loves this island and lives here. But I thank you for all of your hard work, I truly
17 do, and I thank you very much.

18
19 Mr. Carnicelli: Thank you.

20
21 Mr. Clark: Okay.

22
23 Mr. Carnicelli: Commissioners, any questions or any need for clarification? Kahu Hill.

24
25 Kahu Hill: Aloha Dan.

26
27 Mr. Clark: Aloha.

28
29 Kahu Hill: I wanted to understand just a little bit more and just from your eyes since you live
30 there, hearing from the people of Keanae and wanting to look at the work that would need to be
31 done. Actually some of it would -- they were hoping some -- I heard some people wanting it to
32 be done at night, but of course, there needs to be safety for County workers also to have that
33 light working the day. I've heard about the fruit stand, and about people being to have their
34 business, as well as people getting to work, being able to get out of Keanae as well. And I was
35 wondering about what they propose in here about the timing of 11 to six or about looking at the
36 hour so there would be some business hours in the morning. Can you give us any information
37 on what you feel about this?

38
39 Mr. Clark: Well to the best of my knowledge, you know, we're already constricted with weather.
40 We're constricted with, you know, time. To have them to work at night is really dangerous, you
41 know, for that rock wall mitigation, and then the workers on the road, the contractor that would
42 be doing the work. So, there's going to be a give and take and everything is momentary. The
43 outside of this is that we have a safe road to travel from the top of Hana Highway down to
44 Keanae.

45

1 As far as the business what I was working with Tammy Hueo was that if she can momentarily,
2 you know, make her product and we're looking at DLNR to allow them up at the parking lot, up
3 at the Keanae...the parking lot or the YMCA. Okay, so she is, you know, pursuing that. But 11
4 to six is about the outside you can really work, and you know the people about nine o'clock they
5 usually are leaving. But on those days that we are working the project, they have to close that
6 road. Because it's just too dangerous for anybody, you know, when they're dropping trees and
7 rocks from the top, yeah, you know. But they made provisions with the Hana Advisory
8 Committee. They had asked about the access due to emergencies, and talking with Ty Takeno
9 this morning, they said they provide a radio. And in case a 9-1-1 call is made, they'll call ahead
10 to the contractor and let them know to open up the road, they're coming in with an ambulance or
11 a fire truck or whatever, yeah. So those, those provisions have been pretty much worked out.

12
13 You know, as I was speaking with Tammy, you know, it's momentary so, you know we all need
14 to work together to try and make it a safe place to live. During the tsunamis we got to take the
15 elderlies up the road and many times when the winds come, storms come, so does the slides
16 and so we cannot get out. So I have a small tractor and my neighbor, and we usually try to
17 clear or the Hana State base yard comes down with a loader and, you know, clears to the road.
18 So with all of this, you know, renovated hillside and road maintenance upgrade, we should be in
19 a good place as far as rock slide.

20
21 Kahu Hill: Mahalo. Mahalo for coming out from Keanae today.

22
23 Mr. Clark: Yeah, yeah, no problem.

24
25 Mr. Carnicelli: Does anybody else have any questions? Thank you.

26
27 Mr. Clark: Thank you.

28
29 Mr. Carnicelli: Is there anybody else that would like to testify on this particular item? Alright,
30 without objections we'll go ahead and close public testimony. Does the applicant have anything
31 else that they would like to...to address or state at this time?

32
33 Ms. Suyama: No, we are aware of the recommended conditions of the Hana Advisory
34 Committee and we're amenable to those.

35
36 Mr. Carnicelli: Great. Sure, go ahead Kahu Hill.

37
38 Kahu Hill: Mahalo. I just have one question. If the archaeological plan had been accepted by
39 the SHPD yet?

40
41 Ms. Suyama: I don't believe it was yet so we still need to get that approval. But they are aware
42 that approval needs to be granted before construction can be initiated.

43
44 Kahu Hill: Mahalo.

45
46 Mr. Carnicelli: Commissioner La Costa.

1
2 Ms. La Costa: Thank you Chair.
3
4 Ms. Suyama: Yes?
5
6 Ms. La Costa: I noticed in the documents that you talked about posting in the Maui News when
7 the roads are going to be closed.
8
9 Ms. Suyama: Right.
10
11 Ms. La Costa: It would also be --. Or, or, maybe I should ask rather than suggest. Are you also
12 going to send out text alerts like the County does when there's high surf and road closures?
13
14 Ms. Suyama: I'm not sure. Maybe Wendy Kobashigawa from the Department of Public Works
15 would be best to address that.
16
17 Ms. La Costa: Thank you.
18
19 Mr. Carnicelli: As long as it's not a missile alert then we're good.
20
21 Ms. Wendy Kobashigawa: Hi. Wendy Kobashigawa from the Department of Public Works
22 Engineering Division. To answer your question we can look into that and I'm not sure how we
23 do that but I can look into that and see if we could get that done also in addition to the Maui
24 News publication.
25
26 Ms. La Costa: Because hardly anybody reads the newspaper anymore, and we get, we get high
27 surf advisories all the time, and wind advisories. Thank you very much; I appreciate you looking
28 into it.
29
30 Mr. Carnicelli: Thank you. Any other questions? Thank you. Mr. Scott.
31
32 Mr. Scott: Sorry, I was advising her on a way to get that text implemented.
33
34 Mr. Carnicelli: Cool. Cool.
35
36 Mr. Scott: So the Hana Advisory Committee as mentioned has recommended approval of the
37 project. There are 10 conditions that the Committee is recommending that you append to the
38 project. The last one, number 10, deals with the safety during construction time, and that
39 was...and they were very happy to do that, and they do have all that worked out finally.
40
41 So the Department's recommendation is to approve the recommendation of the Hana Advisory
42 Committee.
43
44 Mr. Carnicelli: Kahu Hill.
45
46 Kahu Hill: I would like to make the motion to approve -- they have -- with the 10 conditions.

1
2 Mr. Carnicelli: Moved by Commissioner Kahu Hill.

3
4 Ms. La Costa: Second.

5
6 Mr. Carnicelli: Seconded by Commissioner La Costa. Discussion to the motion.

7
8 Kahu Hill: I thank you for being mindful of this for the people of Kanae to hear that the people
9 live, there's children going to school, people needing to go to work, a lot of visitors coming out
10 and that for the timing and . . . (inaudible) . . . and seeing that this will probably happen in the
11 summer when there is more sun and the sky to help work with everyone. But I thank you for
12 hearing the voices of Kanae and keeping everybody safe. Mahalo.

13
14 Mr. Carnicelli: Anybody else? I'd just like to say it's always fun. I always enjoying just adopting
15 the Hana Advisory Committee's recommendations straight away because often times we make
16 recommendations to somebody else who doesn't take our recommendation. So it's great when
17 we can just take somebody else's recommendation. So all in favor of the motion please raise
18 your hands? That's five ayes. Thank you very much.

19
20 Mr. Scott: Mahalo.

21
22 Mr. Carnicelli: Do you guys want to take five minutes?

23
24 **It was moved by Kahu Hill, seconded by Ms. La Costa, then**

25
26 **VOTED: To Approve the Special Management Area Use Permit, as**
27 **Recommended by the Department and Hana Advisory Committee**
28 **with Recommended Conditions.**

29
30 **(Assenting – A. Hill, K. Pali, C. Tackett, P D. La Costa, L. Carnicelli)**
31 **(Excused – S. Castro, T. Gomes, L. Hudson, K. Robinson)**
32

33 Ms. McLean: Commissioner, if I could before, I just want to let you know that this would be Keith
34 Scott's last Maui Planning Commission meeting.

35
36 Mr. Carnicelli: What?

37
38 Ms. McLean: He is leaving us and moving to the mainland. So I wanted to thank him for all of
39 his excellent work and to let him know how much he will be missed.

40
41 Mr. Carnicelli: Thank you very much for all of your hard work. It's much, much appreciated.
42 Let's take a 10 minute recess.

43
44 *(The Maui Planning Commission recessed at 2:24 p.m., and reconvened at 2:38 p.m.)*
45
46

1 **2. WAILEA GOLF, LLC requesting a Step 1 Planned Development Approval**
2 **for the expansion of the Wailea Planned Development area to include 37.97**
3 **acres of the Wailea Emerald Golf Course located at TMK: (2) 2-2-008: 140**
4 **(por.), Wailea, Island of Maui. (PD1 2018/0004) (T. Furukawa)**
5

6 Mr. Carnicelli: The...Maui County Planning Commission of November 27th is back in session.
7 Director?
8

9 Ms. McLean: Thank you Chair. Your next communication item is a request from Wailea Golf
10 LLC for a Step 1 Planned Development Approval for the expansion of the Wailea Planned
11 Development area to include 37.97 acres of the Wailea Emerald Golf Course located at TMK: 2-
12 2-008: portion of parcel 140 in Wailea. Tara Furukawa is the project planner.
13

14 Ms. Tara Furukawa: Good afternoon Commissioners. This item has come to you for review
15 because the applicant, Wailea Golf LLC, is proposing the extension of the Wailea Resort
16 Planned Development Area. I want to note that the tax map key and the header on the staff
17 report is listed incorrectly. It should be 2-2-1-008:140 portion which is how it is included in the
18 body of the report. Also, after the report was drafted it was found that the State Land Use
19 District Boundary should be listed Urban/Agricultural because some portions were already
20 converted. Jordan Hart of Chris Hart and Partners is the project consultant and he's here today
21 to discuss the applicant's proposal.
22

23 Mr. Hart: Thank you Tara. Good afternoon Chair and Commissioners. My name is Jordan Hart
24 with Chris Hart and Partners. As referenced to what is being proposed today is a Planned
25 Development Step 1. The last time I saw you for a different Planning Development Step 1 we
26 were moving land use designations around. This Planned Development Step 1 is to identify a
27 project area to be within the Planned Development. So that's this northern portion of the
28 existing...Wailea Emerald Golf Course.
29

30 So the applicant is Wailea Golf LLC. Ms. Ann Takibuki and Mr. Peter DeSwagger is here to
31 answer any questions that are needed from the land owner. The land planner, myself, Jordan
32 Hart from Chris Hart and Partners.
33

34 The first diagram is just a project location map. This is the real property tax map. It's showing
35 the entire parcel that we're dealing with. We're only dealing with a portion of it, but the entire
36 parcel is the Wailea Golden Emerald Golf Course. It's approximately 374.846 acres. This, you
37 know, it's called the Wailea Golden Emerald Course. It was always believed to be a part of the
38 Wailea Project. In going through some of the DSSRT mapping process it was concluded that
39 the Wailea Planned Development Area doesn't actually extend all the way through this project
40 site. There have been planned developments processed on this parcel numerous times in the
41 past, and so what we're proposing is just to extend the planned development area boundary to
42 incorporate the northern portion of the project site to basically formalize what people had
43 thought was going on for a long period of time and applications that have been processed in
44 that context.
45

1 So, so just to go back a little back further, when the Wailea Planned Development Area was
2 created it was created to the extent of the urban boundary at that time. And that urban
3 boundary is located roughly here which cuts right across the northern portion of the project site.
4 So when we were getting zoning confirmations and things like that for this parcel it was shown
5 as being in the planned development. But in actuality only those small slivers are inside of it.
6 And so what is being requested of the Planning Commission today is to extend the Wailea
7 Planned Development Area approximately 37.978 acres in that area yellow there that's shown.
8 There's one pop out that we're not requesting. That's a water tank parcel owned by the Board
9 of Water of Supply. The remainder of what you have here, there's a zoned portion of the
10 property up on the mauka end. There's the Mulligan's on the Blue. There's the Golf Course
11 Clubhouse, some accessory type of structures, parking areas, landscape type facilities, and a
12 small portion of the golf course.

13
14 Some of the photographs. This is from Kaukahi and Wailea Alanui. Basically this is the, the
15 lower northwest portion of the project area, and it follows Kaukahi up, and then it also follows
16 Wailea Alanui a little further south. This is heading further south. From this site you're on
17 Kaukahi looking into the project site. This is near the bridge that crosses the golf cart bridge
18 that crosses Kaukahi. At Mulligan's, these are some of the, you know, features within
19 Mulligan's. There's parking, landscaping access way, the Mulligan's parking lot. Again this is
20 the aerial photograph...the area that we're requesting via the extension of the Planned
21 Development Area, 37.97 acres.

22
23 So what I want to do now is just briefly, very briefly go over what the Planned Development Area
24 is. The purpose of the Planned Development Area or the ordinance is to encourage desirable
25 design and land use patterns, protect natural environment, minimize traffic congestions, and
26 enhance living and working conditions. It's deemed desirable to provide a four track
27 development of land in planned development. And so basically what that does is, first of all, it
28 requires that a land owner designates an area of land for this purpose and they go through a
29 series of review and approvals by the Maui Planning Commission. You're used to seeing this
30 for all Wailea projects because all Wailea projects are in the Planned Development except,
31 surprise, this area actually was not. And so we're requesting that extension just to be consistent
32 with the rest of the area.

33
34 So when you're going through the Planned Development Step 1 process, first you identify the
35 area of the proposed project. We're just outlining an area now. There is no planned project for
36 this area. There is a pending subdivision application to subdivide out two parcels...that's going
37 on, but there's no actual planned project for anything. What would --. Those, those are the two
38 parcels that have previously been, been, have State Urban designation as Tara mentioned and
39 have B2 Business Zoning.

40
41 One thing I do want to bring up is that this entire project area is within the Special Management
42 Area. So in the future when there will be a proposed project, SMA Major Permit application
43 would have to be prepared. Potentially another PD Step 1. Definitely a Planned Development
44 Step 2. Those applications would be prepared and submitted to the Maui Planning Department.
45 They would go through agency review. We would have a community meeting. And then there

1 would be a public hearing before the Maui Planning Commission for decision on any of those
2 items if they were proposed.

3
4 Typically a Planned Development Step 2 and SMA Major Permit are done concurrently. And
5 then the final step for a Planned Development is a PD Step 3 where it is presented to the
6 Planning Commission that the building permit plan sets are consistent with the representations
7 that were made on the SMA Major Permit and PD Step 3.

8
9 So...in conclusion, you know, this is basically...in a lot of ways it is housekeeping. A portion of
10 this property has always been in the plan development. It's thought in practice, in planning
11 practice that it had been within the planned development area for many years and we're
12 basically just trying to formalize the extension of the project area by an additional 37 acres to
13 incorporate lands that are already zoned and abutting existing development in order to establish
14 consistency with the existing resort area. Thank you.

15
16 Mr. Carnicelli: Thanks Jordan. Kurt, could I get the sign in sheet, please? Okay, at this point in
17 time if anybody would like to testify on this item please come forward.

18
19 Mr. Mark Hyde: Good afternoon.

20
21 Mr. Carnicelli: Good afternoon. Please state your name.

22
23 Mr. Hyde: Mark Hyde.

24
25 Mr. Carnicelli: Do -- will you tell the truth?

26
27 Mr. Hyde: I will.

28
29 Mr. Carnicelli: Thank you. You have three minutes.

30
31 Mr. Hyde: I'm deeply concerned about this proposal. I'm a resident of Wailea Golf Vistas which
32 is a 48-lot single-family home development just across the street from the golf course. Our
33 development called Wailea Golf Vistas has that name for a reason. That the whole point of it
34 was that it was wrapped around the golf course. And on the other side of the Kaukahi Street
35 where this development would occur potentially is all green belt. It a hole and -- or the 18-hole
36 golf course. And the use is to which the land currently are dedicated are all related to the golf
37 course, none other than that. What I would like to see is to have Wailea Golf meet with our
38 community and the wider Wailea community to discuss what it is that they intend to do. This
39 would be a dramatic change in the character of our neighborhood, and the basis upon which
40 property were bought particular site.

41
42 Over the weekend I looked at the land use designations on the State Land Use map, and it
43 shows the entirety of the gold and emerald course in addition to this portion that they are talking
44 about as being Ag land. Golf courses were grandfathered into Ag land so long as they existed
45 in 2005. And while I had a moment to talk to Jordan Hart in the hallway, and moment to talk to
46 Tara about that, it maybe that the land use map is not entirely correct. But what I just saw was

1 that there's a four acre parcel at the bottom that may have been converted to urban by the
2 County and a two-plus acre portion at the top. That's six or seven acres out of almost 30 to 31
3 acres that's involved here. So I don't pretend to be an expert in all of the ins and outs of land
4 use. I've got a little experience with it. But it just strikes me that if they intend to develop it into
5 an entirely different use from what is in existent from the beginning of the Wailea Resort that the
6 Land Use, State Land Use Commission must be involved to choose the characterization of the
7 property of the significant material portion of the property.

8
9 Then you look at the zoning that is shown on the maps that you have and it indicates at the
10 bottom of this property is A1 Zoning...yet the community plan says it's golf course. And if you
11 look at the community plan and the definition and the uses allowed under the County Code, it
12 can only be for golf courses. So there's a mismatched there. And then there was a swap of
13 land apparently from the Makalii project of some hotel property, a small remnant, they moved
14 that over and put it in the B2 area.

15
16 Ms. Takayama-Corden: Three minutes.

17
18 Mr. Hyde: I'm done. So I just wanted to say I would appreciate it if the Wailea Golf would come
19 talk to us and we could have this conversation about what's going on. And I think the regulatory
20 record here is quite strange. Thank you.

21
22 Mr. Carnicelli: Thank you Mr. Hyde. Does anybody have any questions? Does the applicant
23 have any questions for the testifier? Thank you Mark.

24
25 Mr. Hyde: Thank you.

26
27 Mr. Carnicelli: Is there anybody else that would like to come forward and come testify on this
28 item? Going once. No? Okay. Then without objection, we'll go ahead and close public
29 testimony. So then Jordan, if you could go ahead and....address if you'd like or not.

30
31 Mr. Hart: Sure. I can do that. So one of the handouts that you did receive from the Planning
32 Department is a diagram that I made using the Planning Department, well, the County's updated
33 DSSRT, digital zoning maps. So what I've shown in blue is the existing Wailea Planned
34 Development Area. And then on the lower portion of the screen there, what you're seeing is --.
35 Well, first of all you're seeing Kaukahi here. Kaukahi is separating the two areas. These blue
36 portions on the south end of Kaukahi are where the Wailea Planned Development bled into this
37 project site which caused the, you know, the root of the confusion. So anyway what Mr. Hyde
38 referenced was the PD swap that occurred that was approved by the Maui Planning
39 Commission in 2014 where an HM zoned portion of the Makalii at Wailea project which is
40 completely approved and under construction now. Hotel zone was moved from that project site
41 into the Mulligan's parking lot which can be permitted in a Planned Development. And the
42 reason for that is because they didn't --. It was --. There was no short-term uses in Makalii. It's
43 a, it's a townhouse apartment development and so commercial allows for that. So they moved
44 the commercial into that portion and moved the HM out. And so those are the kind of things that
45 designating this area as a Planned Development will clean up. It's basically Planned
46 Development applications have been processed in that area in the past because of the partial

1 designation of PD was extrapolated to be the whole area. It was in the Planning Development
2 when applicant would get zoning application forms and so this is basically a housekeeping item.

3
4 With regard to the land use designations, these, these two parcels did receive State Land Use
5 District Boundary Amendment.

6
7 Mr. Carnicelli: I'm sorry, Jordan, which two. I mean, we've got so many colors going on here, I
8 can't even see where your pointer is.

9
10 Mr. Hart: Now one thing I want to clarify is this is --. I made a comment with you with my last PD
11 where I only had brown and orange. Now this is the actual DSSRT map and I'm using the
12 colors with the exception of simplifying the existing Wailea Planned Development area.

13
14 Mr. Carnicelli: Okay.

15
16 Mr. Hart: So, let's say the candied cane stripe.

17
18 Mr. Carnicelli: Jordan, could you go ahead and grab the mic and then go point please? Thank
19 you.

20
21 Mr. Hart: Okay. So...to cut to the chase on Mr. Hyde's comments we're adding a regulatory
22 level layer. We're not -- no land use designations are being changed by this. We're basically
23 adding a process where any time we do something we need to come in to the Planning
24 Commission for step by step review. We're also in the Special Management Area. . . (inaudible)
25 . . . Anyway, we're also in the Special Management Area there's a whole SMA Major Permit
26 process that's associated with this, so any of the existing land use designations that are there
27 are there. Any changes that would be proposed by future projects need to go through the
28 normal process. Thank you. The normal process in addition now to the proposed Planned
29 Development process.

30
31 This section of land here which is not a parcel, is just split zoned land did receive full land use
32 designations, as well as this one. The subdivision application that I mentioned that was pending
33 is just to subdivide out those parcels. SMA review is required for that. Any future development
34 that would be proposed on those parcels would require SMA Major Permit as well in the future,
35 PD Step 1, 2 and 3. These areas are identified as Apartment. The Planning Department
36 identified those in the DSSRT mapping process. This area here is approximately -- excuse me -
37 - 19.22 acres of golf course. So all the golf course zoned land that is there remains. All the
38 existing zones for other designations that are there remain. The only thing that's being
39 proposed is to incorporate this into the Planned Development designation which requires a 20
40 percent open space for any development and review by the Planning Commission as well as the
41 other features that are in the ordinance.

42
43 Mr. Carnicelli: Thank you.

44
45 Mr. Hart: I shouldn't have done that. It's probably easier just to, to field questions.

1
2 Mr. Carnicelli: Well, okay, then here's my first question is...if what you're doing is adding a layer.
3 Like let's just start at 50,000 feet here. Why are you doing this?

4
5 Mr. Hart: Okay so...so to back up, the Maui Planning Commission did approve a Planned
6 Development swap in 2014 to move an HM zoned parcel or section of land from Makalii to the
7 Mulligan's site which is fully zoned and in the State Urban District. You know, that was allowed
8 to proceed. Condo docs were completely done. The project is under construction. And, you
9 know, in order to, you know, acknowledge or adopt that move, putting this whole area in the
10 Planned Development makes that legitimate. That's one housekeeping item.

11
12 When these were done in the 90's, the Planned Development applications were done with them
13 even though they weren't in the Planned Development. So basically the Planning Department
14 and the Commission has been treating this area as if it were in the Planned Development and
15 we're basically just formalizing it with an application.

16
17 Mr. Carnicelli: Thank you. Director?

18
19 Ms. McLean: Thank you Chair. I was just going to add what, what Jordan just mentioned at the
20 end there. He's being very generous and not shining a light on the Planning Department and
21 through the Planning Department, the Commission, approving a number of these swaps over
22 many years without that area formally being within the adopted Planned Development. And that
23 came to light not too long ago, and we have had many meetings with Jordan and with Wailea
24 Golf to try to clean this up because it was an oversight on the Department's part that we then
25 allowed the Commission to act on. So that was the Department's responsibility and we, we
26 failed in that. And so we asked them to come in just a free standing thing, not related to any
27 project at all. And I will say that again, Jordan has said it all and I'll say it again. There is no
28 associated development with this. And the concern came to light because of the area outside
29 the area that you're looking at today, that little triangle up in the top left corner, that's under
30 construction. And they were concerned that if somehow that swap was invalidated that that
31 would jeopardize that project, and that's a legitimate concern.

32
33 And so Wailea Golf took the initiative to come in. Initially we talked about just isolating the
34 affected parcels and we thought that's not very responsible there. Rather than have this patch
35 work quilt, just make it a clear area which is what they've done. And so this is really helping the
36 Department as well as Wailea Golf get this cleaned up. Once this area is added it will be
37 treated just like any other area within the Wailea Planned Development as Jordan described
38 that further Planned Development approvals would be needed, SMA permits would be needed,
39 etcetera for any development to occur. So while we characterize it as a housekeeping
40 amendment it's a very messy housekeeping amendment, and we thank Jordan and Wailea Golf
41 for bringing this forward because it was a responsibility that they're sharing with us. Thank you
42 Chair.

43
44 Mr. Carnicelli: So, so if I could Director. Then, you know, like to address some of the concerns
45 by, by Mr. Hyde where as far as okay, you know, views or what's going away, what's going to
46 be built there or not, that's still going to be addressed in whatever comes down the road, then,

1 right? So it's like so, okay, if there's going to be a thing built there, we're still going to have to go
2 through the process and all of the folks in the Golf Vistas are going to have to be notified and
3 yadda, yadda, yadda.

4
5 Mr. Hart: Chair, Jordan Hart. Yeah, so, so if they're, you know, and I'm assuming there are
6 parcels that are zoned so there will be something at some time that's proposed. When those
7 plans are prepared there would need to be a PD Step 1 and or 2. Definitely a 2 but possibly a 1
8 prepared where you prepare what the plan is, identify your 20 percent open space. Very likely
9 the value of these things would be over \$500,000 which means there's an SMA Major Permit in
10 which case you'd have to prepare archaeological studies, architectural plans, landscape
11 architectural plans, traffic impact assessment reports, preliminary drainage and engineering
12 reports, and an SMA Major application. Prepare all of that. Submit it to the Planning
13 Department. If it's deemed complete, it goes to all the agencies for review. You have a meeting
14 with neighbors with 500 feet; you collect their feedback. You go to the Urban Design Review
15 Board; you collect their feedback. Then you present it to the Maui Planning Commission for a
16 decision on a PD Step 2 and an SMA Major Permit.

17
18 Mr. Carnicelli: Thank you Jordan. Commissioners, any questions at this time? Kahu Hill.

19
20 Kahu Hill: I had heard that this could take up one of the holes here on the golf course. Is this
21 part of the golf course that's being used at this time?

22
23 Mr. Hart: I'll, I'll go back to an aerial photograph and I might bring someone from Wailea Golf to
24 be able to --. Well, if there's a little better --. If the light can go down a little bit you could see it a
25 little better, but there's a portion of a hole is up here. You can see it. You know, I don't think it's
26 significant. It's a portion of the approximately 19 acres that is within golf course zone. But the
27 difference between golf course zone and actual whole use is, is something different. So, you
28 know, I don't think that it's a significant portion of it and adjustments can be made. But I can
29 bring up somebody from Wailea Golf if they want to add to that.

30
31 Mr. Peter DeSwagger: Hi Peter DeSwagger from Wailea Golf. We don't have any current plans.
32 It does include some of the golf course holes, and one of the holes is on the blue course,
33 directly across from the Golf Vistas. But there's no plans to adjust those holes at this time.
34 We're just trying to clean up a messy zoning situation. Thanks.

35
36 Kahu Hill: Mahalo.

37
38 Mr. Carnicelli: Commissioner Tackett.

39
40 Mr. Tackett: So my question is how, how does the process that would have to go down now
41 different from the process that, that you're looking to put into effect?

42
43 Mr. Hart: Currently we wouldn't have to do any Planned Development Step 1, 2, and 3 which is
44 Step 1 is present the general concept to the Planning Commission for their review and approval.
45 Step 2 is to present a more detailed level of design to the Planning Commission for their review
46 and approval. And then Step 3 is to present the building, the construction level documents to

1 the Commission and confirm that they are consistent with the representations that were made in
2 Step 2. So currently we wouldn't need to do those things under this process. But, but as
3 proposed we would be adding those in. So it's just basically an additional layer of Planning
4 Commission review and involvement.

5
6 Mr. Carnicelli: Any other questions? Seeing none. Tara?

7
8 Ms. Furukawa: Okay so currently no swaps are proposed. The area is already in golf course
9 use. Because this proposal meets the critical for a Step 1 Planned Development approval the
10 Department is recommending approval. And the Department is also asking that the Maui
11 Planning Commission authorize the Director of Planning to transmit the Decision and Order on
12 behalf of the Planning Commission.

13
14 Mr. Carnicelli: Thank you. Motion? Commissioner Pali.

15
16 Ms. Pali: I hope it's as simple as it sounds. I'd like to make a motion to adopt the Planning
17 Department's recommendation.

18
19 Mr. Carnicelli: Do I have a second? I'll second it. So we have a motion on the floor to adopt as
20 recommended by staff. Would you like to speak to the motion?

21
22 Ms. Pali: I just feel okay about it just because this doesn't grant permission to move dirt or pop
23 up a high rise or anything like that. It just, sort of, it sounds like it's just allowing whatever was
24 already granted to be in line with what should be with our current models and community plans
25 and so forth. And I think we're all for cleaning up these maps because we do see a big disparity
26 between the new community plans and zoning and things, and so I think this is just a step in the
27 positive direction.

28
29 Mr. Carnicelli: Thank you. Would anybody else like to speak to the motion? I will. I, I -- it's
30 interesting because when I first got this and I first read it, it was, like, okay this just makes
31 sense. Mr. Hyde's testimony and written and verbal, you know, raised some questions.
32 However as I looked at what this is and what it's, you know, intent is and what's actually going
33 to happen with this I do believe that the concerns of the neighborhood above are going to be
34 addressed as things move along. You know, if there is something to be, you know, built,
35 changed, developed, those folks will be a party to that and they will be notified and there's a
36 process. And as the Director said and as the applicant said, this adds an additional layer. It's
37 not taking away a layer. So, I'm going to go ahead and support the motion.

38
39 Would anybody else like to speak to the motion? Kahu Hill?

40
41 Kahu Hill: I just wanted to say that it's being built up so much in Wailea to be conscience of so
42 much of this golf area or empty spaces. And I think it's really good to be learning about these
43 swaps. I don't always understand about these swaps. I heard it could be business or
44 residential or something else and that's the only thing of not knowing. I hope the people and
45 community can, yeah.

46

1 Mr. Carnicelli: Well, we have a motion on the floor so it's one of those things that I would like to
2 let you address it Jordan, but we have a motion on the floor so...would anybody else like to
3 speak to the motion? Commissioner Tackett.

4
5 Mr. Tackett: So I kind of feel the same way about the --. I just don't feel like I completely
6 understand it. That's all.

7
8 Mr. Carnicelli: Anybody else? No? Alright, Director.

9
10 Ms. McLean: The motion is to approve the Step 1 Planned Development request.

11
12 Mr. Carnicelli: All in favor? I have two ayes. Against? That's two against and one abstain so
13 the motion fails.

14
15 **It was moved by Ms. Pali, seconded by Mr. Carnicelli, and**

16
17 **The Motion to Approve the Step I Planned Development Approval, FAILED.**

18
19 **(Assenting – K. Pali, L. Carnicelli, A. Hill – Abstained)**
20 **(Dissenting - C. Tackett, P D. La Costa)**
21 **(Excused – S. Castro, T. Gomes, L. Hudson, K. Robinson)**

22
23 **After further discussion:**

24
25 Mr. Carnicelli: I guess at this point I will ask is there additional information that you would like at
26 this time?

27
28 Mr. La Costa: Thank you Chair. As with some of the other Commissioners, the land swaps, the
29 designation that shows on here, and yes there is another layer added, I just feel uncomfortable
30 seeing the bits and pieces. And if you approve in a blanket this I just don't get all the pieces
31 and parts working together.

32
33 Mr. Carnicelli: Okay.

34
35 Mr. Tackett: Back to the same thing. I don't approve something because I just don't understand
36 it. I would like to approve it because I, I, I believe in what the Director is trying to do. But I
37 wouldn't feel like I was doing the right thing if I approved something I didn't completely
38 understand. So I've read it. I've read it again. I've listened to what you said. I listened to what
39 she said. It makes sense. It seems a little simpler than, than what I'm comfortable with, with
40 what I've heard, and, and that's why I'm weary. I don't, I don't completely understand it so my
41 apologizes if I'm holding people back.

42
43 Mr. Carnicelli: No, I mean if you're --. That's, I think that that's --. I like the fact that that is the
44 case. Personally the fact that you don't understand it, don't just green light it. I mean, you've
45 got to understand it, so that's, that's totally fair. I guess my question is to the applicant and to

1 the Department. Do you understand enough of what we don't understand to be able to give us
2 what we could understand to make a decision?

3
4 Ms. La Costa: I'd like to understand that.

5
6 Mr. Hart: I think that I do. I was trying to be --. Obviously I was here. It's a long day and I know
7 that and I had viewed this as a smaller item and so I was trying to rush and that might not have
8 been the right move. To -- yes, and, and depending on how much time you have for me and I
9 can spend all of that time. And I think that also the Department might want to spend a little bit
10 more time with the Commission on Planned Developments because that is a part of your
11 authority and responsibility and we always come to you for those, for projects in Wailea so,
12 so...you know going over that would be a good idea. But I think that the, the most important
13 thing I think to emphasize today is that there is no land use designation changes that are being
14 proposed. The land use designations that are there on this DSSRT. Sorry. The DSSRT map.

15
16 Mr. Carnicelli: On the color coded?

17
18 Mr. Hart: Yeah. Those are existing land use designations so --. These are the existing land use
19 designations for the area. So the only change would be the boundary. Now on your diagram
20 that you have in your packet is an orange line, and that's the Planned Development line. So
21 Mr. Hyde raised a lot of different questions about land use designations. As an example,
22 why...why isn't the State Land Use Commission's map showing the County of Maui's District
23 Boundary Amendments and Change in Zoning for these two sections of land. You know, that
24 would be a communication item and a documentation item between the County of Maui and the
25 State Land Use Commission. Nevertheless these ordinances are adopted and, you know, the
26 Department has them in their files and they're within the Department's -- or the Council's
27 authority to do those kinds of changes. So that was an inconsistency in mapping. Why is the
28 Community Plan not reflect the Zoning? We could day all day long on comparing Community
29 Plan not matching up with Zoning. That's constantly happens. Community Plan is future
30 proposed zoning. On top of that sometimes there's mapping errors, so there's a number of
31 different things that explain anomalies like that. So as I've said the County of Maui just went
32 through their digital zoning map update process where they cleaned house on everything, and
33 you know, this area is outside of the Wailea Planned Development area so it's, you know, these
34 land use designations are what they are now. There's no proposed land use designation
35 changes. The PD Step --. Adding the Planned Development process does...does allow for
36 future swapping of land, moving zoning around. Now the Commission does need to spend
37 some time to understand that Council made that ordinance and invested the Commission with
38 the authority to supervise those swaps. But that is a thing that we have in County of Maui land
39 use that exists and is done very often in Wailea especially. And that's just a, that's just a
40 comfort thing that you'll have to engage because you're the body that approves those, those
41 decisions.

42
43 But as far as today, what we're doing is identifying an area that had thought to have been
44 already identified as we're showing now. We're basically doing the paperwork to document that
45 it is in the Planned Development area. There's no swaps proposed today. No development

1 proposed today. It's just basically saying that this area is now under the supervision of the
2 Planning Commission in the Planned Development process.

3

4 Mr. Carnicelli: Commissioner Tackett.

5

6 Mr. Tackett: So if adopted today is there any change to the amount of land that can be
7 developed? Is it the same amount of land that can be developed? Is there less land that can be
8 developed or is there more land that can be developed if this change takes place today?

9

10 Mr. Hart: I would actually say that there is less land that can be developed because there's a 20
11 percent open space that's required with the Planned Development designation that is not
12 required in other --. Like if you don't put Planned Development over existing zoning, you can
13 develop, you know, 100 percent of it let's say. But in the Planned Development you have to set
14 aside 20 percent for open space no matter configuration you're doing. So I would say it's a
15 reduction of developable area.

16

17 Mr. Tackett: Do you agree?

18

19 Ms. McLean: Yes, Planned Developments do have the 20 percent open space requirement. It
20 also, no matter what, the, the land is subject to the uses allowed by the zoning. So whether
21 that's in the planned development as proposed or it remains outside of the planned
22 development, the use is still controlled by the zoning. What the planned development would
23 allow would be for uses to be swapped which you've seen before and you've approved before.
24 It doesn't increase it. It just says, oh, instead of doing business here and hotel here, we're
25 going to do hotel here and business here. Same acreage, it's just moving it. So it doesn't
26 increase the land and with the 20 percent open space there would be more open space.

27

28 Mr. Tackett: Okay.

29

30 Ms. McLean: And we're not doing a swap now. It just puts more land into the area where swaps
31 could occur. But again those would -- there's nothing on the table now and it doesn't seem like
32 there's anything being considered at the moment.

33

34 Mr. Tackett: And could those swaps happen in house or would they all have to come through
35 this Commission for approval?

36

37 Ms. McLean: They would all have to come to the Commission. Those cannot be done in house
38 and...depending on the value, and they're generally higher value, they would also have SMA
39 permits along with them.

40

41 Mr. Carnicelli: Commissioner La Costa.

42

43 Ms. La Costa: Thank you Chair. So Jordan, my biggest confusion are the two triangles. One
44 outside the boundary, one inside. One is shown as being the two business and the other is
45 hotel. So I, I guess part of my discomfort is you have a little funky thing here, and then you have

1 another one here, and they don't appear to be this one swapped for that one. So could you
2 clarify please?

3

4 Mr. Hart: Sure. And this will be an opportunity to kind of go back and clarify the commercial
5 versus the residential comment that I kind of breezed through. So basically in, in County zoning
6 the commercial land use designation also allow for the apartment land use designations. And
7 so that -- so as it happens the Wailea Planned Development line ran right through the Makalii at
8 Wailea project site. So you see that triangle there. That was the HM Hotel zoned parcel. And
9 so in 2014 when we were preparing to do that Makalii project we came to the Planning
10 Commission and asked to swap the hotel zoned land out into the Mulligan's parking lot because
11 it's a long-term residential project. You don't --. There's no short-term use so there would be
12 no need to use that hotel zone at that time. So they basically said, you know, we have a higher
13 value zone, we'd like to reserve it and see if we have a future use for it so we'll move it across
14 the street to where we have land. And like I said we processed the application for a planned
15 developed swap. We got the zoning confirmations that we're in the planned development.
16 Everything appeared to be in order. We came to Planning Commission. Had a meeting just like
17 this. Made the decision to make that move and it happened. And then doing the DSSRT
18 process and also the subdivision that was mentioned, the Planning Department dug deeper in
19 the files and we concluded the line actually ended right there and that we need to make this
20 correction which we're here today to do. Now -- so that was a direct swap. This, this, B2 came
21 from there. So it is, it is a one for one swap, and that's always what it is. In a planned
22 development you can only do an equal relocation of land. And that's, you know, what this
23 planned development ordinance allows to be done under the supervision of the Planning
24 Commission. And that's why whenever we present swaps we show a table and it has, you
25 know, all of the zoning designations and they all balance at the end to the equal amount of
26 acreage. So that's just...that's why this is a housekeeping item is because there was approvals
27 that happened in the past under the presumption that this was the case, and we're basically
28 doing to process of documenting that it is in the Planned Development.

29

30 Mr. Carnicelli: Kahu Hill.

31

32 Kahu Hill: I can see why this is needing some clean up and I really want to understand it to be
33 able to support what I need to support. I may have this wrong. I thought this, the Step 1
34 Planned Development is approval for the expansion of Wailea Planned Development to include
35 this 37.97 acres. And I'm hearing about the swap, but I'm also hearing expansion. The word
36 expansion --

37

38 Mr. Hart: Yes.

39

40 Kahu Hill: -- in development?

41

42 Mr. Hart: So to clarify. Okay, so, so...the Wailea Planned Development area is a designation
43 that's subject to the Planned Development ordinance, and that is basically the process that I
44 read through on how the Planning Commission reviews Step 1, 2, and 3. And so there's an
45 existing area that's shown in blue here that's already subject to that, that any time you're doing
46 a project in that area, a Planned Development Step 1, 2, and 3 will be presented to the Planning

1 Commission normally along with an SMA Major Permit. And we're expanding the area where
2 we would also have to present those Step 1, 2, and 3 to the Planning Commission.

3
4 Kahu Hill: And this may be ahead of, ahead of it, but if you are -- if you're letting go a part of
5 whole where someone might have their home on the ninth hole, for instance, or they live in that
6 area, what would happen or could happen in the future about taking more of the golf course and
7 developing and that...on a golf...that was a golf course and they bought in this area, Wailea
8 Golf?

9
10 Mr. Hart: Okay. So, so just to clarify, there's no homes in this area, and the land is completely
11 owned by Wailea Golf. This is only their property. And...but, you know, if there was a proposal,
12 as an example, across the street from the subdivision, there is a proposal to do developments in
13 what is now a golf course, we would go through that public process where we prepare a whole
14 SMA Major Permit application and our PD Step 1 and 2. We've presented to the Planning
15 Department for distribution to agencies for review and comment. We have a meeting with
16 neighbors within 500 feet and hear their concerns. We present the project to the Urban Design
17 Review Board. They do things like analyze views. And then we come to the Maui Planning
18 Commission for a public hearing. There's a certified notice of public hearing to all the neighbors
19 with 500 feet. And Commission takes testimony, goes over the impact of the Special
20 Management Area, as well as any concerns they have with regards to the Planned
21 Development guidelines, and make a decision on whether or not the project is appropriate.

22
23 Kahu Hill: Mahalo.

24
25 Mr. Carnicelli: Jordan, I just want to say that you do a really good job of trying to balance of
26 respecting our time, and whizzing through stuff, and also saying like, okay, I've got to do my due
27 diligence and lay everything out. So, I just want to say thank you for that. Does anybody else
28 have any other questions at this time?

29
30 Ms. Pali: Can I speak to it?

31
32 Mr. Carnicelli: Sure. Go ahead.

33
34 Ms. Pali: I'd like to speak to the motion and --

35
36 Mr. Carnicelli: The motion failed so there's no longer motion on the --.

37
38 Ms. Pali: Okay, fine. For discussion then

39
40 Mr. Carnicelli: There's no longer a motion on the floor.

41
42 Ms. Pali: Okay perfect, so I can speak then. So I'm going to -- I'm going to tell you what I
43 believe you have said in hopes that I get it right and maybe we can all be on the same page.
44 So right now what we're looking at, this map, Wailea Golf owns it all. Did you say that?

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46 Mr. Hart: The area that we're working --

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Ms. Pali: The area that you'd like to expand into Step 1, 2, and 3.

Mr. Hart: An easier diagram to look at. So the area that we're talking about is in yellow.

Ms. Pali: Okay.

Mr. Hart: And that's all owned by Wailea -- this is all the Wailea Golf. This is the area that we want to add to the Planned Development and that is all owned by the Wailea Golf.

Ms. Pali: So today we're looking at specifically the area highlighted in yellow which is owned by Wailea Golf. And you guys put the dotted line above that's already into this special -- what do you call it?

Mr. Hart: A point of clarification is that, that is the extent of the original Wailea Planned Development area.

Ms. Pali: Okay, Wailea Planned Development area. And now you'd like to --. You already have the uses in place. You already own the land. You're not changing zoning. You're not going to change the use but you're just going to incorporate more of your property you already own into this same plan to correct something that's already been approved in 2014.

Mr. Hart: Sure, and just to add on to that. Because of these little red segments that are inside the parcel, it was thought that the entire area was in this planned development and it caused a series of misunderstandings. And so what we're basically just trying to do is extend this yellow area to encompass those lands that are zoned that I showed in the other map, into the planned development area so that it processes with the rest of the Wailea Planned Development as a coherent project rather than, you know, this area that's currently hanging out there now.

Ms. Pali: So whatever we approve today is not really approving anything new. Just sort of validating approvals that happened in 2014.

Mr. Hart: That's correct.

Ms. Pali: Okay.

Mr. Carnicelli: Commissioner Tackett.

Mr. Tackett: That's helpful. So in the yellow area that you have right there, there's development already there. Correct?

Mr. Hart: Mulligan's on the Blue, as an example, is there.

Mr. Tackett: Correct.

Mr. Hart: Yeah.

1
2 Mr. Tackett: And those, the process has already gone through. It's been implemented. And the
3 reason why that was implemented that way is because those two little slivers kind of changed
4 the whole thing red for people's perspective for a while. So as all these things got built, they
5 thought everything was red, but it's really not all red. That big chunk was, was mistakenly
6 understood for being the same zoning as that above the, the dotted line. And now you're trying
7 to correct those properties that have already been built that are below that dotted line. Yes or
8 no?

9
10 Mr. Hart: Generally, yeah. There's a little terminology difference that may have been used. It
11 was thought that the golf courses were in the planned development, and so planned
12 development applications had been processed in there. The land use designation is --. Okay,
13 so zoning is its thing. Planned development designation is --. Let's just go through the whole
14 thing. So you've got State Land Use District. Then you have the Maui Island Plan. And then
15 you have Community Plan, and then you have Zoning, and you have the Special Management
16 Area, and then the Planned Development is like another designation. It allows for review and,
17 and zoning swaps and things like that. So basically State Land Use, Community Plan, SMA,
18 County Zoning, those are all -- they're on their own and they're established. The discrepancy is
19 on the Planned Development level, really. And so you're right, that because this was thought to
20 be within the Planned Development, the Planning Department and the Planning Commission
21 was processing Planned Development applications. And when it came to light that it wasn't
22 completely in the Planned Development area, this is the agreed upon method of, of clarifying
23 the boundaries and incorporating those areas as you mentioned, as existing development.

24
25 Mr. Tackett: So people have invested money into it for something that they thought they had
26 and they don't. And so basically it was money invested that, that they didn't get what they
27 thought that they were going to get. They did, but it's not clean the way it should be.

28
29 Mr. Hart: I think that's the better way to put it is that, is that, together the applicant, the
30 Department, the Commission went through a process and made approvals under, under some,
31 what they thought was correct at the time. Going through the documents with a fine tooth
32 comb, it came to light that there needs to be some clarification and we're here to clarify. But,
33 yeah, financial commitments, time commitments were made on parts of the private property
34 owner, representations by the Department, decisions by the Commission. So it was a
35 community process. There were public hearings that happened and things like that, but it's just
36 -- you know, we're just trying to clarify the record and confirm that this is in the Planned
37 Development area.

38
39 Mr. Tackett: Thank you. That was helpful.

40
41 Mr. Carnicelli: Kahu Hill.

42
43 Kahu Hill: One last question. I just wanted to know, to understand, and if I've missed, forgive
44 me, any of that part at this time is Ag land, and is zoned Ag land or protected land?

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46 Mr. Hart: There are portions that are State Land Use designated Ag.

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Kahu Hill: And are you looking to change that or are you preserving that?

Mr. Hart: Well, that's --. Okay, so that's what Mr. Hyde brought up as well is that previously golf course was permitted in State Ag and so it no longer is permitted in State Ag so that would be considered to be existing non-conforming or grandfathered. But something else important to bring up is that this is in the urban growth boundary for the County of Maui, and so the County is basically saying that this is within the urban growth boundary. Now golf course is no longer a State Ag use so whether or not the State Ag designation goes away; I'm not certain of that. If, if there is a proposal to do something different in there in the future maybe that would need to change, but that is consistent with the County's Maui Island Plan.

Kahu Hill: Yes, Michele.

Ms. McLean: Yes, that is accurate. But in order for development to take there, development other than agriculture I should say, the land use designation, the State Land Use designation and the State Land Use boundary would have to be amended, as well as the other approvals that would be needed.

Mr. Hart: And just to add on to that. So that means either going to Council for something that's less than 15 acres, or going to the State Land Use Commission for something greater than 15 acres. So anything that would happen in the context that you're talking about still needs to go through the formal process.

Kahu Hill: Mahalo.

Mr. Carnicelli: So Commissioners, I guess the question that I have at this point is does everybody feel like they have enough information to be able to make an informed decision at this time? Yeah? Yeah? Okay, then I guess at this juncture I will entertain a motion.

Ms. Pali: Shall I? So I would like to recommend a motion or make a motion to approve the Department's recommendation regarding this proposal.

Mr. Carnicelli: Do I have a second? Seconded by Commissioner La Costa. Would anybody like to speak to the motion?

Ms. Pali: I would.

Mr. Carnicelli: Commissioner Pali.

Ms. Pali: Thank you for the housekeeping.

Mr. Carnicelli: Kahu Hill.

Kahu Hill: I'm open to move forward with this and change where I was and I just hope you can open too those better in the area of Wailea as we move forward because it's growing so fast.

1
2 Mr. Carnicelli: You earned your money today, Jordan.

3
4 Mr. Hart: What was that?

5
6 Mr. Carnicelli: All those in favor of the motion, please raise your hand? That's five ayes, motion
7 passes.

8
9 **It was then moved by Ms. Pali, seconded by Ms. La Costa, then**

10
11 **VOTED: To Approve the Step I Planned Development Approval, as**
12 **Recommended by the Department.**

13
14 **(Assenting – K. Pali, P D. La Costa, A. Hill, C. Tackett, L. Carnicelli)**
15 **(Excused – S. Castro, T. Gomes, L. Hudson, K. Robinson)**

16
17 Mr. Hart: Thank you Department and Commission for your time.

18
19 Mr. Carnicelli: At this juncture my brain needs about a six minute break so we will take a recess
20 until 3:35 p.m.

21
22 *(The Maui Planning Commission recessed at 3:29 p.m. and reconvened at 3:35 p.m.)*

23
24 Mr. Carnicelli: Maui County Planning Commission meeting of November 27, 2018 is back in
25 session. Director would call the next item?

26
27 Ms. McLean: Thank you Chair. Reading from the agenda this is from Commissioner Lawrence
28 Carnicelli indicating at the Commission's November 13, 2018 meeting that he would make a
29 motion to rescind the County Special Use Permit denial action by the Maui Planning
30 Commission on September 25, 2018 of the following: Hearing Officer's Report dated
31 July 13, 2018 from E. John McConnell, Retired Judge and Hearing Officer containing his
32 proposed Findings of Fact, Conclusions of Law and recommendation regarding the following
33 remanded application: County Special Use Permit application from Seashore Properties LLC
34 for the proposed nine-room transient vacation rental on the property referenced as a Paia Inn
35 located at 93 Hana Highway at TMK: 2-6-002: 027 in Paia.

36
37
38 **3. COMMISSIONER LAWRENCE CARNICELLI indicating at the Commission's**
39 **November 13, 2018 meeting that he would make a Motion to Rescind the**
40 **County Special Use Permit denial action by the Maui Planning Commission**
41 **on September 25, 2018 of the following:**

42
43 **Hearing Officer's Report dated July 13, 2018 from E. JOHN MCCONNELL,**
44 **Retired Judge, and Hearing Officer, containing his proposed Findings of**
45 **Fact, Conclusions of Law, and recommendation regarding the following**
46 **remanded application:**

1
2 **County Special Use Permit application from SEASHORE PROPERTIES, LLC**
3 **for the proposed nine (9) room transient vacation rental on the property**
4 **referenced as the Paia Inn located at 93 Hana Highway, TMK: (2) 2-6-002:**
5 **027, Paia, Island of Maui. (CUP 2015/0006) (CTB 2015/0009) (SMX**
6 **2015/0522) (K. Wollenhaupt)**

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
12 **The Commission may consider a Motion to Rescind the above-referenced**
13 **County Special Use Permit denial action by the Maui Planning Commission**
14 **on September 25, 2018. If the motion is approved by a majority vote, the**
15 **Commission may take action related to the County Special Use Permit.**

16
17 Mr. Carnicelli: Thank you Director. So at this time Commissioners I'm gonna go ahead and
18 make a motion to rescind the Special Use Permit denial that is on the record and before I ask
19 for a second I just want everybody to kinda understand where we are on this is that procedurally
20 we have had a motion, a second, discussion and adoption of that motion. According to Robert's
21 Rules a motion of that nature can be rescinded. So that is what I'm going to be asking of you
22 guys today or that's the motion that's on the floor that's not seconded yet. Should that be
23 adopted we're basically back to where we were prior to that adoption. We've had public
24 testimony, we've presentations, we've had everything...everything...the record is set. It's just a
25 matter of okay, that particular motion and denial is I'm just asking to rescind that and then we
26 can then start basically anew from there. So would someone like to second the motion?

27
28 Ms. La Costa: I second.

29
30 Mr. Carnicelli: Commissioner La Costa. Okay, so there's a motion on the floor. Would anybody
31 like to speak to the motion?

32
33
34 **It was moved by Mr. Carnicelli and seconded by Ms. La Costa to Rescind the Denial of**
35 **the County Special Use Permit.**

36
37
38 Mr. Terry Revere: Excuse me, I'm sorry Mr. Chairman --

39
40 Mr. Carnicelli: No.

41
42 Mr. Revere: -- Terry, Terry Revere, I represent the applicant and --

43
44 Mr. Carnicelli: So would anybody else like to speak to the motion?

45

1 Mr. Revere: And Mr. Chairman if I could we just do have an objection we don't believe that the
2 motion is proper at this time

3
4 Mr. Carnicelli: So noted.

5
6 Mr. Revere: Okay, could I state my reasons?

7
8 Mr. Carnicelli: We --

9
10 Mr. Revere: It's just something...if you folks go in executive session you might want to
11 consider.

12
13 Mr. Carnicelli: What is your request?

14
15 Mr. Revere: Yeah, my --

16
17 Mr. Carnicelli: What is your request?

18
19 Mr. Revere: Well, I just wanted to point out as a point of information that we don't believe that
20 the motion is proper at this time because we don't believe one, the commission has jurisdiction.
21 Two, we believe under your own rules that it has to be a party that asks for reconsideration or
22 rescission not a commissioner. Three, under Robert's this type of motion has to place in the
23 same session. This is a different session. We've also...the Commission was required to and
24 did state its position on the record. We've taken appeal from that and we believe the case is
25 before the Second Circuit currently so for those reasons we don't believe the motion is proper at
26 this time and we believe it's out of order and that's just something I ask for the Commission to
27 consider if they go into executive session or otherwise.

28
29 Mr. Carnicelli: Noted. Thank you.

30
31 Mr. Revere: Thank you.

32
33 Mr. Carnicelli: So at this time, if none of the other fellow Commissioners object I would like to
34 make a motion to go into executive session to discuss our powers, duties, privileges, immunities
35 and liabilities with Corporation Counsel? No objections?

36
37 Commission Members: No objections.

38
39
40 **Chair Pro Tem Carnicelli moved that the Commission go into Executive Session to**
41 **discuss the Commission's powers, duties, privileges, immunities, and liabilities with**
42 **Corporation Counsel which the Commission unanimously voiced no objections.**

43
44
45 Mr. Carnicelli: Okay, great. The Commission will go into executive session. Thank you.

46

1 *(The Planning Commission recessed the regular meeting at approximately 3:39 p.m. to enter into*
2 *Executive Session and adjourned at 4:17 p.m. The Planning Commission reconvened the regular*
3 *meeting at approximately 4:20 p.m.)*
4

5 Mr. Carnicelli: Maui County Planning Commission of November 27, 2018 is back in session.
6 So where we are currently is we have a motion to rescind on the floor with a second. As I
7 stated before the break where we are is should we vote favorably in regards to that motion then
8 we go back to square one with which is...and either accepting Hearing Officer's McConnell's
9 findings, rejecting them or deferring. So with that said, would anybody like to speak to the
10 motion? Okay...yeah, I probably should speak to the motion.
11

12 So this is, this is sort of where I am and why I decided to make this motion is as most people
13 know this is a very long case. It's got hundreds if not thousands of pages of documentation.
14 When we were given that, you know thumb drive it was so big we didn't even get, we didn't
15 even get a stack, we got a thumb drive is going through all of it was, was quite overwhelming.
16 And I'm not sure that all of us even understood exactly how and why we were supposed to be
17 going through that information at that time. We got to the meeting, we inferred with Corporation
18 Counsel and understood okay, this is what we're supposed to do. So we made that...I made
19 that motion and we voted on it. And what I would like to do is with the...if we rescind it is to go
20 ahead and to be able to then and that's the other reason why you know gave everybody time
21 and I told everybody, I put everybody on notice that I was doing that is it gave us time to be able
22 to look at the record and everything that's on the record from the standpoint of really
23 understanding what it is the decision that we're supposed to make. So that's essentially why I
24 have brought forth this motion to you guys. So would anybody else like to speak to the motion?
25

26 All right, so Director.
27

28 Ms. McLean: Thank you Chair, the motion on the floor is to rescind the County Special Use
29 Permit Denial Action that the Commission took on September 25, 2018.
30

31 Mr. Carnicelli: All in favor of the motion please raise your hand. That's five ayes. So the
32 motion passes.
33
34

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

36
37 **VOTED: To Rescind the Denial of the County Special Use Permit.**

38
39 **(Assenting – L. Carnicelli, P D. La Costa, A. Hill, K. Pali, C. Tackett)**
40 **(Excused – S. Castro, T. Gomes, L. Hudson, K. Robinson)**
41
42

43 Mr. Carnicelli: So what I would like to say next then is that where we are is we, just to kinda go
44 through and please correct me if I'm wrong but historical context Judge Loo is, here why don't
45 you walk us through what we made so then I don't mess it up and you can give us the how the
46 bouncy ball happened.
47

1 Mr. Galazin: All right. Thank you Chair. So for the members this...this was an application to go
2 ahead and operate the Paia Inn. The...that was appealed and out of a settlement of that the
3 Department agreed not to take a position against the application and the applicant agreed to
4 bring the application back before this body. And that decision was made, that was appealed
5 and the subsequent appeal it was agreed upon that they request the appointment of a hearing
6 officer and that's why Retired Judge McConnell was selected by this body back in June I believe
7 to be the hearing officer. And then the report was brought back to you and that is what you
8 voted on, that's what the motion, the original motion was regarding the hearing officer's report
9 and the motion was to not accept the report. I believe if I recall at the time there were some
10 problems with...identified there were some problems with the report and the motion was made
11 to reject the report and also to simultaneously deny the application. That's how we ended at the
12 spot we're at now. That action by...motion just now has been rescinded so you're at the point
13 where you have the hearing officer's report and I believe probably Commissioner Carnicelli has
14 a motion he would probably like to make.

15
16 Mr. Carnicelli: Thank you Corp. Counsel. So the first...I think before I even do that I do want to
17 say that part of the confusion I think at the last time, and I'm not even going to say confusion but
18 part of the thing is where does the burden of proof lie? Like you know we got this report from
19 hearings officer McConnell and you know do we have the burden of proof to say that what he
20 did, you know his report was wrong or where's the burden...and so but if I go to Hawaii Revised
21 Statute 91-10 (5) the party initiating the proceeding shall have the burden of proof including the
22 burden of producing evidence as well as the burden of persuasion. The degree or quantum of
23 proof shall be a preponderance of the evidence. That does not fall on us, that that does not fall
24 on me. That falls on the applicant.

25
26 Also, pursuant to Maui County Code Section 19.510.070, Special Use Permits require that the
27 proposed action meet eight requirements for the granting of the permit of which the eighth is not
28 applicable in this situation. So the eighth is not applicable that is...it only has to do with
29 agriculture. So this isn't in ag. Everybody's agreed that this is not in ag. So we're dealing with
30 seven criteria with which a preponderance of the evidence, the burden of proof via a
31 preponderance of the evidence is not on us but is on the applicant. So if I go through the
32 hearing officer's report he obviously has come to the conclusion that the applicant has met all
33 seven of those criteria.

34
35 However, I personally disagree with some of the findings in his report and I will, you know,
36 enumerate those in a second, but first so...so what I'm...actually what I would like to say is I
37 disagree with his conclusion that the applicant has met Item Number 1, that the proposed
38 request meets the intent of the General Plan and the objectives and policies of the applicable
39 community plan of the county. I disagree with the hearing officer's findings that the applicant
40 has met the fifth condition which is the proposed development will not adversely impact the
41 social, cultural, economic, environmental and ecological character and quality of the area and I
42 disagree with the hearing officer's findings that the applicant met the sixth criteria which is that
43 the public space be protected from deleterious effects of the proposed use.

44

1 So what I would like to propose a motion is that we...let's see, that we reject the hearing
2 officer's findings that the applicant has met Criteria 1, 5 and 6 of Maui County Code 19.510.070,
3 Special Use Permits. So that is my motion. Do I have a second?
4

5 Ms. La Costa: Second.
6

7 Mr. Carnicelli: Second by Commissioner La Costa. So as the movant I will go ahead and speak
8 to...basically I'm gonna kinda just speak to the hearing officer's report and kinda go through
9 some of the things. First off, I would like to say that I find that the hearing officer was not...we
10 did not vote for the hearing officer unanimously. There was questions and objections to actually
11 picking this particular person. And so anyways I just want that on the record.
12

13 When I read through this I find that it is, it is not written in an objective way that weighs all of the
14 evidence with which was presented to us. So I feel as though he kind of did us a disservice by
15 not presenting...basically not taking in everything. As an example, the reason why the Judge
16 asked us to get a hearing officer was from the lack of sworn testimony. Well, Judge McConnell
17 or I'm sorry Hearing Officer McConnell only called four witnesses, the applicant, two of the
18 applicant's employees, people that are employed by him and the Director who was actually by
19 the settlement agreement had to remain neutral. So he didn't call one person that was
20 opposed. He didn't take that into account even though that is what the Judge has said. In his
21 report he says that he called five witnesses but only names four.
22

23 In his report he says that the criteria was supported by all professionals who reviewed the
24 application and William Spence who at the time was the Director did not oppose. Well, yeah if
25 you call the applicant and the people that are here to support the applicant and somebody that's
26 not supposed to take a position then there would be no opposition and so then therefore I
27 believe that he...anyways he just did us a disservice as a Commission in trying to bring us, you
28 know, something to make a ruling on.
29

30 So then if I go to Item Number 1 of the criteria. So the community plan, if I pull out the Haiku-
31 Paia Community Plan and it says under land use of Page 15, it says the goal, a well-planned
32 community that preserves the region's small town ambience and rural characteristics, coastal
33 scenic vistas and extensive agricultural use and accommodates the future needs of residents at
34 a sustainable rate of growth in harmony with the region's natural environmental marine
35 resources and traditional uses of the shoreline and mauka lands.
36

37 If I go to Item Number 13 it says, limit visitor accommodations to owner-occupied "bed and
38 breakfast" establishments that are residential in both scale and character and proposed bed and
39 breakfasts should not be situated near the shorelines so as to avoid the proliferation of the use
40 and subsequent changes in the character of the region's coast.
41

42 If I then go to Page 47 and it says land use categories and definitions. It defines hotel as...and
43 this is the Paia-Haiku Community Plan defines hotel as hotel this is applies to transient
44 accommodations which do not contain kitchens within individual units. Such hotel facilities may
45 include permissible accessory uses primarily intended to serve hotel guests. So first off I'm just

1 going to say that I think that the hearing officer did us a disservice by saying...by not taking that
2 into account. Nowhere does he go in reference to these items.

3
4 Also, there was some items with which he talks about. It's brought up that there is a
5 grandfathered use for the Paia Inn. However, is I believe that it was called a traditional
6 Japanese inn. However on the record, is there's...the record shows that there is no
7 grandfathering because that has been broken several times. There's been different times of
8 which it could be said that it might be used as that but it was actually used as employee
9 housing. Commissioner Higashi actually questioned the applicant about it being the former
10 Kahiguchi Market when the family lived upstairs. Commissioner Hedani talks about how
11 Michael Ryan applied for a variance to do a vacation rental because employee housing was not
12 a vacation rental and he got a Notice of Violation in February 8th of 1988. Also, Christine Borge
13 she also testified before us saying that she had rented the place for 10 years. She had a hard
14 time getting a Certificate of Occupancy because it was empty for three years and actually that
15 lease is part of the record.

16
17 There's a lot of times in the report too where in trying to say is this is a hotel or not the hearing
18 officer talks about 12 rooms, 12, rooms, 12 rooms. In the zoning district, Business Country
19 Town or Country Town Business that's the definition in that zoning category is 12 rooms as far
20 as that zoning category. But as we've already talked about the community plan defines hotel as
21 something different. So that to me is not necessarily relevant.

22
23 The Judge also wants to talk about Paia Town Center which this is not located in the Town
24 Center. The hearing officer talks about how the community plan is old, adopted in 1995.
25 However, it's still the law with which we have to abide by.

26
27 There was, there was testimony by one of the member...by Bill Frampton stating that
28 community members and leaders who drafted the Paia Community Plan contemplated
29 prohibiting hotel resort development and not small town inns like Paia Inn. However, member of
30 the Community Advisory Committee, Dana Naone Hall testified contrary to that. Her testimony
31 actually contradicts that.

32
33 In June 16th of 2016 a letter from the applicant to Marley Martin says...who is the Tax
34 Department, "we acknowledge the current classification is Hotel as its primary use." Now
35 there's some other places in here where the hearing officer conflates effects and you know
36 whether this is going to affect the neighborhood or not, but what the hearing officer does is
37 basically say, okay the building won't affect the neighborhood. Right like, oh...well, it's just like
38 oh it's an inn, it's this cool thing and oh, yeah it's gonna be great it's not gonna affect the
39 neighborhood but he doesn't talk about the use affecting the neighborhood, the changes in the
40 use. As a matter of fact I believe there's even a quote in here from the former Planning Director
41 if I can find it, I cannot, but the former Planning Director talked about how it would not affect the
42 neighborhood but it was...but it was in regards to the...oh here, no I don't think it will change the
43 character, but he was talking about the exterior and not the use.

44
45 Also in regards to is this a hotel or not, when this first came to us the sign in front of the Paia Inn
46 said hotel, advertising online said hotel. They employ 15 staff which is part of the record. And

1 so if I were a reasonable man which is oftentimes in, I guess in legal terms they talk what would
2 a reasonable man say is this a hotel operating in the Paia-Haiku Community District or not? For
3 me, as I would look at what I think is a reason man would say yes, that this is a hotel and it's not
4 and therefore it does not meet the first criteria.
5

6 So if I go to the five, the fifth criteria that needs to be meet. The proposed development will not
7 adversely impact the social, cultural, economic, environmental and ecological character and
8 quality of the area. In this, the hearing officer calls...he refers to lots of testimony. Let's see he
9 refers to here's one, two, three, four, five, six, seven, eight, eight people that think...that are
10 speaking in favor of it and the only reference he makes to anyone opposed to it is to
11 Francine Aarona, Aunty Mopsy and Martin Brass and he completely says, he dismisses them as
12 basically that it's personal in nature and factual. Now I went through this again and again and I
13 mean I really want to try to do this right and for the hearing officer to say that they had nothing
14 factual to provide and that it's strictly personal, I just find as dismissive and so then therefore I
15 just can't, I can't agree with them. I mean there's pages of factual data that both of them have
16 brought forward. He brings up personal attacks on Mr. Brass by the applicant attacking his
17 character which...anyways, that is what it is. So I...when I look at then okay is this fulfilling, do I
18 believe that this fulfills the, you know the fifth criteria, all I have to do is just look at how the
19 community is right now. I'm just looking at the community and just going what is the community
20 doing right now and is this impacting the community? Again, I'm gonna go to a reasonable
21 man. What would a reasonable man say? Would a reasonable man say this is impacting the
22 cultural, economic, environmental or ecological and quality of the area? And so for me, has the
23 applicant met the burden of persuasion through a preponderance of the evidence that it does
24 not? I'm gonna say no, so I'm going to disagree with the hearing officer's finding in that.
25

26 And then lastly if I go to the 6th criteria which is the public shall be detracted from the deleterious
27 effects of the proposed use. Deleterious causing harm or damage. Harmful often in a subtle or
28 unexpected way. So if I look at that the hearing officer goes to noise, parking and it actually
29 says you know from noise and parking, things like that. However when I look at deleterious
30 effects and I look at my...how I look at the connotative and denotative definition of deleterious
31 first I'm gonna split it and say it's operating currently. I'm not gonna say...it's operating currently
32 under the settlement agreement and so these deleterious effects are already happening.
33 They're already currently happening so it's not like okay, if it becomes a nine-room inn then
34 suddenly there's going to be deleterious effects. My belief is that those deleterious effects have
35 already transpired because of the nature with which things have moved forward.
36

37 So lastly I'm just gonna say that you know last meeting I was I'll say accused of really enjoying
38 this and I enjoy serving the community. I enjoy volunteering my time, efforts, energies,
39 money...not money, I guess time is money or something like that, but my efforts. And this is
40 part of the way that I feel like I tithe to my community. Tithing isn't just money. You can give
41 your thoughts, your prayers, your energy, your mana`o in many ways. So this isn't an easy
42 decision. I've stayed up nights thinking about this. Thinking about all of you that are looking
43 back at me right now. And I'm just trying to do what's right for our community. So with that
44 said, that is what I have to say on the motion. Would anybody else like to speak to the motion
45 after my filibuster? Commissioner La Costa.
46

1 Ms. La Costa: Thank you Chair. During your oration there was another --

2

3 Mr. Carnicelli: I don't think your mic's on. Okay, go ahead.

4

5 Ms. La Costa: I must be speaking softly for a change. During your oration I didn't hear mention
6 of Number 4 and I feel that Number 4, the proposed development will not adversely affect or
7 interfere with public or private schools, parks, playgrounds, water systems, sewage and solid
8 waste disposal, drainage, roadway and transportation systems or other public requirements,
9 conveniences and improvements. With more people, there's gonna be more sewage, more
10 water use, more cars so I think that that also...I disagree with the hearing officer that Number 4
11 does not adversely affect either.

12

13 Mr. Carnicelli: Thank you. Would anybody else like to speak to the motion?
14 Commissioner Tackett.

15

16 Mr. Tackett: After all that was said and all that was heard I definitely feel like there is a, there is
17 a social impact to the community and I feel it's a dangerous social impact. Reminds me a lot of
18 what happens in the news on a daily basis. And I think that, I think that that's what we're here
19 to do is to try to keep the communities in the way that the rules outline and in my opinion the
20 different circumstances that have been laid out before me has made me determine that I do feel
21 like there's a fairly severe social impact that is happening and has been happening and I'm sure
22 that many, many, many arguments and many, many hard feelings have gone on because of
23 discussions about this particular topic right now. So I think that that is absolutely going on and
24 for that reason I will, I will be supporting the motion that is at hand.

25

26 Mr. Carnicelli: Kahu Hill.

27

28 Kahu Hill: This is so sensitive and I continue to pray to Ke Akua for this guidance. I have
29 learned so much more about the conclusions of law here and the details of that and that what
30 you brought to the table today. I have also seen an impact not only social but cultural and from
31 the people of this island. It's very difficult but there is parts in here, Number 1, Number 5 and
32 Number 6 where I am also looking at and part of that as well as the social and cultural and how
33 it's affecting the community adversely.

34

35 Mr. Carnicelli: Commissioner Pali.

36

37 Ms. Pali: So I was taking notes and whether it's for the crowd or myself if you could just clarify
38 am I allowed to ask the Commissioner a question?

39

40 Mr. Carnicelli: Sure.

41

42 Ms. Pali: Because we're talking about a report that had inconsistencies and I just want to give
43 you a chance to clean up a few I heard from you.

44

45 Mr. Carnicelli: All right.

46

1 Ms. Pali: You started with the fact that the report had four witnesses. One was the applicant,
2 two were staff and one was neutral. But then as you proceeded with your report you mentioned
3 eight people were quoted in the report in favor and three opposed. So can you just clean that
4 up for me please?
5

6 Mr. Carnicelli: Okay is the hearing officer himself in his hearing called the people that I had
7 mentioned, Mr. Baskin, Mr. Frampton and Mr. Penny and Will Spence. The other people he's
8 pulling from testimony that was here.
9

10 Ms. Pali: So when you say witness you meant witness in person?
11

12 Mr. Carnicelli: Correct.
13

14 Ms. Pali: And then the other witnesses were on paper?
15

16 Mr. Carnicelli: Yeah, well...yes for him they are paper.
17

18 Ms. Pali: I mean 'cause we can testify in writing.
19

20 Mr. Carnicelli: Well, no, no, no, it was, it was on the record testimony before us the Planning
21 Commission.
22

23 Ms. Pali: So he pulled some past testimony?
24

25 Mr. Carnicelli: Right. And so that...he had that full record of people that had testified here to
26 the Planning Commission and so then he --
27

28 Ms. Pali: So in his report he used --
29

30 Mr. Carnicelli: 'Cause I can read it more specifically --
31

32 Ms. Pali: -- okay, well just because I was under the impression that the whole report was just
33 based off of four people's opinion, but as you went through he did pull in other people's
34 opinions. So I was just a little confused by that.
35

36 Mr. Carnicelli: Got it.
37

38 Ms. Pali: And I just wanna clarify because I do like the points you brought up but in fairness it's
39 important that we are all on the same page as we move forward with decisions we're making
40 based off of everyone else's opinions. So I think for me all of the issue that you brought up are
41 certainly valid. I think it's very valid that the community continues to stop their life and show up
42 and give their time to support something that they're very passionate for and I do not in any way
43 disregard that in any way. For me I would like to take more time to just validate your points and
44 study the report further but I do appreciate you bringing this to light.
45

46 Mr. Carnicelli: So there is a motion on the floor. It will take all five of us.

1
2 Ms. Pali: I understand.
3
4 Mr. Carnicelli: Right. So you're saying that --
5
6 Ms. Pali: I'm saying that I don't have enough information today to make a decision.
7
8 Mr. Carnicelli: Can you speak into --
9
10 Ms. Pali: Yeah, so I don't have enough...I mean you did a really good job of going through that
11 report and I guess now that you've done that I probably as my duty as a commissioner would
12 like to do the same.
13
14 Mr. Carnicelli: Fair enough. So would anybody like to speak to the motion? Okay, so then
15 the...Director.
16
17 Ms. McLean: Thank you Chair. I understand that the motion is to reject the hearing officer's
18 report because of the disagreement with findings that the application...you disagree with the
19 conclusion or the finding that the application met Items 1, 5, and 6 from Maui County Code
20 Section 19.501.070 Criteria for a Special Use Permit.
21
22 Mr. Carnicelli: All those in favor of the motion? Opposed? Motion fails.
23
24
25 **It was moved by Mr. Carnicelli, seconded by Ms. La Costa, and**
26
27 **The Motion to Reject the Hearing Officer's Report because the Commission**
28 **Disagrees with the Finding that the Application Met Items 1, 5, and 6 of Maui**
29 **County Code, 19.510.070, Criteria for a Special Use Permit, FAILED.**
30
31 **(Assenting – L. Carnicelli, P D. La Costa, A. Hill, C. Tackett)**
32 **(Dissenting – K. Pali)**
33 **(Excused – S. Castro, T. Gomes, L. Hudson, K. Robinson)**
34
35
36 Mr. Carnicelli: So is it possible to put it on the next agenda?
37
38 Ms. McLean: It may be if we have more than a bare quorum and everyone can be here for the
39 whole day.
40
41 Ms. Pali: Can I ask a question?
42
43 Mr. Carnicelli: Sure, Commissioner Pali.
44
45 Ms. Pali: This might be for the Planning Director. There's lot of talk about zoning and then
46 community plans. What is your official statement on which one has precedent over the other

1 because I feel like in other cases I've heard them thrown out. Today I heard him say that or
2 someone said, it must have been Lawrence that county plan would then supersede zoning.
3 What's the official word on that?

4
5 Ms. McLean: Commissioner in regard to this particular application I would defer to the
6 Department's counsel.

7
8 Mr. Tom Kolbe: Hi, good afternoon Tom Kolbe.

9
10 Mr. Carnicelli: Thanks Tom.

11
12 Mr. Kolbe: I'm the attorney for the Department in this matter. Because this is a settlement
13 agreement. This hearing it's my understanding is to decide whether or not to accept or reject
14 the hearings officer's report. Because we're in that posture we have agreed not to take a
15 position on whether or not you ought to accept that hearing officer's report. And so for that
16 reason I'm going to ask the Director not to respond to that particular question. Thank you.

17
18 Ms. Pali: Okay. May I follow up? The only reason is is part of also Commissioner Carnicelli's
19 rebuttal is that the report said 12 rooms which is I guess a commercial category definition for
20 zoning but county plan he read the definition of a hotel which seemed to be a disparity between
21 the two. So as commissioners how then do we gauge which one would then be used for the
22 purposes of this decision if we don't have guidance on which one would supersede?

23
24 Mr. Kolbe: Yes, you know to be honest I think that definition of hotel came from other sources
25 and so I'm no certain where that came from and different departments define terms in ways that
26 help them figure whatever those things have to be figured out on. So for instance a tax
27 definition or a tax department's definition of what a house is might be different than a planning
28 department's definition of a house. So I don't want to get into the weeds too much here except
29 to say that you know even though I did understand and listen to Chair Carnicelli's explanation
30 for his reasons why he's voting, out of context I can't tell you exactly whether or not I would
31 agree with those definitions on hotel. But again, and we have...we're in a strange posture in
32 this case that the Department is not really taking a position in terms of that. However, in the
33 event that, and it's my understanding that the motion has failed and so we don't actually have a
34 new decision. If this matter were to be deferred I think at some point we could certainly provide
35 that information to you.

36
37 Ms. McLean: There is one thing that I can say just about 12 rooms. The application before you
38 was for a County Special Use Permit because in the zoning district that applies to this property
39 a Special Use Permit can be obtained to operate an inn up to 12 rooms.

40
41 Mr. Carnicelli: Does that make sense?

42
43 Ms. Pali: Uh hmm.

44
45 Mr. Carnicelli: That's why they need a Special Use Permit. So then it's did they fulfill the
46 criteria with which is needed to to get that Special Use Permit.

1
2 Ms. Pali: Okay, got it.

3
4 Mr. Carnicelli: All right. So actually do you know what our time...I mean as far as settlement
5 goes, I mean 'cause we only have one meeting before the end of the year so that kicks us in, I
6 don't know if the 180-day window where we're at with that as far as...'cause it looks like we're
7 most likely unless we can, you know you can get the information that you would like here now
8 we're going to be deferring this. So I'm just trying to think of timing.

9
10 Mr. Kolbe: Well that depends on an awful lot of things. I mean, first off I think I'm anticipating
11 there may be a challenge to whether or not the Motion to Rescind was appropriate, but in any
12 event however that works itself out, the calendaring is done by planning commission or the
13 Department of Planning based upon a number of projects that all want to get in front of you
14 guys for hearings. There are deadlines within the rules that are guidelines on when we're
15 supposed to be submitting decisions and orders. My understanding and I think you really ought
16 to ask Mr. Galazin procedural questions, but my understanding is that, is that if the prior
17 decision has now been rescinded then it may reset the clock in terms of when decisions and
18 order would then need to be placed back before you for approval. But at this point I don't know
19 that there's been a decision made and so that's why it really depends on whether or not this
20 matter's getting deferred.

21
22 Mr. Carnicelli: Thank you. Mr. Galazin?

23
24 Mr. Galazin: Thank you Chair. As I understand your question it is, is there some deadline why
25 which this body has to make a decision or be defaulted into a decision? So within your rules
26 any development related permit must be decided within a certain amount of days either from the
27 application being completed or the first public hearing. And typically when that decision is
28 made, this is again, you know, unusual circumstances as a body you don't generally deal with
29 the 180-day period if you have the hearing and you're not able to make a decision at that time
30 you can defer and then make the final decision. The body did take action within the set time
31 frame. However, that was unwound by a vote earlier this afternoon, so it would certainly
32 behoove you to act as quickly as you could on this. I don't know in terms of...I can't give you a
33 set timeline on now you have another 180 days or you've gotta count the time that you already
34 had before you made your decision and then start adding on from there. My advice at this
35 point, you know, on the fly would be just to get something decided one way or the other at the
36 next available opportunity.

37
38 Mr. Carnicelli: Thank you. So I guess at this point in time, I will make a motion to defer this
39 item to the next available meeting. Can I get a second?

40
41 Mr. Tackett: I second.

42
43 Mr. Carnicelli: Seconded by Commissioner Tackett. So at this point with bare quorum we're
44 not going to come to a decision today. So we'll go ahead and defer this to the next available
45 item. It looks as though we may be able to put it on the December 11th meeting and so

1 hopefully that will happen and we can expedite this and people can move on with their lives.
2 Anybody else would like to speak to the motion? Kahu Hill.

3
4 Kahu Hill: I just wanted to be clear in deferring this that when we get there we will be looking to
5 as I thought today to take action to adopt, adopt with modifications or take another an action.
6 So we will be in that position next time?

7
8 Mr. Carnicelli: Right, we'll be back to square one again.

9
10 Kahu Hill: Is there any way to request that what you spoke today and share today that we could
11 be given to study, the transcripts of that or the --

12
13 Mr. Carnicelli: It's the hearings officer report.

14
15 Kahu Hill: Yes, yes.

16
17 Mr. Carnicelli: And then the thumb drive of the hundreds if not thousands of pages of exhibits.

18
19 Kahu Hill: Speaking to your comments.

20
21 Mr. Carnicelli: When will the recording be posted online do we know? Oh, the summary
22 minutes have to happen first.

23
24 Ms. Takayama-Corden: You want the audio or do you want --

25
26 Mr. Carnicelli: Do you want the audio? Just the audio? Or you know what, maybe we can
27 request AKAKU? Yeah, can? Okay, we'll try to get AKAKU to get us all something in an
28 expeditious manner so we can review the record. So all in favor of deferral please raise your
29 hand? That's five. So the item will be deferred to the next available meeting. Thank you for all
30 for being here, for all seven hours or whatever it would be that you've been here so far.

31
32 **It was moved by Mr. Carnicelli, seconded by Mr. Tackett, then**

33
34 **VOTED: To Defer the Matter to the Next Available Meeting.**

35
36 **(Assenting – L. Carnicelli, C. Tackett, A. Hill, K. Pali, P D. La Costa)**
37 **(Excused – S. Castro, T. Gomes, L. Hudson, K. Robinson)**

38
39
40 **D. ADOPTION of WRITTEN DECISION AND ORDER**

41
42 **1. Rejection of the Hearings Officer's Report and Denial of the County Special**
43 **Use Permit by action taken at the September 25, 2018 Maui Planning**
44 **Commission meeting on the following: (Tom Kolbe, Deputy Corporation**
45 **Counsel)**

46

1 **Hearing Officer's Report dated July 13, 2018 from E. JOHN MCCONNELL,**
2 **Retired Judge, Hearing Officer, containing his proposed Findings of Fact,**
3 **Conclusions of Law, and recommendation regarding the following**
4 **remanded application:**

5
6 **County Special Use Permit application from SEASHORE PROPERTIES, LLC**
7 **for the proposed nine (9) room transient vacation rental on the property**
8 **referenced as the Paia Inn located at 93 Hana Highway, TMK: (2) 2-6-002:**
9 **027, Paia, Island of Maui. (CUP 2015/0006) (CTB 2015/0009) (SMX**
10 **2015/0522) (K. Wollenhaupt)**

11
12 **The Commission may take action to adopt, adopt with modifications, or**
13 **take some other action regarding the proposed Findings of Fact,**
14 **Conclusions of Law, Decision and Order.**

15
16 **The Denial of the County Special Use Permit was rescinded by an earlier vote by the**
17 **Commission.**

18
19 Mr. Carnicelli: Director next item?

20
21 **E. DIRECTOR'S REPORT**

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

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

26
27 **2. SMA Exemptions Report**

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

30
31 Ms. McLean: The next item is the Director's Report. You have the SMA Minor Permit Report,
32 SMA Exemptions Report. Are there any questions on those?

33
34 Mr. Carnicelli: Seeing none.

35
36
37 **3. Discussion of Future Maui Planning Commission Agendas**

38
39 **a. December 11, 2018, 2018 agenda items**

40
41 Ms. McLean: Okay, and lastly discussion of future Maui Planning Commission agendas, you
42 have the memo from Mr. Yoshida outlining one public hearing item, one communication item
43 and one item of unfinished business. It seems like we may have two other items of unfinished
44 business from today. We will have to see how we can accommodate those.

1 Mr. Carnicelli: Great. With that being said, I want to thank all of you for being here and putting
2 in all of your time. And allowing me to be Chair today.

3
4 Ms. La Costa: You did a fine job.

5
6 Mr. Tackett: Good job Chair.

7
8 Kahu Hill: You did a good job.

9
10 Mr. Carnicelli: Thank you very much. Meeting is adjourned.

11
12
13 **F. NEXT REGULAR MEETING DATE: DECEMBER 11, 2018**

14
15 **G. ADJOURNMENT**

16
17 The meeting was adjourned at 5:05 p.m.

18
19 Respectfully Submitted by,

20
21
22 LEILANI A. RAMORAN-QUEMADO
23 Secretary to Boards and Commissions II
24 *For* CAROLYN TAKAYAMA-CORDEN
25 Secretary to Boards and Commissions II
26
27

28 **RECORD OF ATTENDANCE**

29 **Present**

30 Lawrence Carnicelli
31 Kahu Alalani Hill
32 P Denise La Costa
33 Kellie Pali
34 Christian Tackett

35
36 **Excused**

37 Stephen Castro
38 Tina Gomes
39 Larry Hudson, Vice-Chair
40 Keaka Robinson, Chair

41
42 **Others**

43 Michele McLean, Director, Department of Planning
44 David Galazin, Deputy Corporation Counsel, Department of the Corporation Counsel
45 Rowena Dagdag-Andaya, Deputy Director, Department of Public Works (9:00 a.m. - 11:52 a.m.)