

**MAUI PLANNING COMMISSION
REGULAR MINUTES
AUGUST 14, 2018**

A. CALL TO ORDER

The regular meeting of the Maui Planning Commission was called to order by Chairperson Keaka Robinson at approximately 9:03 a.m., Tuesday, August 14, 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.)

Mr. Keaka Robinson: Good morning everyone. Maui Planning Commission will now come to order. Today is August, the 14th. We have with us Commissioner Tackett. Commissioner Castro.

Mr. Stephen Castro: Morning Chair.

Mr. Robinson: Morning. Commissioner La Costa.

Ms. P. Denise La Costa: Aloha Chair.

Mr. Robinson: Commissioner Carnicelli.

Mr. Lawrence Carnicelli: Good morning Chair.

Mr. Robinson: Commissioner Kahu Hill.

Kahu Alalani Hill: Aloha Kakahiaka Chair.

Mr. Robinson: Commissioner Hudson.

Mr. Larry Hudson: Morning Chair.

B. INTRODUCTION OF NEW MEMBER – KELLIE PALI

Mr. Robinson: I'd like to introduce to you folks a new commissioner, and we're glad it's another female, which we've been trying for years to say we balance out and we're glad for her and it's Kellie Pali. Would you like to introduce yourself?

Ms. Kellie Pali: Hi. My name is Kellie Pali. I was born and raised Napili side, and I reside now in Kihei which is the south side. I've also lived upcountry for several years. And of course, this island is my home so I'm excited to participate. Thank you.

Mr. Robinson: Welcome. Welcome. And it's great to have somebody from the other side as well as Kihei, and that's also been something that this Commission been trying to get so welcome along. We have Corp Counsel David, and we have with us the Planning Director Michele.

Ms. Michele McLean: Morning.

1 Mr. Robinson: Morning. Our first item for business, Director?
2

3 **C. PUBLIC TESTIMONY** - Public testimony will be taken when each agenda item is
4 discussed. **Testimony will be limited to a maximum of three (3) minutes.**
5

6 **D. PUBLIC HEARING** (Action to be taken after conclusion of public hearing.)
7

- 8 1. **MS. HEATHER HARDE and MR. PAVEL HLADIS requesting a Bed &**
9 **Breakfast Home Permit in order to operate the Kulani Maui, a six (6)-**
10 **bedroom bed & breakfast home located in the R-2 Residential District at**
11 **441 Ilikahi Street, TMK: 4-6-006:004, Lahaina, Island of Maui, Hawaii (BBWM**
12 **T2017/0004) (L. Callentine)**
13

14 **The application is subject for review to Maui Planning Commission review**
15 **because there is at least one (1) permitted bed and breakfast home**
16 **operation located within 500 ft. of the subject property.**
17

18 Ms. McLean: Thank you Chair. Good morning. The first item is a public hearing item, a request
19 from Ms. Heather Harde and Mr. Pavel Hladis for a bed and breakfast home permit in order to
20 operate the Kulani Maui, a six bedroom B&B home located in the R-2 Residential District at 441
21 Ilikahi Street, TMK: 4-6-006 parcel 4 in Lahaina. And I'll just note that the application is before
22 you today because there is at least one permitted B&B located within 500 feet of the subject
23 property. The project planner is Livit Calentine.
24

25 Ms. Livit Calentine: Thank you Director, and good morning everyone. Welcome to the
26 Commission, Kellie. This is a -- we are here today as Michele pointed out because there is
27 another B&B within -- well a B&B permitted in 500 feet. This applicant is proposing a six
28 bedroom B&B in two single-family dwellings on Ilikahi Street. The applicants, Heather Harde
29 and Pavel Hladis reside in one of the dwellings located on the same property. In your staff
30 report today from the Department, you'll see, page-2, there's a full description of the property if
31 you haven't gotten to read. Just give a glance there if you have any questions about that or ask
32 me.
33

34 I just want to point out here that there's -- this is a property where there was an existing bed and
35 breakfast home on the property that ran for about four years in --. The owners sold the property
36 and sold the property to the applicants and now they are here before you to run the bed and
37 breakfast in the same location. Ms. Harde will now present the project and respond to any
38 questions you might have regarding the application. Thank you.
39

40 Ms. Heather Harde: Thanks Livit. Aloha, good morning Commissioners.
41

42 Mr. Robinson: Aloha.
43

44 Ms. Harde: Chair Robinson. My name is Heather Harde. I'm here with my boyfriend and
45 partner, Pavel Hladis, to present a six bedroom bed and breakfast application to be named the
46 Kulani Maui, and we speak and present on our behalf.
47

1 Our home is in Lahaina, in the neighborhood commonly referred to as shark pit. Guests will
2 access our property by entering from the highway on Shaw Street, making a left on Waivee, and
3 then Ilikahi Street, where we live is the first cul-de-sac street on the right. We're one street
4 behind Front Street.

5
6 This is our site map. We are a flag lot. It's an oversized lot. As Livit said it has two permitted
7 full size dwellings on it. Building one on the makai side of the property has four bedrooms all of
8 which are planned to be used for the bed and breakfast. We have one suite that's a two
9 bedrooms, and two additional suites that are each one bedroom. On the mauka side of the
10 property we have a second dwelling with an additional two, one bedroom suites, and two
11 bedrooms that will reserve for our own use.

12
13 We have eight parking spots with turn around space for guests to exit in a forward fashion.
14 You'll see the red dots represent fire extinguishers on the property. We've got our, our water
15 shut off valves.

16
17 This is an example to take you inside of a two bedroom, our two bedroom suites. It has a
18 common living area with access to a kitchen and two bedrooms. The one unit suite, again, has
19 a shared living space. They have access to a wet bar, and then single bedrooms with en suite
20 bathroom.

21
22 Now we are not an ocean front property, and we're not an ocean view property, and we don't
23 have a swimming pool. But what we do have are really, really beautiful plants. In fact, the
24 gardens are what made Pavel and I fall in love with our home. We're really active gardeners.
25 Around the perimeter of both buildings are just really beautiful native plants of both common and
26 unusual. And our marketing and positioning would really be to be more of a quiet solitude and
27 retreat for guests who want to get away from the hustle and bustle of their daily lives. We want
28 to have a light footprint our aina and do as we speak, so we are trying to be as eco-friendly as
29 possible. Throughout the property, we have done LED light retrofits. We've installed new high
30 efficient energy fans. We are solar power and solar hot water heated, and we're active
31 recyclers.

32
33 We think that the reason that people stay at bed and breakfast as opposed to a larger type of
34 accommodation is because they really want to have a personal connection with people and the
35 place. And so for us it is important that each room has a special Maui story. Here are Kane
36 and Mac from Wailuku. We were able to purchase some old vintage rattan furniture from them
37 on Craigslist. The pieces that actually been their parents and they finally were remodeling their
38 homes and get their kids to take it away, and we said we would love to be caretakers of that
39 furniture. Pavel is super handy, so we had a fun time restoring furniture and we think it's really
40 special for guests to be able to have access to these types of vintage details that you just don't
41 get to see on Maui too much anymore.

42
43 In terms of our overall process, we sent our original notice of application July 24th of last year.
44 Our 500 foot radius includes 319 addresses. Our notice of public hearing mailing was done just
45 this past July 12th, and we have run three legal classified notices in The Maui Times. The Maui
46 News. The results of those mailings we have and final ten letters of support. Nine of them are
47 from neighbors within the 500 foot radius. Please note that all five neighbors who have

1 adjoining properties to ours have written letters of support. We have four other neighbor
2 supports, and then we did ask for a business endorsement from the founder of Maui Coffee
3 Roasters. We had a café in town and wanted to have a business endorsement as well as a
4 neighbor endorsement.

5
6 We do have two letters of concern. One recently received from Janet Spreiter on top north of
7 Front Street, and from James Tact on Aleo Street. We would like to highlight that in no event
8 our, does the traffic of our bed and breakfast pass through either of their doors. In general, their
9 concerns are that Maui needs more long term housing. We have been employers ourselves on
10 the island. We've been renters ourselves on the island. We know that to be true, so we respect
11 their voices.

12
13 Jim had two specific concerns in addition. One was whether or not we fully met the
14 requirements of the parking plan. It's true when we sent out our first application, we did not fully
15 understand the parking rules. We thought that as long as we had met the aisle width and depth
16 requirements that that meant that cars would be able to exit in a forward fashion. When we had
17 the opportunity to meet with Livit, she explained that when eight or more parking spots are
18 necessary that in addition to those aisle width and depth requirements, we must also have
19 dedicated turn around space for the cars to help to ensure that everyone can leave in a forward
20 fashion. So on that basis, we took our original parking plan where the eight slots went around
21 the perimeter of buildings one and two. We took away two spots from there, went around the
22 mauka perimeter of our property and created two parking spaces there instead and that freed
23 up space in the center for the forward egress. And this is the pictures of the final parking plan.
24 You'll see stalls one and two are under the carport. Stalls, there's room along building two now
25 for the four spots with wider perimeters. Stall seven and eight are the new parking spaces that
26 we installed. You'll see the turnaround space that created and our exit forward sign.

27
28 Jim's second question had to do with fire access since we are a flag lot, and have a long
29 driveway, whether or not there would be any concerns with fire trucks being able to get enough
30 hose throughout the entire part of the property, and enter. We were new homeowners, so it
31 seemed like a good question. I called up the Lahaina Fire Department. The good news is that
32 we do have a fire hydrant directly across the street from our driveway. They explained to me
33 that trucks frequently carry at least 750 feet of hose. Our driveway is 120 feet and . . .
34 (inaudible) . . . entire property is 260. So on average, we'd only be using a third or maybe half
35 of the total available hose, so that wasn't an issue. Also our driveway width is at least 10 feet
36 wide, and since that's the width of roads and their trucks, if they wanted to access and actually
37 get in to be directly right in front one of our buildings, emergency vehicles or the fire trucks could
38 do that.

39
40 So I called James last month when we sent our notice and updated him with the changes that
41 we've made to the property. He thanked me for the call.

42
43 We did think it was prudent to add some additional fire extinguishers although for the B&B
44 ordinance we're only required to have one fire extinguisher for each of our two buildings. We
45 thought it would be best if we would have a fire extinguisher at the entrance of each of the
46 suites. . . (inaudible) . . . a total of six fire extinguishers. We've also added some exit signs at

1 the rear of the property for the two units that don't face the parking lot. So in the event of an
2 emergency they have directional signs for exit.

3
4 Our property is a little bit unusual and that it was previously operating as a bed and breakfast. It
5 was called the Ilikahi and it operated from 2014 to 2017. Before we purchased the property, we
6 did pull the public files to confirm that there had been no complaints against the property. We
7 also contacted all five immediate adjoining neighbors to ask for their feedback, if the operation
8 of the bed and breakfast had changed the character of the neighborhood, and if they'd support it
9 if it continued operation. You'll see from their letters of support that they all do feel very
10 comfortable with the way it's been operating and endorse us as, as bed and breakfast
11 managers.

12
13 We waited for four months to close on the house so that the previous owners could rent out all
14 their existing reservations without creating any guests cancellation. Since we took ownership
15 last May, there have been no operations or marketing of the property. We've concentrated
16 instead on the repairs and renovations. We will reopen under a new name, the Kulani Maui,
17 meaning a little bit of heaven, our heaven, and so there should be a unanimous understanding
18 about transfer of operations.

19
20 Also, we just want to highlight that although we recognize bed and breakfast don't increase long
21 term housing, they do give us a place to live on a long term housing basis. Maui is really our
22 home. And since this has been operating for five years, we're not specifically taking away
23 housing if you approve us today.

24
25 Lahaina is our home. Pavel has lived on Maui for more than 16 years. I've been here more
26 than seven. Before this endeavor, Pavel started and we ran together a café in the center of
27 town, in Lahaina, called Café Café. It was a very successful operation because we really
28 learned the balance between accommodating tourists but really honoring and knowing that local
29 support is always most important. We sold the café specifically to be able to work on this new
30 project or to fulfill our dream of being able to do a bed and breakfast. We love the hospitality
31 business but we wanted to do something on a more intimate scale, and something that would
32 allow us to spend more time outdoors.

33
34 We've also been renters in Lahaina for a number of years, and so the special nature of the
35 neighborhood that we've moved into is very real to us, and we care very much about how we
36 are welcomed into the community.

37
38 So that's our summary for the Kulani Maui. We're targeting to be a special getaway for nature
39 lovers in the center of Lahaina, and we want to be an example of a bed and breakfast on the
40 west side that's doing things right and make you proud. Thank you for your time.

41
42 Mr. Robinson: At this time we'd like to take public testimony. Is there anybody there in the
43 audience that would like to testify at this time? Hi, please state your name and you have three
44 minutes.

45
46 Mr. Tom Croly: Aloha Chair. My name is Tom Croly. And I know the applicants because they
47 consulted with me on their application, and even prior to buying the house to see if this would be

1 appropriate. I would like to read from the Maui County Code, the ordinance of bed and
2 breakfast. And it says:

3

4 *“The purpose of this chapter is to establish a permitting process and appropriate*
5 *restrictions and standards for bed and breakfast homes to allow small local*
6 *businesses an opportunity to participate in the benefit of tourism. To provide a*
7 *visitor experience and accommodations as an alternative to resort or hotel*
8 *accommodations currently existing in the County, and to retain the character of*
9 *neighborhoods in which any bed and breakfast home is located.”*

10

11 I think that these guys and what they have done exemplifies that, that intent perfectly. They are
12 local folks who have been renting. The bed and breakfast is an avenue for them to make their
13 dreams come true and own their own home. They went to their neighbors, they talked to their
14 neighbors, would this be okay? They did that before they even purchased the property and
15 they’ve done a ton of improvements to the property to make it a nicer place for guests to come,
16 and to make it meet all of the standards and requirements of the code, and to make sure that
17 the impact that any impact that they might make would not be a problem on their neighbors. So
18 again I encourage you to grant this permit and I just think these guys exemplify exactly what this
19 ordinance was about. Thank you.

20

21 Mr. Robinson: Thank you. Commissioners, any questions for the testifier? Seeing none. Any
22 other testimony? Please, please state your name and you have three minutes.

23

24 Mr. Ekolu Lindsey: Aloha. My name is Ekolu Lindsey. I’m from Lahaina. We have the
25 distinction of being the last . . . (inaudible) . . . family on the beach that we know of as . . .
26 (Inaudible. Spoke in Hawaiian) . . . which is what is commonly referred to shark pit. That
27 neighborhood is known as Kauula and I’m here to oppose this permitting application. I applaud
28 the owners for the work that they have done. They really, truly have set up a very nice home
29 and have seem to cover all their basis. The one problem I have from these applications, and
30 there are many of them, is individually they’re okay. But the collective impacts on native marine
31 ecosystems with the beaches right there where my family lives is huge. We started a group
32 called Polonui . . . (Inaudible. Spoke in Hawaiian) . . . It’s a community management makai
33 area, part of the Maui Nui Makai area network system which includes groups in Lanai, Molokai,
34 to and from Hana, and Wailuku. Our organization is there to protect marine ecosystems. So
35 Polonui which is where my family’s ahupua’a is on has been inundated with huge recreational
36 impacts on coral reef systems. Now their home is beautiful home. It’s a nice place to live, but
37 looking at all of the other homes that have short-term rentals including the transient, bed and
38 breakfast, short-term rental homes, when you put all that together, over this past summer I have
39 seen so much problems. I gotta go out there on the beach and continuously inform people not
40 to damage the coral. Why is the coral important? Well, I sell fish coral. We applied for a
41 community . . . (inaudible) . . . fishing designation for that area which goes from Puamana Pu to
42 right around 505 and we were denied because there is no cultural activities, because the
43 resources have dwindled to the point where we cannot practice our culture.

44

45 My opposition to this is not just for them but it’s for all. And I want to make sure that you guys
46 aware that the marine ecosystems are severely impacted by a lot of these short-term rentals
47 because they just don’t understand it. Now if there is some kind of educational aspect to this

1 where they know that corals are alive, how to conduct yourself in the ocean, how to conduct
2 yourself on the reef, then I think there can be a happy medium. But without this, these impacts
3 are going to severely destroy the area where . . . (inaudible) . . . So I would be more than happy
4 to offer services to provide an educational impact assessments. Not assessment, but just to
5 teach people...free. Why? Because I think there's a way we can work together rather than . . .
6 (inaudible) . . .

7
8 I've written many, numerous letters of opposition on the other areas, other homes in that area,
9 but I figure this the first time I coming in front of you guys to express my voice, to see my face,
10 so it's not just written word, but it's spoken. We're coming from deep inside ourselves. I'm
11 representing the Lindsey ohana as well as Polonui . . . (inaudible) . . . area, but also Maui
12 cultural lands which is there to take care of our cultural resources. And a part of that is take
13 what the guy just before me read the integrity of the area. I forget what he said. But, it's
14 changing. It's no longer a local community. It's more of a transient community. So to preserve
15 the integrity of that space we need to minimize the amount of short-term rentals there are in this
16 area. I have no qualm with what they've done. But my bigger picture is the little impacts that
17 have a huge impact on our space. Thank you.

18
19 Mr. Robinson: Thank you. Questions? Commissioner Carnicelli.

20
21 Mr. Carnicelli: Thank you for being here and coming down. So part of our role, the nine of us, is
22 to mitigate impacts, what you're talking about. So you did mention that, you know, you educate
23 people; that you would be open to being there. So one of the things that we do is we add
24 conditions that we place on things like this. So what if we were to place a condition that some
25 sort of an educational package, presentation, something like that, that each one of their guest
26 had to go to.

27
28 Mr. Lindsey: I'd be open to that. Sure. I believe that people who are visiting, they're practically
29 staying in these places. They're looking for some place that are cheaper than hotels, and they
30 want to provide a lighter impact on resources, but just, they're kind of ignorant of a lot of things.
31 I had to save a lot of people getting sucked off the channel. I've saved grandkids, to grandmas,
32 their whole families just because they don't understand the reef, they don't know where the
33 currents are, and the impacts that they have on this place. Now I got to say that Polonui has
34 done a creel survey. C, R, E, E, L. That's a creel survey. It's a one year survey. We looked at
35 human use impacts on marine ecosystems specific on near shore waters. And we found that
36 within a year -- and this study takes eight random days. Random because you don't want to
37 choose high impact times. Just random. From six in the morning, to six at night. We found, for
38 one year, over -- excuse me -- almost 2,000 hits on reefs including people walking. You know,
39 there's a lot of rentals too yeah, SUPS and kayaks. But this year I recognize where the hotel
40 guys coming from, but I also can recognize where the renters are coming from is from the other
41 homes just by the way they access the shoreline. And having lived there and seeing it 24/7 it
42 hurts.

43
44 Mr. Carnicelli: Right. Yeah, I mean, I used to live in that neighborhood so I'm very familiar. Is,
45 is -- but we're going back to trying to condition this in a way with which because like you say it's
46 not all people staying in B&B's doing it just for the cost. Some people want to, they want that
47 experience to live in a local neighborhood. You know, they want to live like a local, you know,

1 when they travel different places all over the world, not just here. So where I'm coming from is
2 because of your knowledge is --. And I don't even know quite honestly, Director, how we would
3 write a condition that would do this. But I think what you're saying is, is really relevant, and
4 there's some way with which I would like to see that a part of this, and maybe we can make it a
5 condition of all of them. But is there something that you --? My question to you is, is there
6 something that we can write or have? Is there a package with which you, your group, your
7 family has that we can say, okay, everybody that comes to their place, you know, has to be
8 educated by this?

9
10 Mr. Lindsey: What we have talked about was perhaps creating a picture book, aerial
11 photography, these are sensitive areas, corals are alive. So if perhaps, at least we can have
12 bare minimum information within every single one of them within our areas that people going
13 use the beach, then that would definitely help. Because people like looking at pictures and they
14 want to do what's right. So I have something like in there, like, you know, this stuff is cost right?
15 So that means I would have to bear the burden of that cost, and I'm more than happy to.

16
17 Mr. Carnicelli: No, no, no. We would, we would --. You might be able to do the information --.

18
19 Mr. Robinson: Commissioner. Commissioner.

20
21 Mr. Carnicelli: Sorry.

22
23 Mr. Lindsey: So yeah that to me would be the easiest way. The other thing I'm more than happy
24 to do is, you know, if you got new guests coming in, aye, I live right there on the beach. I'm
25 more than happy to take you down there and show you where because I'm doing it already for
26 the people who I know don't live down there. Because I can tell where they paddling out or
27 where they going. You not from here, you don't know where you going.

28
29 Mr. Robinson: Is there any other questions for the testifier? Commissioner Kahu Hill.

30
31 Kahu Hill: Aloha.

32
33 Mr. Lindsey: Aloha.

34
35 Kahu Hill: I think you ohana has been there since before the banyan tree was planted, yeah, like
36 125 years?

37
38 Mr. Lindsey: About 1880, somewhere around there.

39
40 Kahu Hill: Right. So you're the kupuna of the street.

41
42 Mr. Lindsey: Just the current caretaker.

43
44 Kahu Hill: So I really like --. I just want to comment that I really like what he's saying and
45 possibly the thought of an orientation that could actually you could be videotaped or
46 documented in time and to actually take people out to show them and documenting that and

1 how precious the coral is and the . . . (Inaudible. Spoke in Hawaiian.) . . . whichever. And think
2 about how we can balance this so for everyone.

3
4 Mr. Lindsey: Thank you for that. I appreciate that because that's where I was coming from. I'm
5 more than happy to do a video and have them --. I think it would enhance visitor experience by
6 seeing our family's property and having one local guy come talk to them and share the place
7 with them. Sure. It's something I'd love to work out with every single one of them.

8
9 Mr. Robinson: Any other Commissioners? Seeing none. Thank you so much for your testimony.

10
11 Mr. Lindsey: Mahalo.

12
13 Mr. Robinson: Would anyone else like to testify on this item? Okay. Sure. Please introduce
14 yourself and you have three minutes sir.

15
16 Mr. John Dunbar: Hi. My name is John Dunbar, and I operate a five room bed and breakfast in
17 Haiku. And I appreciate the comments from the gentleman that just came in. I think it's a
18 superb idea, and I'd like a copy of the video. Haleakala has a similar program where you go in
19 before you hike into the crater you watch the video. And it talks all about preservation of the
20 plants and keeping the park and preserved the way it should be. So I think that's a superb idea.
21 It just so happens I know the applicants from having purchase some pavers from them about a
22 year ago, and I can tell you without question they have their hearts in their project. They're
23 physically working on their property. Many people hire, they come in, they may have helpers,
24 but when I saw them they were really putting effort into this. And they put a lot of work. They're
25 dedicated to it. And the fact that they run a business here. Also they're experienced with it.
26 And I'm sure they'll be very receptive to educating their guests when they come in. That's all I
27 have to say. Thank you.

28
29 Mr. Robinson: Thank you. Any other testifiers? Aloha, please introduce yourself, you have
30 three minutes.

31
32 Mr. Moki Burgau: Aloha. My name is Moki Burgau and I'm from Nahiku. And yeah I'm testifying
33 on this project here. I'm with this young man here, Mr. Lindsey. I do agree that the coastal
34 environment has been overlooked by everyone because of the induction of tourism which we
35 badly need. And I'm very grateful that this gentleman here or this gentlemen came up with a
36 solution, a workable solution of education and we'd be able to sit by, and I'll sit here and look at
37 it very carefully on this side of the view. And I truly respect the builders of this project. The
38 tourists do need alternative areas to do it in, but they need to be guided unfortunately. And
39 that's the emphasis that we need. I'm sure that you plan to make on how to guide it, how to
40 guide the induction of this, I call it, invasion. But then again, it's, it's, it's a part of life. We need
41 to accept it. But as far as the educational tool, it is very important to establish one. If this
42 gentleman's idea is not used, it needs to be looked at, educational purposes in driving this
43 fundamental. Our environment is our fundamental concern and we need to look at it. Mahalo.

44
45 Mr. Robinson: Thank you. Anyone else would like to testify on this item? Seeing none,
46 testimony is closed. Commissioners, I'd like to open up the floor for questions for the applicant.
47 Would anyone like to start? Commissioner Carnicelli.

1
2 Mr. Carnicelli: So based on Mr. Lindsey's testimony and the interaction that we had, would you
3 be open to having a commitment? Again, I don't know what the condition would say exactly, but
4 are you open to having that condition on your permit?
5

6 Ms. Harde: Yes we are. I'd actually love to because I think Pavel and I would love to work with
7 you on a development of a video or work out ways that we can have our guests regularly meet
8 you. With the bed and breakfast we are required to put out house policies. And I think one of
9 the things that bed and breakfast owners tend to do is to take a lot of pride in terms of how they
10 introduce guests into the property. And so I think as part of that whole introduction about driving
11 slowly in our cul-de-sac streets, things like that, we could take the time. Once we're better
12 educated also could talk about how to access our beaches and how to be respectful of the coral
13 reefs. And hopefully we could do something nice together that we could share with other, other
14 homeowners in the area with rentals.
15

16 Mr. Robinson: Thank you. Commissioners, anything else? Commissioner Kahu Hill.
17

18 Kahu Hill: I just wanted to know would you also think that it would be convenient for you and that
19 you could create that type of orientation where they would actually sit down and welcome them,
20 and welcome them to the area, and have this agreements. Would this work for you?
21

22 Ms. Harde: If we can arrange between guests and the families, then yes.
23

24 Kahu Hill: Mahalo.
25

26 Mr. Robinson: Commissioners, anything else on the question application? Commissioner Kahu
27 Hill.
28

29 Kahu Hill: I just have a question for the planner.
30

31 Mr. Robinson: Yes, hi, we have a question for you.
32

33 Kahu Hill: Mahalo. I see in 2014 that there was a three year permit that was granted for a
34 previous owner.
35

36 Ms. Callentine: Correct.
37

38 Kahu Hill: And then in 2017 there was a two year extension that was granted.
39

40 Ms. Callentine: Yes.
41

42 Kahu Hill: And why are you recommending a three year permit for the owners? Is that the
43 standard procedure for the permit?
44

45 Ms. Callentine: Yes, thank you for the question. The standard initial term of a bed and breakfast
46 permit is three years with a, with extensions going anywhere from one to five years depending --
47 could depend on the Department's identifying an area of concern that we feel a limited renewal

1 would be appropriate. However in this case the applicant, the permit holder at the time of
2 renewal advised that they weren't sure if they were going to be continuing on beyond two years.
3 So they specifically limited the renewal themselves to two years.

4
5 Kahu Hill: And is it also --. Thank you for answering that question. Mahalo. When the property
6 was purchased in April 2017, it looked like there was a current permit and from the previous
7 owner that was not transferable? Is that correct?

8
9 Ms. Callentine: Oh, yes, the permits are non-transferable.

10
11 Kahu Hill: They had it current at that time?

12
13 Ms. Callentine: I'm sorry?

14
15 Kahu Hill: When it was sold, in April 2017 --

16
17 Ms. Callentine: It was current. Yes.

18
19 Kahu Hill: Mahalo.

20
21 Ms. Callentine: You're welcome.

22
23 Mr. Robinson: Commissioners, any other questions? I have a question for the, for the applicant
24 and for the planner. But I'll ask the applicant first. Hi. My question is have you ever thought
25 about renting out these units long term instead of short term?

26
27 Ms. Harde: We've considered it. The economics for us wouldn't allow us to keep the property.

28
29 Mr. Robinson: But was the purchase price predicated on the, on the amount of business you
30 could generate or was it based just solely upon the value of the house at the time?

31
32 Ms. Harde: Well given that the license isn't transferable, we couldn't really acquire it as a
33 business and we didn't. So the value of the home was the value of the home. We...this
34 wouldn't have been a house we could have afforded without the contemplation of being able to
35 do the short-term rentals.

36
37 Mr. Robinson: The bed and breakfast you mean.

38
39 Ms. Harde: Yes, yes. Sorry.

40
41 Mr. Robinson: Okay. Yeah, no problem, I just want to make sure. Thank you so much. I have a
42 question for the planner. Looking at the layout, I've been here a couple of meetings, and this is
43 the...this is probably the first B&B that I thought looks more like a motel and a compound with
44 different units than a home renting out. Can you, can you please help me with this on the
45 clarifications and the rules on the B&B's please?

46
47 Ms. Callentine: Yes. Let's see first off, a B&B can be operated in two dwellings on one property.

1 Secondly, I'm very familiar with this property because I handled all of the permits on it
2 previously, for the previous owners and operators. And...and when they purchased the
3 property -- and the Director will remember this too because we went over the floor plans
4 together extensively -- when they purchased the property and I went to inspect, there was a
5 kitchen in each unit. And it had been in long term rental. But those kitchens were not legal
6 because you can only have one kitchen per dwelling. And we didn't have a definition of wet bar
7 to go on so we had -- so I -- so they had to reconfigure and they took everything that was, that
8 we told them to take out. In other words, to trim back those kitchens so there no kitchens
9 including removing the 220 plugs for the stoves and things like that.

10
11 So it is an unusual configuration, I grant you that. I, I found that too as I looked at it. It took me
12 awhile to really figure out, it's like a puzzle.

13
14 Mr. Robinson: I mean I guess my question is a breezeway considered, you know, an internal
15 structure or is it external? Because we have a covered walkway connecting six units.

16
17 Ms. Callentine: The covered walkway is a method of establishing that there is one dwelling. So
18 the walkway is a link to the, to create one dwelling, yes.

19
20 Mr. Robinson: Okay.

21
22 Ms. McLean: Chair, may I also point out the property is zoned R2. And under that zoning
23 designation there's a minimum lot size of 7,500 square feet. But that also means that you can
24 build one full size dwelling, not an accessory dwelling or ohana, but one full size dwelling per
25 7,500 square feet of lot area. So typically with B&B's you'd see the main house and you'd see
26 the cottage. In this case it's two, two main houses.

27
28 Mr. Robinson: Thank you. Commissioners, any other questions? We'd like to know the
29 recommendation please.

30
31 Ms. Callentine: Thank you again. As mentioned by the applicant, there's one permitted B&B
32 operation location south of the property, about six properties away. There are also two
33 permitted short-term rentals within 500 feet as well. As of June 30th, 2018 there were 10
34 permitted B&B's in the west Maui region. The cap is 88. With the Minotoya ruling that recently
35 came down which I believe you are all familiar with. If you are not please indicate so and I will
36 give you a little background on that. But with that ruling all of the short-term rental permits that
37 were issued to the International Colony Club were declared unnecessary, not required. And so
38 there are now only 56 permitted short-term rentals in the West Maui Community Plan region,
39 with a cap of 88.

40
41 As you saw in the report, I went through the entire RFS history of the property and none of
42 those were filed during this owner's tenure but however there were no serious concerns and
43 there are no open RFS's on the property. I will say these applicants have been extremely
44 cooperative with the Department. When I first went and did the second site inspection of this
45 property I was concerned about the parking, and I raised the issues and we discussed it. And
46 they were --. There are many applicants that will say, well, no, why do I have to do that?
47 Where does it say I have to do that? These guys were like so pono . They said, okay, what do

1 you want us to do we'll do. They kept me posted each step of the way what they were doing.
2 And then I came back for a site inspection to see the final product and was very pleased with
3 what they've done. So they -- I think they're very responsive and...responsible.

4
5 Prior to this application there was, as we mentioned, a permitted B&B operating. And it had no
6 complaints and it had no incidents on that property. The owner proprietors had closed that B&B
7 permit, sold the property to the applicants in April 2017, and they moved off island.

8
9 So as of August 13th, 2018, the Department has received 10 letters of support and two letters of
10 opposition. The applicant response to each letter in an attempt to alleviate concerns.

11
12 The Department recommends approvals of this particular B&B, and we ask that the Maui
13 Planning Commission authorize the Director of Planning to transmit written decision and order
14 on behalf of the Planning Commission. Thank you.

15
16 Mr. Robinson: Thank you. Commissioners, discussion? Motion? Commissioner Tackett?

17
18 Mr. Tackett: I have one more question, if I could.

19
20 Mr. Robinson: Yes, of course.

21
22 Mr. Tackett: Is there something that lets me know where the people that wrote the letters of
23 opposition are in relation to the property?

24
25 Mr. (____): Yes, we have a slide for you.

26
27 Mr. Tackett: Because I was looking. I was looking in here.

28
29 Mr. (____): There you go.

30
31 Ms. Callentine: So the, so the green check marks are the permitted -- I mean, are the
32 supported, where the letters of support derived from. And then the red x's are from the people
33 who had concerns.

34
35 Mr. Tackett: Thank you.

36
37 Mr. Robinson: Okay Commissioners, any other --? Yes?

38
39 Ms. Callentine: I'm sorry, I neglected to address the question about an additional condition.

40
41 Mr. Robinson: Let's, let's -- we'll do that. We'll come back to that.

42
43 Ms. Callentine: Okay.

44
45 Mr. Robinson: Thank you. Because Michele has something for us. Okay. Any other questions?
46 Okay. So it's, it's...we have the...we have the fortune of having somebody from the Maui Real
47 Estate Association as well as from the Maui Visitor Short-Term Rental and Condo Association

1 here that, that I think could work with their own association in adopting when people buy a
2 house, you know, they could set up a video. And when they buy a house, that's part of the stuff
3 that they could, you know, themselves, you know, go ahead and try to educate, you know,
4 instead of having to fly on a plane and have to . . . (inaudible) . . . I think Mr. Lindsey, you know,
5 brought up a great point about what's happening, you know, and, and, and the Director has
6 heard that. So, so, and the Director has some language that she would like the Commission to
7 hear and see how you guys feel about that. Director?

8
9 Ms. McLean: Thank you Chair. Proposed, a proposed additional condition could read the
10 applicant shall educate all guests about potential detrimental impacts to natural and cultural
11 resources of near shore waters and the coastal environment. Evidence of such an education
12 program shall be provided to the Planning Department prior to operation.

13
14 Mr. Robinson: Discussion? Commissioner Carnicelli.

15
16 Mr. Carnicelli: Can we also make it a part of the house rules? I mean, like say they have to do
17 that but then maybe a part of the house rules in some way? Is that?

18
19 Mr. Robinson: That's up to you. I mean she wanted to start with something and see how we
20 feel.

21
22 Mr. Carnicelli: I like that. I also think that there's some way that which we have to include
23 language to their moku. You know because what's happening on Front Street isn't necessarily
24 what's happening, you know, in Kihei versus Nahiku. So if there's some way maybe we can
25 make it area specific.

26
27 Mr. Robinson: Commissioners? Commissioner Kahu Hill.

28
29 Kahu Hill: Mahalo. That was a good point. It would be nice to also mention things culturally
30 about limu . . . (Inaudible. Spoke in Hawaiian) . . . waiwaiole, or different kind . . . (Inaudible.
31 Spoke in Hawaiian) . . . or the aspects of what's cultural or what is part of the moana or the
32 ahupua'a, the historical as well. So historical and cultural aspects, and the importance of the
33 reefs even the . . . (Inaudible. Spoke in Hawaiian) . . . which could be shared by Mr. Lindsey.
34 So if there's a way to put that somehow in there.

35
36 Mr. Robinson: Commissioner La Costa.

37
38 Ms. La Costa: Thank you Chair. I think that there should be language irrespective of the where
39 the bed and breakfast or short-term is because if you're at Nahiku, you will still end up at the
40 ocean at some point during your stay. So I think that the conditions that are set forth about the
41 educational aspects of permits need to be a condition of every short-term and bed and breakfast
42 on Maui.

43
44 Mr. Robinson: Thank you. Commissioners? Mr. Carnicelli.

45
46 Mr. Carnicelli: You know, I'm also sitting here thinking about this because we are, I'm like, you
47 know, Commissioner La Costa, you know, and Kahu Hill, I'm starting to go probably in my mind

1 island wide where we're talking about one condition on one permit right now, and I think that,
2 you know, as we write going forward maybe this is a condition as you said add it to everything.
3 So I don't want to get buried too much in the details right now, but I think that...I don't know if
4 we need to word smith this more, but I'm going to turn over here to Corporation Counsel and
5 ask him as to where do we need to go with this.
6

7 Mr. Robinson: Yeah, and I think as a Commission we have to, you know, we have to be
8 cognizant of, of zeroing out one permit compared to doing 'em all. We have to -- . We know
9 that education every -- every visitor should have education, you know, and, and we have to, you
10 know, they have, you know, fire plans are different. Hotels have fire plans. Hotels have, you
11 know, mandatory visitor education, you know. It's, it's -- and I, and I -- you know I'm for it, and I
12 think we all are, but we have to make sure that it's a, it's a blanket. It's not, you know, it's not
13 individualized and, and is, is I personally feel as a Commissioner that if an applicant came to me
14 that went through this process prior they would have nod of an approval rather than a denial,
15 you know. It's sort of a police in effect and a mandatory type of a thing. And this is just on the
16 legal aspect, and David I'll let you, I'll let you talk on that.
17

18 Mr. David Galazin: Thank you Chair and Commissioner Carnicelli. You know, I think keeping
19 the language as broad as possible while sticking to the intent is perhaps most appropriate for
20 this one. When you're looking at the conditions they are really supposed to be specific to the
21 impacts of the individual project, and understand what the Chair was saying, you know, there is
22 the need to look at this perhaps island wide. But here, in particular, it seems that there may be
23 some unique circumstances where given the state of the reef, given the proximity of the
24 proposed B&B to the shoreline that, you know, an educational program may be an appropriate
25 condition to mitigate that. I don't know that, you know...educating every tourist about, about
26 reef would be necessary for everyone everywhere. But if, I think that the Director clearly
27 understands what the educational component would need to be for this, and as she has worded
28 it, I think, it works it pretty well because the Department is going to be the one looking at it and
29 seeing if it makes sense for the location and for the property.
30

31 Mr. Robinson: Okay. Corp Counsel on that is we have a testifier that, that cited a study. So it's
32 not really an opinion or a hearsay, it's a study. And can this Commission go based on a study
33 of facts, of the hits in that area that we have this as part of the criteria of this area for protection?
34

35 Mr. Galazin: Well, Chair, without having seeing the study, you know, and members haven't seen
36 the study, it's not something that we can necessarily consider, you folks could consider as a
37 body right now. But in the future, if you want to ask the Department investigating including that
38 type information, then you could go ahead and make that known to them. But for purposes of
39 this permit, I think that's not something that would be within your purview right now.
40

41 Mr. Robinson: And Director, I just want to make sure that, you know, we're not single out an
42 applicant and that we look at something and, and if we, I don't know we are able to go
43 retroactive to all the other applicants, or future applicants are doing renewals, they'll have to do
44 this. I think we have a great idea that was brought before us today. I'm not -- if you guys are
45 comfortable implementing today or maybe, you know, put it on an agenda to where we can ask
46 for the study and look at it, and probably in the future try to make it, you know, try to make it
47 retroactive for the renewals, you know, I think that's something. Commissioner Carnicelli.

1
2 Mr. Carnicelli: Yeah, that's a great point Chair. The applicant also did agree, you know, that
3 they would, you know, that they were open to this. I also think that, you know, just the
4 interaction that I've seen is there's an element of trust that I'm going with right now too in this
5 that I think that they actually do want to do this, they do want to carry this out, and they do want
6 to move forward on this. So as far as singling them out, I think that's, you know, something that
7 we definitely have to be aware of. But I'd be, I'm comfortable with adding however it is that we
8 come up with the condition even if it's that original sentence that the Director came up with.

9
10 Mr. Robinson: Okay. Michele, do mind reading that again please?

11
12 Ms. McLean: The applicant shall educate all guests about potential detrimental impacts to
13 natural and cultural resources. I added, particularly to the coastal environment and near shore
14 waters. Evidence of such an education program shall be provided to the Planning Department
15 prior to operation.

16
17 Mr. Robinson: And with the permit, the applicant did agree to that? That's a yes. Okay, thank
18 you. Commissioners, any other questions, comments, discussion or motion? Commissioner
19 Kahu Hill.

20
21 Kahu Hill: Mahalo Chair. Just one more. Just looking at the potential detrimental impacts, I still
22 feel the education of the culture is so important and the ocean, not just what could be
23 detrimental.

24
25 Mr. Robinson: Commissioner Pali.

26
27 Ms. Pali: I'm like do I, don't I, do I, don't I? I just want -- can I just make a comment?

28
29 Mr. Robinson: Of course.

30
31 Ms. Pali: To my fellow Commissioners and also the people that testified. I just wanted to point
32 out a couple of things as I'm learning, so forgive me if I'm overstepping. I do like the idea of the
33 education. I think that's so important, and I'm just so grateful that you're willing to work with that.
34 But I also do agree that it doesn't land on this one person, this one permit, it should be more
35 broad. So I would like to encourage you, the testifier to really seek other groups that can
36 support you and bringing this more of a County wide and even a State wide. I know every time I
37 come home and I'm on Hawaiian Airlines they have the survey that they require the visitors to fill
38 out. Like why can't we have something there with education and it really go state wide. So I
39 just want to thank you and maybe hopefully encourage you to follow through with that.

40
41 And also there's a few things that were brought up with the fact that maybe that this home was
42 attempted to work with long term rentals. And then because of our ordinances and permitting
43 process, if they deemed those additional kitchens illegal. I just want to encourage other people
44 that I think a lot of good things were raised in this particular meeting and we need to revisit that
45 as we are having a major shortage of affordable rentals. We need to revisit that too as I feel like
46 that was also brought up as well. But I also feel like the new owner has done everything she

1 can to keep the existing use of that property, and so it's just really nice to see the unity here
2 today. Thank you.

3

4 Mr. Robinson: Commissioner Carnicelli.

5

6 Mr. Carnicelli: Chair, I'd like to make a motion to approve this application with the 17 conditions
7 recommended by the Department plus the 18th condition that was read by the Director on the
8 record.

9

10 Mr. Robinson: Kahu Hill.

11

12 Kahu Hill: I'll second that.

13

14 Mr. Robinson: Motion to approve by Commissioner Carnicelli with 18 condition, and second by
15 Kahu Hill. Discussion on the motion? Would you like to speak to the motion? I think we're
16 good. Anybody else have any discussion on the motion? Okay, and just one comment before
17 we vote. Commissioner Pali, I agree with you. I think that there is not a lot emphasis on keeping
18 rentals and keeping, keeping people that service our industry housed. Maui has the highest
19 unemployment because we have the, we have the least housing. And without houses we won't
20 have employees and it's just a, it's a vicious cycles. And when we have to take units out and
21 kitchenettes and turn them into short-term rental, it's done. And it's, it's nothing against
22 applicants, right. Applicants, you know, there's nothing wrong making money. This is
23 American. There's nothing wrong with being a good business person and seeing an
24 opportunity, you know. It's a, it's our codes and our laws that allows them to, you know, to be
25 pushed that way. And so I think the applicants, you know, considering that. I'm glad that we
26 have these types of applicants that are looking and that are local. And you know, the difference
27 between local and kamaaina, I want to make sure we understand the difference. There's
28 kamaaina and there's locals, and I appreciate, and I appreciate the mana'o that was shared
29 about the coastal and about the information and about moving forward. And again we do have
30 people here from different parts of the associations that I think will hear you and when they go
31 back to their boards I think they'll try to implement this program so I really appreciate it. And
32 that's why testifying is so important here. Director.

33

34 Ms. McLean: Chair, you have motion to approve the application subject to the conditions noted
35 in the staff report plus the additional condition relating to impacts to natural and cultural
36 resources.

37

38 Mr. Robinson: All those in favor please raise your right hand. That's seven ayes. Motion pass.
39 Thank you.

40

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

42

43 **VOTED: To Approve the Bed and Breakfast Home Permit as Recommended**
44 **by the Department with 18 Conditions.**

45 **(Assenting – L. Carnicelli, A. Hill, K. Pali, L. Hudson, C. Tackett,**

46 **S. Castro, P.D. La Costa)**

47 **(Excused – T. Gomes)**

48

1
2 **E. COMMUNICATIONS**

- 3
4 1. **JOHN DUNBAR requesting a 5-year time extension on the Land Use**
5 **Commission Special Permit and the Bed and Breakfast Home Permit in**
6 **order to continue to operate the Maui Adventure Villa, a bed and breakfast**
7 **home located in the State Agricultural District at 192 Kaoko Way, TMK: 2-**
8 **8-002: 034, Haiku, Island of Maui. (SUP2 2016/0008) (BBPH 2017/0001) (K.**
9 **Willenbrink)**

10
11 **The Commission may take action on this request.**

12
13 Mr. Robinson: At this time we will go on to the next item. Congratulations. Director.

14
15 Ms. McLean: Chair, next we have the first of two communication items on the agenda today.
16 This is a request from Mr. John Dunbar for a five-year time extension on the Land Use
17 Commission Special Permit and Bed and Breakfast Home Permit in order to continue to operate
18 the Maui Adventure Villa, a B&B home located in the State Agricultural District, at 192 Kaoko
19 Way, TMK: 2-8-2 parcel 34 in Haiku. And Kim Willenbrink is the project planner.

20
21 Ms. Kimberly Willenbrink: Good morning Mr. Chair.

22
23 Mr. Robinson: Good morning Kim.

24
25 Ms. Willenbrink: Commissioners, Director. My name is Kimberly Willenbrink and I work for the
26 Planning Department, Current Division. Welcome to team Commissioner Pali. It's nice to meet
27 you and thank you for your service and dedication.

28
29 This matter is scheduled for your review and recommendation today. The owner, Mr. John
30 Dunbar, is seeking approval of a State Land Use Commission Special Permit time extension
31 and a Bed and Breakfast time extension to continue operating a bed and breakfast in Haiku off
32 of Ulumalu Road which is in the State Agricultural Land District on approximately 2.33 acres.

33
34 Since his first approval there have been no request for services on the property, and there were
35 no reports filed with the Police Department. And those are noted on the report as Exhibits 4 and
36 5. The Department notes that there is an approved and implemented farm plan on the property.
37 Vegetation on the farm includes Kamani, Palm, Mamakae, avocado, black berry, mango, lilikoi,
38 banana and bamboo. You are here today to approve or deny the State Special Permit time
39 extension and the B&B Permit time extension. As of June 30th, 2018 there were 43 permitted
40 bed and breakfast homes in the Paia-Haiku Community Plan region. The bed and breakfast
41 permits cap for the area is 88.

42
43 Mr. Dunbar is here today to answer any questions you may have. After your discussion I will
44 provide the Department's recommendation. Thank you.

45
46 Mr. Robinson: Thank you Kim. Commissioners, at this time, before public testimony, we're
47 going to do things a little different, and I'm going to hand this over to Corporation Counsel. This
48 is with the applicant's approval. Thank you.

1
2 Mr. Galazin: Thank you Chair. So this is for the Commission members as well as the members
3 of the public. What we're dealing with right now is technically a contested case under
4 Chapter 91 in the Hawaii Revised Statutes. And as I've spoken before during the last overview
5 that I gave of your duties and powers, and for our new member, anytime there's an agency
6 hearing that determines the rights, duties and responsibilities of a party, that's considered a
7 contested case. Your rules do not currently have specific procedures and how that is
8 implemented in the absence of intervention. Normally contested cases is something where
9 somebody is contested it and it's you're sitting on a quasi-judicial capacity. Nobody is
10 contesting this per se, you still are sitting on a quasi-judicial capacity in taking in evidence and
11 deciding whether or not to grant this.

12
13 In Chapter 91-9, subsection (d), any parties can stipulate through a specific set of procedures.
14 In this case the applicant has stipulated to the following procedures that we're going to be using
15 for today's hearing. The first is if there were a petition to intervene, which there hasn't been.
16 Second, anybody who wishes to provide testimony is going to be asked to do so under oath.
17 It's not going to be, you know, sworn on the Bible or anything. Just swear and affirm that they're
18 telling the truth. And the applicants or any of the applicant's representatives will be given an
19 opportunity to ask questions of the testifier if they so choose. And the Chair is going to be,
20 going to be running back to make sure that's the cross examination by the applicant is going to
21 be limited to just the testimony provided, you know, or anything that relates . . . (inaudible) . . .
22 or bias. After the, the applicant has had a chance to ask questions, then you will have your
23 opportunity to ask questions of the testifier. But you're going to save your questions for the
24 applicant until, until they're done. So we don't want to get into a situation where somebody
25 stands up and then the applicant wants to ask some questions, and then you want to ask the
26 applicant questions based on what they just said. You have to write them down; wait till the
27 end. After that takes place, then you can go ahead, you can ask questions of the applicant or to
28 the Department. And then once your discussion is done, prior to making a motion, we will allow
29 the applicant one more opportunity to provide a closing statement or rebuttal if they choose to
30 do so.

31
32 So that's the basic run down, and we'll kind of work it out as we go. And this may be a
33 procedure that we would like to implement, or the Department would like to implement moving
34 forward so this will be a chance to get your feet wet and we'll see how it goes. So we'll do the,
35 the, the brief overviews first before we start the, before we open public testimony like we do
36 normally.

37
38 Mr. Robinson: Would the applicant would like to speak before public testimony?

39
40 Mr. Dunbar: Good morning Director McLean and Chairman Robinson and members of the
41 Commission. Thank you for this opportunity again to come back to the Commission and review
42 my performance I would say over the last year. Everything has been favorable and a few
43 comments on the prior testimony, I welcome this idea. I think it's great, Mr. Carnicelli, that we
44 implement this for all of the bed and breakfast.

45
46 And in fact I have a little bit different approach on my bed and breakfast. When guests come in,
47 I take the opportunity to sit down and talk with them, and actually many times, go out and

1 participate with them in their activities. I'm getting old, but I can keep up with most of them.
2 They go out on adventures into Haleakala and bamboo forest and kayaking. I have a great time
3 with that so it's really, I'm really enthusiastic about that. Also in our talks, we talk about the
4 preservation of the land and they take walks around the property and see the fruits and
5 vegetables, the garden that's growing there, and actually enjoy the stay.
6

7 I'm very appreciative this morning that a couple of my current guests are here to remark on their
8 experience and they asked -- they actually volunteered to do that so I didn't have to ask them.
9 And another young lady who's been an advisor to me, very experienced in management. She
10 lived on the property for a while and assisted with her husband in some of the operation of the
11 farm, cleaning up the banana patch, and getting the rooms organized. And I'm proud of the
12 Maui Adventure Villa staff has been wonderful in the housekeeping and the maintenance.
13 There's a lot on there as you can imagine with five rooms. It's a lot of work so the effort that's
14 put in to it, it's a, you know, you have to earn what you're getting in that regard.
15

16 Again, it's the hospitality part of it is very important, and I know that's important for the island
17 and Hawaii. I know this well with inviting people here and educating them and getting them
18 experiences here is a big part of sharing Hawaii, and the experiences here and preserving it and
19 for our main industry, tourism, visitors. So it's, it's been quite an experience and a journey for
20 me. I don't want to take too much time. You've been through this on a number of hearings with
21 me, but I would like to just a couple of the comments from guests that they had experienced at
22 the Maui Adventure Villa. And besides saying I'm a good host, one is their second year here
23 and stayed at the whole house. They've been at 50 B&B's and this is the only one that they
24 return to. And I guess many guests from Europe actually, and this is their first experience, or
25 honeymoon or their first time in Hawaii, they come to Maui and it's their first experience. So
26 that's important also that you give them a good experience. Best in Maui and the whole Hawaii
27 and thank you so much. They're from Switzerland. And they had access to a kitchen and
28 refrigerator. You know, some people are on a budget. They're quite sensitive unlike people
29 that stay at the five star hotels. We would like to consider our five star unit.
30

31 But, they come to Hawaii and want to experience it, and I've always been supportive. I'm quite
32 sensitive that many people in this room they come to Hawaii and be able to prepare their meals
33 in a kitchen and have their food there. And it is expensive. So they do go out to restaurants.
34 Many of them go to Mama's Fish House and down into Paia, and I recommend places to eat
35 and they come back and they have their breakfast.
36

37 Mr. Robinson: And Mr. Dunbar, you have your permit, it's for a renewal so you don't have to --
38

39 Mr. Dunbar: Okay.
40

41 Mr. Robinson: -- to resell us.
42

43 Mr. Dunbar: Well, I wanted to tell you everything has been favorable, and I'm looking forward to
44 continue this operation so I'm here to answer any questions.
45

46 Mr. Robinson: Thank you. At this time we'd like to do public testimony. Is, is anybody here like
47 to testify? Hi. Please introduce yourself.

1
2 Ms. Katarina (____): Yes, my name is Katarina (____). I lived in Austria.

3
4 Mr. Robinson: Okay, Katarina, do please testify that everything that you say will be truthful?

5
6 Ms. (____): Yes.

7
8 Mr. Robinson: Okay. You have three minutes to testify.

9
10 Ms. (____): Okay. I've a little bit excited because I'm not talking now in my language, but I'm
11 here to support John because not only because we became friends. One year before we came
12 the first time we come here to Maui and he -- I never met the host it was lovely and so
13 supporting. English not so good. But he introduced us to this island. He was -- yesterday we
14 had dinner and we had a lot of dinner together and we were talking about the island and the
15 culture and everything. And also we went on the trip with him to the Haleakala. He's so -- how
16 to say -- so personal and something very, very special. And my husband and I we are actors,
17 and we're traveling a lot, and let's see, really the only place that we came back. One year
18 before we've been here and now we are here for six weeks and it's not so long but we also have
19 to work. But, yeah, I'm here to support him because he's really, really special person, and he's
20 with a heart, and he is working a lot on his property. Every morning he's asking us what we
21 want to have the avocado, bananas, and he's, he's showing us everything from the island we
22 can ask him. Yeah, he's also booked and, and he writes the letter in the department what is
23 important. But also for me, it's very special is that I said for example yesterday evening he was
24 cooking for us, the lamb, and we were talking for hours, and so great and something that is very
25 special. Thank you.

26
27 Mr. Robinson: Thank you. Mr. Dunbar, would you have any questions for the testifier?

28
29 Mr. Dunbar: No.

30
31 Mr. Robinson: Alright. Thank you. Commissioners, any questions for the testifier? Okay,
32 alright seeing none, anyone else would like to testify on this...this item? Hi. Please state your
33 name.

34
35 Mr. Jeffrey Paisner: Jeffrey Paisner.

36
37 Mr. Robinson: Mr. Paisner, do you testify to say, everything that you testify will be truthful?

38
39 Mr. Paisner: Yes I will.

40
41 Mr. Robinson: Okay, thank you, you have three minutes.

42
43 Mr. Paisner: I just wanted to put stuff in perspectives because there are comments being made
44 about locals, kamaaina, and transients, and maybe decisions that will be made by the Planning
45 Board that are prejudice by those attitudes about those three groups of people. I think what you
46 need to understand is there are people that are landing right now that have never been to Maui
47 who you may be calling transients who have more respect for the environment and the 'aina

1 than many people who already live on Maui who are locals and who are kamaaina. Transients
2 do not dump their cars on the sides of roads on Maui.
3
4 Mr. Robinson: Sir, is this on this item or are you --
5
6 Mr. Paisner: I just wanted to put something --
7
8 Mr. Robinson: Yeah, this is a contest case hearing. Is this about the item? Is this --
9
10 Mr. Paisner: Okay, I just want to make a comment. I just want you to make decisions that are
11 prejudice against transients or kamaaina or locals.
12
13 Mr. Robinson: Okay, thank you so much. Mr. Dunbar, do you have a -- do you want to ask the
14 question to the testifier?
15
16 Mr. Dunbar: No, no questions.
17
18 Mr. Robinson: Commissioners? Okay, thank you. Would anyone else like to testify on this
19 item? Hi sir. Please state your name.
20
21 Mr. Peter (____): Yeah, Peter (____)
22
23 Mr. Robinson: Hi Peter (____). Is do you testify that everything you say will be truthful?
24
25 Mr. (____): Yeah.
26
27 Mr. Robinson: Okay, you have three minutes.
28
29 Mr. (____): I'm the husband of Katarina . . . (inaudible) . . . I'm 100 percent with her and your
30 description. We are actors and the last time we are here on Maui on the bed and breakfast,
31 John, we have thought about . . . (inaudible) . . . and now we have frequent. This again, we are
32 looking for locations and John is a very perfect scout to find some locations. And I hope we can
33 realize this project to where we maybe next year and so we need his bed and breakfast, his bed
34 and breakfast as our home base for our crew, and yeah.
35
36 Mr. Robinson: Mr. Dunbar, any questions?
37
38 Mr. Dunbar: I do have one question. Be sure to have a part for me in the movie. And any of the
39 Commissioners that may have --
40
41 Mr. (____): Okay. The main part, the main part --
42
43 Mr. Robinson: You're under oath.
44
45 Mr. (____): Yeah. The main part will play the island.
46

1 Mr. Robinson: Okay. Alright. Thank you. Commissioners, any questions? Thank you. Seeing
2 none. Anyone else would like to testify? Hi please introduce yourself.

3
4 Ms. Shao Yee: Hi. My name is Shao Yee.

5
6 Mr. Robinson: Hi Shao Yee. Do you testify that everything is truthful at this testimony?

7
8 Ms. Yee: I do.

9
10 Mr. Robinson: Thank you. You have three minutes.

11
12 Ms. Yee: Good morning everyone. I'm here to testify for John. I'm a personal friend. I'm a
13 personal friend of John and also I've managed the B&B for about for about four to five months
14 last year with John mostly doing administrative and financial part of the B&B services. And I'm
15 here more so on a personal basis to testify much of a gracious host he is and he's sharing for
16 the guests on the property. And he's always looking around and, you know, figure out what's the
17 best way to accommodate their needs and taking them out and to help them out. And he's
18 constantly checking on the guests because the property is quite large and he's always running
19 to different places and make sure that they have everything that they need. And also personally
20 he's very kind and genuine person and I just wanted to be here to support him. Thank you.

21
22 Mr. Robinson: Thank you. Mr. Dunbar?

23
24 Mr. Dunbar: No questions. Thank you.

25
26 Mr. Robinson: Okay Commissioners? Alright seeing none. Anybody else would like to testify?
27 Seeing none, public testimony is now closed. At this time Commissioners, do we have any
28 questions for the applicant? Commissioner La Costa.

29
30 Ms. La Costa: Thank you Chairman. My question is was the applicant timely in his renewal
31 request?

32
33 Ms. McLean: If I could ask Kim to answer that question.

34
35 Ms. Willenbrink: Thank you for the question Commissioner La Costa. Yes, he sent in his
36 application in a timely manner. I believe it was on, in February.

37
38 Ms. La Costa: Thank you.

39
40 Mr. Robinson: And Commissioners, and correct me if I'm wrong Corp Counsel on this, is we
41 normally don't have where we ask the applicant to come back in a year. The first time
42 Mr. Dunbar came about it was a unique, unique meeting and we felt that as a Commission at
43 the time that we want to be able to have the opportunity to, you know, to prove his testimony.
44 And so what we're here today is, is we're here today that this is a year later, and we are to
45 review how the year was. SUP's, short-term rentals, B&B's, there's, there's time limits on them,
46 but they're automatically renewed unless there is something that they do against the conditions
47 or if there's a request for service. So for our new Commissioners I want you guys to understand

1 that. You know a three year permit could turn into a 15 to 25 permit as long as they follow all of
2 the rules. You know, that's just the way our rules are set up here. So it's not very common that
3 we ask for it, but we did it to make sure because of the trepidation that we had, and that's why
4 Mr. Dunbar is back today just for the people that weren't here last year.

5
6 On that, do we have any other questions for the applicant? Okay, yes, Commissioner Kahu Hill.

7
8 Kahu Hill: I'm just interested to know are you planning to do films at your property because
9 there's filming permits and things.

10
11 Mr. Robinson: Please reintroduce yourself.

12
13 Mr. Dunbar: Yes, this is John Dunbar, the applicant for the renewal. The answer to your
14 question, what we've discussed with my two guests was very briefly the idea that they would
15 possibly do a production. And of course, it wouldn't be on the property, but it would be a great
16 grounds for people to stay whether it's the crew or other actors. And of course, using the entire
17 island for show casing. But I don't think it's really the venue their type of productions that they
18 do in Vienna is appropriate for that. So probably somewhere on the island. I don't have any
19 details but hopefully something like that will happen. I know it's good for the island and for
20 Hawaii. And I've actually e-mailed to Georgia Skinner who's with the Film Department, and
21 she's doing a little research for this couple, so hopefully something will materialize.

22
23 Kahu Hill: Mahalo.

24
25 Mr. Robinson: Mr. Dunbar, is during the first time around, I understood that we had, you had
26 some questions about your parking on the street, and questions about some noise, and I'm
27 assuming that and you were able to rectify all of those, all those problems or
28 misunderstandings?

29
30 Mr. Dunbar: Yes, absolutely. We're continuing --. There are times when we do change the
31 parking because of the rain there. It's been muddy in the fields so often cars will park up above,
32 but off the street, and there has been no complaints whatsoever in the community.

33
34 Mr. Robinson: Okay, thank you. Commissioners, do you have any comments or motions? Oh,
35 I'm sorry, Kim, can I get the staff recommendation first so we can --?

36
37 Ms. Willenbrink: Thank you Mr. Chair. The Department's summary and analysis are included in
38 the staff report. In consideration of the foregoing, the Planning Department recommends
39 approval of both permits time extension requests for a period of five years until March 31st,
40 2023. The Department is also proposing an amendment to Condition #1 of both permit
41 approvals. The SUP condition would read as follow. And let me just point out these are what
42 are in the standard conditions, standard conditions on other ones. That the SUP2 shall valid
43 until March 31st, 2023 subject to extension of the Planning Director upon a timely request for
44 extension filed within 90 days prior to its expiration. The Director may forward the time
45 extension request to the Commission for review and approval, and may require a public hearing
46 on the time extension by the Commission.

47

1 And B&B condition language would read as follows: that the B&B Home Permit shall be valid
2 until March 31st, 2023 subject to further time extensions by the Director pursuant to the
3 provisions of Section 19.64.060 Maui County Code.

4
5 The Department recommends that the Maui Planning Commission adopts the Planning
6 Department's report and recommendations. Mahalo.

7
8 Mr. Robinson: Yes Kim, I'd like to get a clarification on Condition #18. If, if -- Director.

9
10 Ms. McLean: Thank you Chair. Kim, I thought it would be a good idea to check Condition #18
11 on the B&B permit. It looks like a carryover from the initial permit.

12
13 Ms. Willenbrink: Oh.

14
15 Ms. McLean: So it could be that that condition should be deleted.

16
17 Ms. Willenbrink: Be removed. Thank you.

18
19 Ms. McLean: It read that no permanent B&B approval number shall be issued, no advertising
20 shall be permitted, and no rentals commenced until they do the home inspection. So that was
21 probably a condition on the first permit.

22
23 Ms. Willenbrink: Thank you Director.

24
25 Ms. McLean: It's been satisfied then that can probably be removed.

26
27 Ms. Willenbrink: Thank you.

28
29 Mr. Robinson: Okay, Mr. Dunbar, having said that, do you have any comments that you'd like to
30 say before we, before we go to a motions? Is I have a question for you, it's is earlier, we added,
31 we added the condition for B&B's for education, and I believe I heard that you are in favor of
32 that?

33
34 Mr. Dunbar: Sure. Absolutely. Yes.

35
36 Mr. Robinson: Thank you so much.

37
38 Mr. Dunbar: Okay.

39
40 Mr. Robinson: Alright. Commissioners?

41
42 Kahu Hill: May I ask the question?

43
44 Mr. Robinson: Yes you may ask a question Kahu Hill.

45
46 Kahu Hill: Mahalo. Since I was not on the Commission in 2016, I just wanted to know if you

1 could enlighten me on the thinking that after two deferrals by the Commission that the SUP was
2 granted for only one year. And I just wanting to know more about it.

3

4 Mr. Robinson: Any Commissioners want to do it or do you want me to go?

5

6 Mr. Carnicelli: You.

7

8 Mr. Robinson: You know, is I think, I think what we had, and Mr. Dunbar, you can step in after I
9 say this -- of course, you still have your rights -- is we had testimonies on two sides. And at the
10 end we decided to, to give Mr. Dunbar the opportunity to, you know, because he was the
11 applicant, you know, to prove that he would be a, a, a good permit holder. And, and we have no
12 RFS's, and we have none of things that we thought we had, and we gave --. And this shows
13 given the opportunity of the applicant actually works out sometimes.

14

15 Kahu Hill: Mahalo.

16

17 Mr. Robinson: Is that about right Mr. Dunbar?

18

19 Mr. Dunbar: Yes.

20

21 Mr. Robinson: Okay, thank you. Commissioners? Commissioner Carnicelli.

22

23 Mr. Carnicelli: Just...a question for clarification to the Director. So as I'm looking at this we've
24 got our, the recommendation is seven conditions on the SUP, and then 17 where it would be --
25 so the recommendation is 17 conditions on the B&B. And if there are no RFS's and there are,
26 you know, there's nothing like that, then in five years both get renewed, or the SUP still comes
27 back here...administratively?

28

29 Ms. McLean: Both could be approved administratively.

30

31 Mr. Carnicelli: Right. Okay.

32

33 Ms. McLean: But it is also the Director's discretion to bring it to the Commission, to bring a
34 renewal to the Commission if there are circumstances that need further discussion or public
35 testimony.

36

37 Mr. Carnicelli: Okay, thank you.

38

39 Mr. Robinson: Would somebody please like to make a motion?

40

41 Mr. Carnicelli: I'll make a motion to approve as recommended by staff.

42

43 Mr. Robinson: Is that also with adding the additional?

44

45 Mr. Carnicelli: Oh.

46

47 Ms. La Costa: Yes, the new condition.

1
2 Mr. Carnicelli: Recommended as approved by staff and be with adding an 18th condition --

3
4 Mr. Robinson: The education.

5
6 Mr. Carnicelli: -- the education condition as number 18 on the B&B permit.

7
8 Mr. Robinson: Do we have a second?

9
10 Mr. Castro: Second.

11
12 Ms. La Costa: Second.

13
14 Mr. Robinson: Second by Commissioner Castro. Discussion on the motion? Yes?

15
16 Mr. Carnicelli: I'll speak to it is, yes, thank you Mr. Dunbar for being a good host. We had a lot
17 of questions when you came back here before and we kind of . . . (inaudible) . . . to you and I
18 appreciate you doing what it is that you said you were going to do. And that, you know, your
19 neighbors didn't show up here and fight you and everything like that so it shows you're being a
20 good neighbor and a good host. And so I just want appreciate that and continue to do so
21 please.

22
23 Mr. Dunbar: Thank you.

24
25 Mr. Carnicelli: Thank you Chair.

26
27 Mr. Robinson: Thank you. And Director will reread number 18 into the record and then we'll
28 take the vote.

29
30 Ms. McLean: Thank you Chair. The new condition 18 would read the applicant shall educate all
31 guests about potential detriment impacts to natural and cultural resources particularly the
32 coastal environment and near shore waters. Evidence of such an education program shall be
33 provided to the Planning Department...that the prior conditions and prior to operation. So
34 maybe instead of prior to operation...say within 30 days of today's date. 30 days?

35
36 Mr. Robinson: Mr. Dunbar, can you please -- we want to get you in the record please. Sorry.

37
38 Mr. Dunbar: Yeah, I'm in agreement with the proposed time period; even earlier is fine.

39
40 Mr. Robinson: Thank you Mr. Dunbar. All in favor please raise your right hand for approval.
41 That's seven ayes.

42
43 **It was moved by Mr. Carnicelli, seconded by Mr. Castro, then**

44
45 **VOTED: To Approve the Five-Year Time Extension of the Land Use**
46 **Commission Special Permit Bed with 7 Conditions and Breakfast**
47 **Home Permit with 18 Conditions as Recommended by the**
48 **Department.**

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

5 Mr. Robinson: At this time, we'll take a 10-minute recess.
6

7 *(A recess was called at 10:24 a.m., and the meeting was reconvened at 10:39 a.m.)*
8

9 Mr. Robinson: ...is back in session. Paul, before you...before we start with you, we're going to
10 let David of Corp. Counsel try to go through the steps of why we're here and give the
11 commission some...a chance to ask before you start is that okay? Alright, thanks Paul. David.
12

13 Mr. Galazin: Thank you Chair. So Commissioners what you have it's a consolidated hearing
14 for three discrete items. If you look down to the first item under 2.a. it's a request for a
15 Community Plan Amendment from Agricultural to Public/Quasi-Public, State Land Use District
16 Boundary Amendment from Ag to Rural and Change of Zoning from Ag to P1, Public/Quasi-
17 Public. On that item, you are advisory, sitting in the advisory capacity making a
18 recommendation to the County Council who will then take that recommendation and decide that
19 at some later point in time. The Hana Advisory Committee did hold a hearing on this and you
20 have a report and recommendation from the Hana Advisory Committee, but you can take that
21 with that you will and independently you can decided that.
22

23 Then you also have an SMA Permit that is going along with those land use entitlements.
24 However, the SMA Permit cannot be granted unless and until the County Council approves the
25 land use entitlement changes. So while they are consolidated and they were heard all together
26 by the Hana Advisory Committee which transmitted all its recommendations about all three, you
27 do not need to act on the SMA permit today because it will be a moot point if the County Council
28 does not agree with granting the land use entitlement changes. However, now the second
29 portion is there's a petition to intervene which has been submitted and a petition pertains to both
30 the land use entitlements and the SMA Permit. So before we do anything else we have to
31 dispose of the petition to intervene. My recommendation would be to first deal with it as it
32 pertains to the land use entitlements because that's what you're gonna make your advisory
33 recommendation on and then you can get into the petition as it pertains to the SMA Permit
34 because they are separate things. So let, you know, Staff give an overview and then we will
35 give the petitioner and then I believe the Department has a Motion in Opposition to that.
36

37 Mr. Robinson: Okay, Corp. Counsel I have a question. On the motion to intervene on a
38 recommendation is there intervention on a recommendation and not a voting motion...I mean,
39 not a motion for approval or denial?
40

41 Mr. Galazin: Yeah Chair and thank you, in you rules pertaining to intervention and...so the
42 Petition to Intervene and is going to be you know prior...a Petition to Intervene has to be ruled
43 on and heard prior to the Commission taking final action on the application. And you are not
44 taking final action on a recommendation. So as it pertains to what you are recommending to
45 Council there is no final action, it's not a contested case. There is nothing to intervene into. But
46 I'll allow the intervenors to make their case for that. I'm going to allow the Department to
47 explain their position on that. But the rules, basically constrain what can be intervened and

1 what cannot. Again, that will be your ultimate decision to decide on all three because it is a
2 consolidated Petition to Intervene.

3
4 Mr. Robinson: Commissioner Tackett.

5
6 Mr. Tackett: I have one question before we start. How does it work when, when a lot like this is
7 used as a public school and then it burns down and then it applies for a public use again does
8 that play into it at all or does the prior use have nothing to do with what we're going forward into
9 today?

10
11 Mr. Galazin: Chair? Well, that goes to kind of the application itself and that will be part of what
12 the Council will consider. And then you know, I think that will be probably something that you
13 can consider in terms of making your recommendation, but...

14
15 Mr. Tackett: But it doesn't have grandfathered rights to be used as a public, as a public lot
16 because it's been used as a public lot historically?

17
18 Mr. Galazin: That is correct. The SMA requires consistency and conformity within the SMA
19 area. So regardless of how the land has been used its underlying zoning...I believe the Director
20 can probably allude to that a little bit better.

21
22 Mr. Tackett: Thank you.

23
24 Ms. McLean: The County Code, the Zoning Ordinance talks about nonconforming uses and
25 nonconforming structures. The school because the land is designated Agriculture the school
26 was considered an existing nonconforming use and with all nonconforming uses if the use is
27 stopped or suspended for 12 months or longer then it cannot be resumed. So when the school
28 burned down if it had been rebuilt or if the facility had been reused within 12 months then it
29 could have continued, but because it stopped and it's been...that use hasn't been conducted for
30 quite a long time it lost the grandfathering status.

31
32 Mr. Tackett: Thank you.

33
34 Mr. Robinson: Commissioners any other questions for Corp. or Director? Seeing none,
35 Director.

36
37 Ms. McLean: I will read into the record the items on the agenda. You have before you a
38 recommendation from Gale Notestone, Chair of the Hana Advisory Committee transmitting the
39 Hana Advisory Committee's recommendation from the former Planning Director with as
40 Corporation Counsel described a Community Plan Amendment from Agriculture to
41 Public/Quasi-Public, State Land Use District Boundary Amendment from State Agriculture to
42 Rural, and a Change in Zoning from Agriculture to P-1, Public/Quasi-Public for 1.9 acres of land
43 at 0 Nahiku Road, TMK: 1-2-002: 023 in Nahiku.

44
45 Also a request from Kaala Buenconsejo, the Director of Parks and Recreation for a Special
46 Management Area Use permit for the Nahiku Community Center and related improvements at
47 the same location and this involves the replacement of the former school building site with a

1 community center building of approximately 2,472 square feet and related improvements
2 including a paved parking lot, driveway, and installation of an individual wastewater system.

3
4 And then lastly, a Petition to Intervene submitted by Terry Kristiansen, Irene Pavao, and John
5 Blumer Buell on the applications for the land use entitlements and the Special Management
6 Area Use Permit. That intervention request was received on October 10, 2017 with the
7 intervenors representing themselves as well as several other individuals listed on your agenda.

8
9 As the Chair and Corporation Counsel indicated the Commission needs to take action on the
10 Petition to Intervene first and so we will first have I believe Corporation Counsel will have the
11 Department still present an overview of the project and then the intervenors present their
12 petition is that correct? Okay, so the Staff Planner for this project is Paul Fasi.

13
14 **2. MR. GALE NOTESTONE, Chair of the Hana Advisory Committee,**
15 **transmitting its recommendations on the following:**

16
17 **a. WILLIAM SPENCE, then-Planning Director, transmitting the**
18 **following requests for the proposed Nahiku Community Center to be**
19 **located on approximately 1.9 acres of land at 0 Nahiku Road, TMK:**
20 **(2) 1-2-002:023, Nahiku, Hana, Island of Maui (P. Fasi) (Public**
21 **hearing conducted on October 26, 2017)**

- 22
23 1) **Community Plan Amendment from Agriculture to**
24 **Public/Quasi-Public, (CPA 2017/0002);**
25 2) **State Land Use District Boundary Amendment from State**
26 **Agriculture District to State Rural District, (DBA 2017/0002);**
27 3) **Change of Zoning from Agriculture to P-1 Public\Quasi-**
28 **Public, (CIZ 2017/0002);**
29

30 **b. KAALA BUENCONSEJO, Director, DEPARTMENT OF PARKS AND**
31 **RECREATION requesting a Special Management Area Use Permit for**
32 **the Nahiku Community Center Project and related improvements**
33 **located at 0 Nahiku Road, TMK: (2) 1-2-002: 023, Nahiku, Hana,**
34 **Island of Maui. (SM1 2017/0002) (P. Fasi) (Public hearing conducted**
35 **on October 26, 2017)**

36
37 The proposed action includes the replacement of the former
38 grammar school building site with a community center building of
39 approximately 2,472 square feet in size and related improvements,
40 including a paved parking lot and driveway and installation of an
41 individual wastewater system. The proposed community center
42 includes a social hall, kitchen, storage areas, restrooms, and a
43 covered entry lanai.

44
45 **c. TERRY KRISTIANSEN, IRENE PAVAO, and JOHN BLUMER BUELL**
46 **submitted a Petition to intervene on the applications for the Nahiku**
47 **Community Center on the land use entitlement requests by the**
48 **Planning Director and the Special Management Area Use Permit**

1 **request by the Parks Department by intervention request received**
2 **on October 10, 2017. They represent themselves and MOKE**
3 **BERGAU, ELLEN KAHOOKELE, JEAN MARY KAHOOKELE,**
4 **JEFFREY C. PAISNER, MAX MATTSON, JAMES KAHOOKELE III,**
5 **TERESA ALLRED, and SHARON KAHOOKELE.**
6

7 **The Commission needs to take action on the Petition to Intervene request**
8 **before taking action on the Planning Department initiated land use**
9 **entitlement requests and the Parks Department Special Management Area**
10 **Use Permit request.**

11
12 **Should the Commission act to grant the Petition to Intervene then the**
13 **Commission may act to select a Hearings Officer/Hearings Panel and**
14 **Mediator.**

15
16 **Should the Commission act to deny the Petition to Intervene on either the**
17 **land use entitlement request or the Special Management Use Permit**
18 **request then the Commission could take action on that request.**
19

20 Mr. Paul Fasi: Thank you and good morning.

21
22 Mr. Robinson: Good morning Paul.

23
24 Mr. Fasi: In 2013, the Department of Parks and Rec obtained a Special Management Area
25 Minor Permit and building permits for the Nahiku Community Center replacement structure.
26 Since the cost was below the \$500,000 minimum threshold. However, due to delays and
27 litigation it now must seek an SM1 Major Use...SM1 Special Management Area Use Permit
28 application 'cause the cost is projected to be about \$1.5 mil. On June...well, let me back up,
29 also in 2012, the Department of Parks and Recreation issued a Chapter 343, Environmental
30 Assessment Exemption. The trigger for the Chapter 343 was the use of the State or County
31 land or funds. The exemption class was under Hawaii Administrative Rules 11-200-08, Exempt
32 Classes of Action and it was No. 2, Replacement or Reconstruction of Existing Structures and
33 Facilities. So what this means is on the State level they were granted an exemption for Chapter
34 343 laws. On the County level the exemption was listed under Exemption Class 2-6 and this is
35 the exemption list for the County of Maui. Number 6 states that they exempt all parks and
36 recreation buildings and structures. The exemption list for the County of Maui was reviewed
37 and concurred upon by the Environmental Council on January 10, 2007. The Chapter 343,
38 Hawaii Revised Statutes authorizes the Environmental Council to establish procedures to
39 exempt specific types of action from an Environmental Assessment because the action will have
40 a minimal or no significant impact on the environment. So that covers the Chapter 343
41 Exemption and the rationale behind it.
42

43 On June 16, 2017, the Planning Department received an SMA Use application from the Director
44 of Parks and Rec, Recreation. And by letter dated May 5, 2017, the Department made a
45 determination the proposed action is a public use and not permitted under the current zoning.
46 So a District Boundary Amendment, Community Plan Amendment, a Change in Zoning is
47 necessary as a community center is not an allowed use under the current State and County
48 land use designations of Agriculture.

1
2 So the Department of Parks put the application for the Special Management Area Use Permit,
3 the Director of Planning initiated the necessary permit applications for the land use entitlements,
4 the Community Plan Amendment, District Boundary Amendment and Change of Zoning and this
5 is in order for the Parks Department to develop the community center.

6
7 So after careful review and analysis by the Department Staff we concluded that there are no
8 negative impacts anticipated with this project including traffic, water, archaeological or socio
9 economics that would preclude the construction of this project.

10
11 On October 10, 2017, the Planning Department received a Petition to Intervene on the SMA
12 Permit. On October 26, 2017, the Hana Advisory Committee held a public hearing and a
13 Petition to Intervene was noted and recognized by the Hana Advisory Committee. The
14 Members voted unanimously five to zero to recommend to the Planning Commission to defer
15 the item until an EA is provided. As I just mentioned an EA is...this project is exempt from the
16 EA requirement.

17
18 So today, the Commission needs to take action on the Petition to Intervene as the Director so
19 noted before taking action on the Department initiated land use entitlements. If the Commission
20 grants the Petition to Intervene on the SM1 then the Commission may act to select a hearings
21 officer or mediator and the land use entitlements are put on hold until the matter is resolved. If
22 the Commission acts to deny the Petition to Intervene on either land use...on the SM1, the
23 Commission may take action on those requests and resume reviewing the land use entitlement
24 requirements today. The third option is the Commission may take action to defer the Petition.

25
26 This concludes the Department's presentation. I'm not going to get into the details of the
27 project. As the Director noted we need to settle this matter on the Petition.

28
29 Mr. Robinson: Hello, at this time we'd like to invite the Petition to Intervene, Terry Kristiansen
30 and Irene Pavao and Mr. John Blumer Buell to say your...

31
32 Mr. John Blumer Buell: Good morning Chair Robinson and Commissioners. Aloha.

33
34 Mr. Robinson: Aloha.

35
36 Mr. Blumer Buell: I'm John Blumer Buell and I am one of 11 intervenors and they are all to
37 be...(inaudible)...These are lineal descendants of Nahiku. They are Hawaiian. They are
38 ...(inaudible)...of the community and they speak for the community I assure you. Now I'll
39 be...I'll try to be very brief here.

40
41 Thirty years ago there's a real big controversy in Hana regarding a proposed development and
42 Velma McWayne Santos, our former County Council representative found out how outrageous it
43 was and Velma was the one that said we need to have a Hana Advisory Committee to the
44 Planning Commission, this is 30 years ago, and the County they understood it and so we have
45 the Hana Advisory Committee and I thank you so much for referring this to Hana because the
46 Hana people get, the Hana Advisory Committee to the Planning Commission got it and they
47 recommended to you a solution for everything including the intervention all three of the

1 applications and the SMA. It's very simple. We simply want an Environmental Assessment as
2 required and triggered by law. Now I respect and like Paul Fasi. I do. I've known him a long
3 time. However, I don't agree with the Planning Department's and I know it's not Paul, take that
4 back, the Planning Department's legal characterization it's all wrong.

5
6 For example, in 2007 there was not exemption to the EA given by the State. The State Land
7 Board conveyed the property to the County and they simply said that the conveyance of the use
8 in itself did not trigger an EA. But if you look at the documents in our petition to intervene
9 they're in there. They said that the County was responsible for an Environmental Assessment.
10 They didn't waive anything. That's just not true.

11
12 Secondly, Paul is correct. An EA is triggered by the use of public lands or funds. In this case
13 we think at the funds. We still don't know who owns the property and that's in our intervention
14 as well and it's in our letter to you. So I go back and say that the Hana Advisory Committee and
15 I want to acknowledge that Vice-Chair Kawika Kaina did an outstanding job, he really was very
16 akamai, he got it, and unfortunately Gale Notestone, our Chair of the Committee was on an
17 emergency rescue in Nahiku. He did get back for the end of the hearing. So the...if you take
18 the Hana Advisory Committee recommendation you would simply say look we need a full
19 environmental assessment for this project for the...to get the entitlements and to have enough
20 information on which to inform the Special Management Area Permit very simple. We
21 never...the intervenors we never wanted to intervene. We simply intervened because we
22 have...we have gotten no due process for eight years, no legal due process. I can go into that.
23 But the fact is the County has not followed the law for the first seven years and it's very simple
24 to explain to you. If they had the applications for the entitlements made by former Director Will
25 Spence are correct. They should have been what they asked for eight years ago not last year.
26 Those were the entitlements that they should have gone for and we knew they needed to go for
27 eight years ago and they didn't.

28
29 What did they do instead, I'm sorry to say this because I like the County, and...but former
30 Director Correa made a Declaration of Exemption and by all, by all saying assessment that is
31 fraudulent. The memorandum that was created by the County of Maui between the Planning
32 Department and the Office of Environmental Quality Control we only found out about in the
33 Director's Report at the Hana meeting. That's, that's not right. So the County has done
34 everything to avoid an Environmental Assessment the most basic information document you
35 can provide for eight years. And it's just...it's terrible.

36
37 Now look, I'll be short as I can, I want you to know something about me because I'm not just
38 sitting here blabbering. I was named by former Mayor Hannibal Tavares to be on the first Hana
39 Advisory Committee. I was reappointed by former Mayor Linda Lingle to on that committee for
40 the second term. I was reappointed by I think by Mayor Arakawa to serve a third term and I
41 spent years and years and years as one of 25 members on the General Plan Advisory
42 Committee. I spent years. I drove over from Hana you know more times as I can remember.
43 The point is I have spent a lot of time in due process and respect for the law and due process
44 for our community whether we agree or not there is due process. And this...this particular
45 project does not deserve an exemption and I'll just tell you, I hate to say this, but the County
46 filed a fraudulent F-R-A-U-D fraud SMA Permit, Minor Permit to get the SMA. They said it was
47 worth \$450,000. The trigger is 500,000. So they got their SMA with fraud even though in 2012

1 *The Maui News* published said oh it's gonna cost \$812,000 in the public newspaper. The
2 Planning Department knew it. Mayor Arakawa says it's gonna cost \$2 million. Well, not
3 ...(inaudible)...when we have so many problems in Maui...in our tri-island community plus
4 Kahoolawe of course, you know you deserve the basic information on which to make a decision.
5 It's very simple. And I'll open myself up for questions.

6
7 However, I want to say that in our letter we have shown you two potentially fatal flaws in this
8 project and maybe three and we've asked you to get them resolved before you even ask for an
9 EA. And they are number one, it's in there. We ask, we ask the County and State to prove
10 ownership. With all respect to Lena Kahookele, who I believe is here in 2012 she said their
11 family still owns the land and I don't doubt it. And if they do God bless them, you know really.
12 But to not know that you own the land and be thinking about spending \$2 million on a project
13 that's gonna not be for the people is crazy.

14
15 Secondly, the County shown no jurisdiction to that road to the site or Lower Nahiku. No legal
16 jurisdiction. They have no right. And I gave you some case law in our last letter to you. I cited
17 some case law in the neighborhood from the old road going from Kaeleku was...it's where the
18 Hana Airport is to Ulaino. So the County and the State said we have no jurisdiction there but
19 that is a continuation of the road, old road to Lower Nahiku. Now...

20
21 And then the third thing we've asked you, this is the last thing to look at before you make a
22 decision is the County sued the builder and that case has been in court. It due to go to trial in
23 December. And there's issues that should be settled and become public including ownership
24 that should be resolved in that case. And so we simply ask you to defer everything and...or an
25 Environmental Assessment and to find out who owns the property. If the County has jurisdiction
26 which they have renounced recently on the Lower Nahiku Bridge, the County renounced any,
27 any jurisdiction recently in the last year.

28
29 And the last comment is we have as taxpayers we have already spent \$247,000 plus in cash
30 plus all the time it has taken the Planning Department, seven years. So I wouldn't be surprised
31 that the actual cost to the taxpayers has already half a million and we have not Environmental
32 Assessment ...(inaudible)...We said in our intervention, we said it in Hana, we said it in our
33 recent testimony to you. We are happy to withdraw the intervention if they will do an EA without
34 out getting, trying to get an exemption, without trying to have a memorandum with the Office of
35 Environmental Quality Control who controls the 343 process. So that's a lot of information that I
36 beg you, the people in Lower Nahiku have suffered for this. People want peace. And they want
37 due process under the law. That's all we're asking for and you know, God bless you and
38 everyone. And there may be other intervenors who want to say something but I did help, I
39 collaborated with all 11 of the intervenors, every one of them in putting together our last, our
40 last...our intervention, in our November 20th letter last year which is very important and our
41 testimony for today. That's 75 pages, I'm familiar with it. I wrote in collaboration with everyone
42 just to aloha, malama Nahiku. And I think there is a peaceful solution it is simply to defer and
43 until they do an Environmental Assessment. And if Michele our new Planning Director will give
44 us her word that they will do one without seeking an exemption, without seeking any avoidance
45 of one then we don't want to intervene. We don't want to waste more taxpayer money. We
46 don't want to...we spent more money just which we should have never have had to spend
47 already. So you know God bless you, and thank...again, thank you to the Commission for

1 sending it to Hana and they made the...a pono recommendation...(inaudible)...says please do
2 an EA which is a informational document before passing it onto the County Council for a
3 decision. Please do an EA, it's an informational document so that when...if a SMA is done –
4

5 Mr. Robinson: We hear you John.
6

7 Mr. Blumer Buell: Okay, I'm sorry—
8

9 Mr. Robinson: I got. And I know there's a lot of passion. I know this has been a lot longer
10 tribulation for you than any of us and we represent them.
11

12 Mr. Blumer Buell: Yeah.
13

14 Mr. Robinson: I want to make sure that...that if either you're representing the 11 or if there's
15 any other intervenors who like to speak at this time because there is 11 of you so I want to
16 make sure that if the intervenors want to, want to kind of jump in or if, of if John...so if you do
17 want to jump in I'd like to give you that opportunity.
18

19 Mr. Blumer Buell: Well, I thank you for that because I identified myself as myself, one individual
20 and also as an intervenor because the County response to our intervention is...tries to divide us
21 up as individuals and not having appropriate...by the way, this is the last thing Chair please.
22 And that is when we intervened we had a deadline and we did it on time, we came up with five
23 hundred bucks the County or something like that just to intervene. Now, I got the notice and—
24

25 Mr. Robinson: John, John I don't think this is...I think we should let other people speak, there's
26 only so much time.
27

28 Mr. Blumer Buell: Okay.
29

30 Mr. Robinson: But I got you.
31

32 Mr. Blumer Buell: Okay. I would like to comment one sentence that I agree other people should
33 go if they want.
34

35 Mr. Robinson: Thanks John.
36

37 Mr. Blumer Buell: Thank you so much.
38

39 Mr. Robinson: Would another intervenor like to step up at this time and speak? Aloha and
40 please introduce yourself.
41

42 Mr. Moke Bergau: Aloha mai.
43

44 Mr. Robinson: Aloha.
45

46 Mr. Bergau: My name is Moke Bergau and I'm one of the many intervenors from Lower Nahiku
47 concerning the project of Nahiku Community Center. And I just want to take off on what John

1 left off on the EA. It will answer all the legitimate questions like entitlement. My driveway starts
2 up at Makapipi on the Hana Highway. That's my driveway. And it's driveway for everyone that
3 lives down below there. County has no titlement to those roads. I have proof. All residents
4 have proof of that. We have a tax key map. And that driveway intercedes all the properties
5 from the top of the highway down to the water. It crosses over. It's referred to as a driveway. It
6 has character, Nahiku character. Okay, this project promotes public, public access. Funds are
7 used, public funds are used for this particular project. The cause of it and purpose it's not an
8 issue at this moment. The issue is this intervention. The reason why we're doing it. We are
9 being run over. Our entitlement is in jeopardy. My entitlement, my rights has been jeopardized
10 by that project. My property is at one, one mile exactly from the top of the highway and it's 2.3
11 miles down to the project site from Makapipi that's the top of the highway, a public highway 2.3
12 miles out, on a private driveway. County has no jurisdiction or has no entitlement for the...you
13 know for that area. It behooves me, it really confuses me to see this planning commission, this
14 project proceeds for 10 years without any entitlement, without even making an effort to search
15 for it or to say at least yes, we have ...(inaudible)...interest. The County have interest in there.
16 It is confusing. It is very confusing.

17
18 Now, I don't know if you are familiar with my driveway in Lower Nahiku but it is character, it is a
19 very hazard...you know, it's uncoated, it's not coated. It's one lane, one lane highway, no
20 shoulders and you got drop off. If this public...if this project should go through planning
21 commission will be responsible if producing a havoc. Allowing the public to go down there like
22 all those buses and more cars on my driveway. And that is the first, first area that should have
23 been looked at before it has gotten this far where we are today. All this confusion, all this...all
24 this worthless, time consuming movement when the County cannot even come up with
25 documents saying that they have access down. And that is why our passionate and outlook on
26 the planning commission and the County position it's haha, it's very frightening. You know it's
27 very frightening to have it this long on the table. The longer it stays on here the worse it will get.
28 A lot of creative mind going come out. Lot of creative thinking going to come out and it has
29 nothing to do with Nahiku. It has everything to do with the completion of this planning
30 commission mission. And it has nothing to do with the people in Nahiku. The purpose of that
31 project down there it does not serve Nahiku. It only serves the public. And that environment
32 down there it has...it cannot, it cannot hold public attention or access. It just cannot. We've
33 already accomplished in keeping out the vans, the big tourist vans from going down there. And
34 we needed to go to the company themselves to let them know they not allowed and we did it.
35 Smaller cars are permitted.

36
37 A developer wanted to do that development down Nahiku. We stopped it on the top of that
38 road. They couldn't do anything. Law enforcement couldn't even touch us 'cause we were on
39 our driveway protecting our rights from a developer until terms are met, Nahiku's terms. Right
40 now, Nahiku has no terms. We're being slaughtered by a project. We not setting the terms.
41 We are just being shoved to take actions that I don't want to take. We don't want...I didn't want
42 to be a intervenor, intervene, no. After today, the decision it will decide whether it will go into
43 court, litigation. That's the only choice we get if this project should follow through. And now
44 again that's another burden it will be placed on the Nahiku people litigation, court action. That is
45 not the way to live. But it all starts here today right in the planning, right on the planning floor
46 right here. ...(inaudible)...the purpose of it is not the issue today but it's a standing of the

1 completion the future. The foresight of this is just dangerous if we allow it. If I allow it to go
2 through. Mahalo.

3
4 Mr. Robinson: Thank you Moke. At this time, is any other intervenors would like to speak?
5 You're a intervenor, sir?

6
7 Mr. Jeffrey Paisner: Yes.

8
9 Mr. Robinson: This isn't for the testimony. Are you one of the—

10
11 Mr. Paisner: Yes, I am a intervenor, sir.

12
13 Mr. Robinson: Okay. Sure, sir please come and state your name.

14
15 Mr. Paisner: My name is Jeffrey Paisner. I do promise that everything I say will be truthful. I
16 first bought property in Lower Nahiku in 1971 when the road down to the Lower Nahiku was a
17 dirt road before it was ever paved. I'm also want you to know that I am the sole individual
18 citizen in the entire Maui County who is a party in full standing to the contested water case
19 hearings with a focus on preserving the stream flow of the Makapipi River which courses
20 through the community.

21
22 I think the problem we have here is certainly this has severely divided this community. It's
23 caused tremendous animosity in this community. There is no peace in this community any
24 more over this community center. I wouldn't even say...when I say it's divided the community,
25 I'm not inferring that it's divided the community almost equally because the fact is if you could
26 take a vote of Lower Nahiku residents, if you would do that you would find out that the vast
27 majority of Lower Nahiku residents do not want this community center in this location.

28
29 There's perception in the County of Maui that the Nahiku Community Association is the
30 spokespeople for our community. They are not. All you have to do is to go on the internet look
31 at their website and you will see who their Board of Directors are and you will find out that over
32 80 percent of them are all from the same family. That certainly doesn't represent a cross
33 section of residents of Lower Nahiku.

34
35 But I want to offer a solution because if the County is squandering hundreds of thousands of
36 dollars of taxpayer's money, all of you are being paid to be here today to hear us speak.

37
38 Ms. La Costa: No we're not.

39
40 Mr. Paisner: Okay, you're not being paid, excuse me.

41
42 Ms. La Costa: No.

43
44 Mr. Paisner: Okay, I apologize.

45
46 Mr. Robinson: It's okay guys.

47

1 Mr. Paisner: I apologize. Okay, I didn't mean to insult you.

2

3 Mr. Robinson: Jeffrey, you're good. You're good.

4

5 Mr. Paisner: I didn't mean to insult you. I am not against, many of the intervenors are not
6 against there being a Nahiku Community Center. Not all of the intervenors are against
7 Hawaiian culture being represented. I think that's a wonderful thing. Lower Nahiku has a rich,
8 rich tradition of Hawaiian culture. The problem is the location that is being considered. It is
9 wrong from the start. The community center, I support a community center. I support Hawaiian
10 culture being, being promoted. But the community center needs to be on a public road that
11 people have access to that all of the residents of Upper Nahiku have access to, that all of the
12 tourists have access to and that would be off of the Hana Highway where there is no question
13 about whether or not that is a legal road for legal access.

14

15 It is a fact that Lower Nahiku Road whether you call it a driveway or whatever, however you
16 want to term it, it trespasses on numerous private properties. None of you here could get a
17 permit to build house anywhere on this island if you could not prove to the County that you have
18 legal access to your property. I spent \$75,000 of my own money getting legal access to my
19 property in Lower Nahiku. Within two months of getting it the County closed the Lower Nahiku
20 Bridge, didn't tell me, didn't notify me, can't even get to my property now. They claim they have
21 no jurisdiction over the bridge. They've been begged by the State Legislature over 15 years
22 ago to determine who has ownership of the bridge. They have failed to do that. They've failed
23 in their obligation to the citizens of Maui.

24

25 So again, I am not against the community center. I support the community center, but this is
26 absolutely the wrong location. The idea that it's a good place in case of emergencies,
27 ridiculous. It's at one of the lowest elevations that there are in Lower Nahiku. If there was ever
28 a tsunami in Nahiku that's the last place, that's where you're gonna evacuate people, not where
29 you're going to provide them blankets and bed them down. The road to get down there for
30 emergency vehicles, it's basically a one lane road. I don't know if any of you have ever driven
31 down the road to the landing. But if you haven't you need to pay less attention to the laws and
32 the rules and regulations and more attention to what's actually going on on the ground there
33 'cause reality is what you need to make decisions based on not just laws. So you can't, you
34 couldn't even get, you can't get a fire truck there and another car up at the same time.
35 Somebody would have to pull into someone's driveway off the road for two cars to pass at the
36 same time. I ask you, is that the right place to put a community center with the idea that it's
37 gonna service people in times of storms or tsunamis. It's just the wrong location.

38

39 And the fact that the County is spending hundreds of thousands of dollars. We're already up to
40 over a million and a half. We don't even know how much the litigation is gonna cost with
41 Kuponu Builders. They're just starting their trial. That could be hundreds of thousands of
42 dollars more in taxpayer money spent on a lawsuit that originated from the wrong site choice.
43 I've watched you look at applications for people who want to put bed and breakfast up, you want
44 to know where, how close is it, how close is this neighbor to the person who wants to put the
45 bed and breakfast. Those things are of concern to you. Well, it should be a concern to you that
46 you even have the authority to approve that a community center be built down a rural one lane
47 road that the County of Maui does not have jurisdiction to. Now could they get jurisdiction? Of

1 course maybe through adverse possession. There are legal means to get it 'cause you can't
2 land lock land. But they would have to go through the process first. And if one single private
3 property owner spent \$75,000 to get an easement to his property could you imagine what it's
4 gonna cost the County of Maui to get a legal easement that goes three and a half miles down a
5 road and over a bridge to a landing where the County of Maui refuses to do their job and even
6 find out, do a simple title search who owns that bridge. If I could find who owned all the
7 ...(inaudible)...owned three different pieces of land going back to my jungle property with my
8 own resources, the County of Maui could do a simple title search and pay for it. They will spend
9 more money on litigation against Kupono Builders than they've spent on that. Wrong location.

10
11 I support the Nahiku Community Association in their desire to have a community center 110
12 percent. The County should abandon this location and look for an appropriate site off the Hana
13 Highway that's more accessible for everybody and maybe then we can have some peace in our
14 community. Thank you.

15
16 Mr. Robinson: Thank you Mr. Paisner. Is there any other intervenors that would like to speak at
17 this time? Yes, please.

18
19 Ms. Teresa Allred: Hi my name is Teresa Allred. Aloha.

20
21 Mr. Robinson: Aloha Teresa.

22
23 Ms. Allred: I just have one quick thing I'd like to add. In the beginning when we first...I was a
24 member of the Nahiku Community Association and a lot of us were and when the idea of a
25 community center came up we were in favor of it. I'm sure that there's a document around that
26 has my signature on it voting for it. But when...as things progressed and time progressed we
27 realized that this was not the right thing to do so there was really no way to take my name off of
28 that document that I signed earlier. But I think that the three gentlemen who spoke before me
29 did a really job of presenting our point of view and I thank you for your consideration.

30
31 Mr. Robinson: Thank you. Aloha, would anyone else of the intervenors would like to speak at
32 this time? They're talking. You guys, you guys okay or would you guys like to speak?

33
34 Unidentified Speaker: No, they're not the intervenors.

35
36 Mr. Robinson: Okay, ...(inaudible)...you guys okay, all right, okay. Thank you. John, would
37 you like to add anything at this time?

38
39 Mr. Blumer Buell: I will brief.

40
41 Mr. Robinson: Okay.

42
43 Mr. Blumer Buell: And this is for our new planning director and corporation counsel. Normally
44 when people exchange legal documents you have 10 or 30 working days to respond. I received
45 a copy of the Corporation Counsel response on last Thursday. We haven't had time to send it
46 even to an attorney. So I don't think it's appropriate. This is common courtesy in law. This is a
47 not a dispute but when you send a...when you file something three or four days before a

1 hearing like this that's not fair and we're going to send the Counsel's, Corporation Counsel's
2 letter to several attorneys and we have not had time to get a response. I know, and I'm not here
3 to argue with Corporation Counsel. I know that some of the information in that rebuttal to our
4 intervention is dead wrong. I know it. But I'm not here to argue a legal points I don't have
5 time...I didn't have time to go through the law books.
6

7 The last thing, this is the last thing Chair and thank you again everyone. I simply ask you to
8 follow the recommendation of the Hana Advisory Committee to the Maui Planning Commission.
9

10 Mr. Paisner: May I add one thing?

11
12 Mr. Robinson: Jeffrey I will allow it. Please go to the mic.
13

14 Mr. Paisner: I would just like it to be understood that the letter—
15

16 Mr. Robinson: Jeffrey please introduce yourself one more time.
17

18 Mr. Paisner: Jeffrey Paisner.
19

20 Mr. Robinson: Thank you.
21

22 Mr. Paisner: I just want to add that the letter that you got from the Corporation Counsel is not a
23 legal decision so you should not base a decision based on that letter. That's just an opinion and
24 it's an opinion that could be litigated. So I don't believe any decision you make should rely on
25 the Maui County Corporation or Maui County Counsel if I'm saying correctly. It's only their
26 opinion.
27

28 Mr. Robinson: Thank you. John are we good?
29

30 Mr. Blumer Buell: Yes.
31

32 Mr. Robinson: Okay, thank you so much. Aloha, now can we have a Department's
33 representation now please? Would you like some time or are you okay?
34

35 Mr. Tom Colby: No, I'm okay. Thank you. Good morning all, my name is Tom Colby. I'm the
36 attorney for the applicant which is the Department of Parks and Recreation in this matter. That
37 was an awful lot of information that we got from people who have obviously a lot of concern
38 about this particular community and this particular project. I'm going to follow the—
39

40 Mr. Robinson: Tom, I apologize can you speak into the mic.
41

42 Mr. Colby: Am I not close enough? Is that better? Okay. I'm gonna try to limit my comments
43 to the intervention as it relies to the first half of the entitlements that we're talking about first and
44 then I can explain our position on the second half.
45

46 I agree with Mr. Galazin in his analysis that you can't intervene in the recommendation. The
47 rules are what authorize any interventions and in this case, Maui Planning Rule, 12-201-39

1 describes when a petition to intervene can be entertained by this body. In this case because
2 you as the commission are not going to be taking final action and are not the final authority to
3 the entitlements which are going to be the County Council's kuleana they can't really intervene
4 in that. And that's not to say that they can't participate and be heard and weigh in on their
5 opinions about whether or not those entitlements ought to be granted. But that process should
6 take place as members of the community have every right to go ahead and to explain their side.
7 We've heard a lot of substantive arguments against the granting of this particular project, but I
8 think those should wait for comments to the County Council or as public testimony for you guys
9 to consider in your recommendation, but there is a not a legal basis, a legal mechanism for
10 them to them to intervene as to a community plan amendment, the change in zoning for the
11 County and the district boundary amendment. Those are things the County Council has to
12 consider.

13
14 Each of the intervenors who spoke here today did mention that what they really want is an
15 environmental assessment. Respectfully I don't think that's something that the Maui Planning
16 Commission has the authority to order. There is a mechanism, there is a due process
17 mechanism for people to challenge an exemption, to challenge whether or not an environmental
18 assessment is necessary that's the Circuit Court. I, in my moving papers went ahead and
19 identified Hawaii Revised Statutes, 343-7 which explains the timing on when you do that and
20 where you do it and it specifically says that you do it in the Circuit Court. So the intervenors
21 already intimated that they are likely to want to challenge this in Court. I think we don't have to
22 get there today. I don't think you guys have to necessarily address that issue. You have to
23 look to what the planning commission may allow intervention on and we do have one permit that
24 intervention would be allowable under our rules and that's the Special Management Area Major
25 Permit which is the other item I think Item b, on this matter. You would do the analysis that the
26 intervention rules require under these circumstances. They would have to either demonstrate
27 that they are entitled to intervention as a matter of right because of some property interest or
28 that they reside on the property or let me quote it, their interest in the proceeding are clearly
29 distinguishable from that of the general public. And we can talk about that a little bit later, but
30 that's where intervention is within your power to grant and to allow them to not just participate in
31 this particular project but actually to be a party to it. And being a party to it is different than just
32 being able to stand up here and to provide their insights into what that community is about, how
33 this project would affect them and to participate in that sense. It would actually require us to do
34 other types of actions. We would have to do a mediation section which the County of Maui
35 Planning Department would probably automatically be a member or a party to that action.
36 There would be the determination as to whether or not this project requires a hearings officer,
37 whether this body needs to assign one or more of its members or somebody from the public at
38 public cost to be the hearings officer. And so it kicks this into a different process that we have.

39
40 Now there is a way that we could kind of maybe ...(inaudible)...some type of a little ground on
41 that. It is apparent and I...please consult your attorney that they can't intervene as to the
42 entitlements that are gonna go up to the County Council. So to that extent what we could do
43 and I think the County would be in agreement to do is to allow that process to go its course, for
44 you to hear the testimony of the folks and the project this afternoon, to take those
45 considerations and make your recommendations. In the event that the County Council then
46 takes up the boundary amendments, the community plan amendments and all of that, at that
47 point they could determine whether or not the intervenors are satisfied with whatever approvals

1 with conditions are passed back down for your consideration to determine in the SMA. If the
2 project at that point, they don't get the entitlements then what we have is a we've probably
3 rendered the intervention moot because at that point there's nothing for us to act on. The SMA
4 can't go forward until those other entitlements are in place because part of what you're going to
5 look at is whether or not these community plan amendments, the various things that...the
6 factors that are identified under 205A.

7
8 So I totally understand their concerns raised by members of the public. I am not prepared to
9 answer the question about legal access to this road. I can defer though to people who may be
10 more familiar with that project, but if, in fact that is a concern of this body then that's the other
11 reason you may want to defer hearing on whether or not intervention in the SMA Permit is
12 appropriate to gather that particular information. Otherwise, they're correct issues of ownership
13 are things that need to be decided by a Circuit Court not by this Commission. Access and
14 jurisdiction to travel that road are things that would have to be resolved in the Circuit Court and
15 not in this Planning Commission.

16
17 And I will acknowledge that there is a lawsuit involving breach of contract or maybe other claims
18 but certainly that regarding the original folks who were gonna be building the community center
19 and that litigation in that matter is ongoing. I don't know how that actually impacts our decision
20 today as to whether or not intervention is appropriate. But I am happy to answer any questions.
21 I really, I really want to just emphasize that the County is not saying that these folks shouldn't be
22 part of this process and that their opinions on these projects aren't important. Our position is
23 just intervention is not the appropriate mechanism there and to the extent that they're trying to
24 intervene in things that you don't have the authority to grant them it's simply that shouldn't be
25 considered. So I'd be happy to answer questions. If there are questions related to title or to
26 access to that road, again it's a Circuit Court matter, but there may be people who are more
27 familiar with the project who could provide you with further information. Thank you.

28
29 Mr. Robinson: At this time John, I'd like to...if you'd like, to give you a couple of minutes if you'd
30 like to comment on Tom's testimony.

31
32 Mr. Blumer Buell: I would.

33
34 Mr. Robinson: John, one second.

35
36 Mr. Galazin: Sorry, thank you Chair. I would just recommend that you probably ask the
37 intervenors to designate one individual to...if there's going to be a response that we don't end
38 up with seven more responses. We've heard a lot of testimony from the intervenors so far, so if
39 one person does want to provide a response then that would be appropriate.

40
41 Mr. Robinson: Intervenors would you guys like to have a minute to decide who would like to be
42 that person?

43
44 Mr. Blumer Buell: Would you mind Jeffrey?

45
46 Mr. Paisner: I'm fine with John

47

1 Mr. Bergau: Mr. Blumer Buell will be fine.

2

3 Mr. Blumer Buell: Thank you.

4

5 Mr. Robinson: John I would like to give you a few minutes to if you would like to respond just to
6 what John has said not to...

7

8 Mr. Blumer Buell: I thank you. And with all respect to Corporation Counsel. With all respect to
9 Corporation Counsel and to Pat Wong, and I have to say that Pat Wong I met and have worked
10 for on Hana health issues in the past so we're on good terms as far as communication. But with
11 all respect, it wasn't until this last application and last...late last year 2017 that Pat Wong and
12 the County finally decided to follow the law. Pat told the County Council several years ago, it's
13 in the record and it's mentioned in our intervention. He said...he was asked I think by either
14 Chair Mike White or Budget Chair Riki Hokama have we been following the law? And Pat said
15 yeah, you know. Well, they haven't been and the proof that they're asking for the correct
16 entitlements now is proof of my point. That's all. It's that simple.

17

18 Now I like one thing that Corporation Counsel said and that is we have already offered I believe
19 in our last letter or dated for this meeting we have offered to mediate, we're happy to mediate.
20 And I think the mediation it be appropriate to mediate should we do an EA or not. I'd be happy
21 to and I think the intervenors would be happy to mediate on the subject of an environmental
22 assessment. It's not to blame anybody. That is a document that is going to give the community
23 a chance to interact. I've been part of many EAs and EISs. It gives everybody in the
24 community a voice. You submit a question, the applicant has to answer it, and it's a back and
25 forth and should be very complete. It would answer all the questions we don't want to go Circuit
26 Court to have to prove. So an EA is vital and you know, if we get an honest EA report and
27 there's honest(inaudible)...there's the option to contest the final result of the EA and that's a
28 ...(inaudible)...So we'd be happy as intervenors to mediate the subject of an EA and I think
29 that's very appropriate. That would, that is...the last thing is please take the mana`o of the
30 Hana Advisory Committee to heart. That was a good recommendation. They recommended
31 deferral of all issued until...that includes all the entitlements and the SMA until you have an
32 Environmental Assessment. They understood. That's what the community wants. It's what we
33 need. It's what is fair due process and that's all we're asking for.

34

35 Mr. Robinson: All right.

36

37 Mr. Blumer Buell: You know that's all. Thank you very much.

38

39 Mr. Robinson: All right, thank you John. Commissioner's at this time I'd like to open up the floor
40 for us for discussion, for questions if we have. We have the intervenor here as well as Corp.
41 Counsel if we'd like some clarification maybe on, we have some people in the audience that...I
42 know I'd like to ask the question about ownership of the road and some history on that. Is that
43 something we think we might want to start at Commission? Would you like to...you have
44 another?

45

46 Mr. Carnicelli: Go ahead. Go, go, go.

47

1 Mr. Robinson: It's Tom, I know you said that we have somebody in the audience that might help
2 us with the ownership issues, entitlements and some history if you could help us with that. I
3 think that will help us instead of starting to ask questions?
4

5 Mr. Colby: May I request then a five-minute recess to discuss this with—
6

7 Mr. Robinson: Yeah, we'll have a ten-minute recess.
8

9 A recess was called at 11:43 a.m., and the meeting was reconvened at 11:52 a.m.
10

11 Mr. Robinson: Corporation Counsel needed a little bit more time. We're gonna reconvene here
12 back at 1 o'clock after lunch. See you guys all at one. Aloha.
13

14 A recess was called at 11:52 a.m., and the meeting was reconvened at 1:11 p.m.
15

16 Mr. Robinson: Aloha, welcome back. Thank you for the break. Planning Commission is now
17 back in session. Counsel, do you have something to say?
18

19 Mr. Tom Colby: Thank you, this is Tom Colby. I did have a chance upon your request for
20 further information regarding the property ownership of either the road and/or the property and
21 we did reach out to Public Works and some others and believe that we probably could get that
22 issue resolved. But more to the point there was really two issues that I think you should
23 consider right now. The first is that we would like to clear up that issue and provide you with all
24 documentation related to ownership so that's simply not an issue for you to have to wrestle with.
25 The other is that I conferred with Mr. Buell and Mr. Bergau and Mr. Paisner about the possibility
26 of staying this proceeding in terms of their intervention into the SMA Permit until we have a
27 chance to kind of discuss that issue as well as a couple issues that they've raised. The benefit
28 of that is that in his initial discussion with you he mentioned the fact that he didn't have a chance
29 to show the County's position on this to an attorney or someone else. Out of an abundance of
30 caution and to make sure that everybody has the due process that they want I think it would
31 make some sense for us to give them the time and for us to have further discussions with the
32 potential intervenors and so my request would be to stay this proceeding as to Section c to
33 some further date so that we can have those conversations and allow us to come back after
34 having discussed those things, take up the matter of the petition to intervene again.
35

36 In terms of what the timing of that is I don't know how crowded they are future meetings. It may
37 make some sense since the other half of this has to do with the entitlements that are going to be
38 considered by the County Council for us to find out what happens with that and then take the
39 matter back up afterwards. But I'll defer to you in terms of the time frame you'd like to give us
40 but that would be in the nature of a joint request so that we can pursue options and see whether
41 or not we can work this out.
42

43 Mr. Robinson: Is...Tom at this time and Director, correct me if I'm wrong is, is can you, can you
44 meet with Paul to find out exactly what the Planning Department's stance is right now. There's
45 a lot that was just said and I want to make sure that we progress in the correct way.
46

1 Mr. Colby: I certainly can. I'll just say this the applicant actually is the Department of Parks and
2 Recreation.

3
4 Mr. Robinson: Okay.

5
6 Mr. Colby: And I met with the Director and I have...I understand their position on this and there
7 are Parks folks in the audience too, in the event that you needed to kind of confirm what their
8 position is.

9
10 Mr. Robinson: Okay, I apologize is I just wanted to make sure that we're gonna do the step by
11 step. So is Corp. Counsel can you repeat what you think Tom is saying so, so that way it's in
12 our head twice.

13
14 Mr. Galazin: Yeah, so thank you Chair. You know what the Corporation Counsel, my colleague
15 is suggesting is that after conferring with the intervenors and I need to make sure that the
16 intervenors are on record as agreeing to this as well that they defer...that you folks defer taking
17 any intervention portion of the SMA...of the applications that pertains to the SMA Permit which
18 means deferring taking any action on the SMA Permit itself because you obviously have to
19 dispose of the Petition to Intervene before you take action. So if both sides are stipulating to,
20 you know continuance and that's I get that both on the record, then I think that's fine to go
21 ahead and defer that. It could be to a date certain or can be to a date after which the County
22 Council has had a chance to weigh in on the land use entitlements that would be...if that is your
23 recommendation and again, if both parties agree to that voluntarily to that level of deferment
24 that will ample time for them to collaborate, work out some of these issues, get a little better
25 handle on the land title issues that have been brought up so that is...that is something that both
26 sides have conferred about, they agreed on in concept you know a deferral, but the time frame
27 itself is not set. That would be at your discretion. In advising you I think it would make more
28 sense to defer it until after Council has a chance to weigh in because as I believe you know
29 Deputy Corporation Counsel Colby noted earlier Council may take an action that would moot
30 the SMA altogether and which would moot the need for the intervention. So I think rather than
31 trying to spend a lot of time and energy and money perhaps on these...working out these issues
32 only to find out the Council's effectively quashed it, it may make more economical and more
33 equitable sense to defer both the Petition to Intervene and consideration of the SMA Permit
34 itself until after Council has had a chance to vote, you know, one way or the other on the land
35 use entitlements. Again that's provided that both sides, both the Parks Department, the
36 applicant and the intervenors agree to that stipulation.

37
38 Mr. Robinson: Well, and again, it doesn't have to be exclusive that you guys could agree on
39 something before the Council acts as we know that takes time. So to the intervenors, are you
40 under the same understanding as we are?

41
42 Mr. Blumer Buell: I'm not sure he just said...

43
44 Mr. Robinson: Would you guys like to confer for a minute?

45
46 Mr. Blumer Buell: Why don't you the...I think—

47

1 Mr. Paisner: May I ask the question here?

2

3 Mr. Blumer Buell: Yeah please.

4

5 Mr. Paisner: I just wanted, I just wanted...Jeffrey Paisner, I just wanted to be certain that if we
6 have this mediation that that would preclude the Maui County Council from making any
7 decisions until after we've had that mediation.

8

9 Mr. Robinson: Is that is not my understanding. So there's different items on it. There's
10 one...we only have a recommendation so...and that's for the first part. The second part with
11 SMA which we do have power here for that's where the intervention part is part of. And what
12 we're doing is we're staying making a decision of approving or denying an intervention for you
13 guys both to work together, hopefully gather some more information which, which we think will
14 help all parts of this because, because you're intervention is what we're dealing with right now
15 and that's part of the SMA, but had nothing to do with the Council.

16

17 Mr. Blumer Buell: Okay we understand this is only regarding the SMA and our intervention.

18

19 Mr. Robinson: Correct.

20

21 Mr. Blumer Buell: And we respectfully agree with Corporation Counsel. It's very constructive.
22 You know this is very constructive in our point of view. We'd rather be in Hana today though
23 we're happy, we're happy that this issue—

24

25 Mr. Robinson: Probably all of us, yeah.

26

27 Mr. Blumer Buell: Yeah. It's this issue this is right I think and then we can deal with the other
28 issues introduced by former Director Spence after this. So this, the SMA intervention we agree
29 with Corporation Counsel.

30

31 Mr. Robinson: So Corp. Counsel, correct me if I'm wrong but at this time I will table the
32 intervention portion of it and the Commission we won't have to discuss it until it comes up to us
33 again? Is that correct?

34

35 Mr. Galazin: That is correct Chair although I don't know if you want to specify the time frame for
36 that?

37

38 Mr. Robinson: I'll leave it up to the Commission. I know you guys have been silent and
39 listening very well. I think if you guys understand what's happening here, our question to us
40 now is we want to do a time frame limit on this, 30 days, 60 days, 90 days, does anybody have
41 any feeling on that? Commissioner Carnicelli.

42

43 Mr. Carnicelli: Thank you Chair. I think it makes the most sense for the time line to be after
44 Council has made a determination because at that point in time if they say no, this whole thing
45 just goes away. So if we try to do something before that, then you know we go through this
46 again only to get Council saying no. So I think you know, should it be first available meeting
47 after Council makes a determination?

1
2 Mr. Robinson: Is, is, is my opinion is I understand your point of view. I'm concern is if we have
3 the intervenors agreeing for a stay which means you know they came here for a decision today
4 to intervene, if we don't give them a certain amount of time what would bring the other party to
5 the table if they can wait till after the Council. I think they want information regarding the rights
6 which I think will be pertinent to...you know when they're talking they're talking about rights and
7 they're talking, you know, and they might be at the Council. So I understand wanting to wait
8 after, but if the Council takes six months, I mean, I think there's other things that can
9 ...(inaudible)...and when is a reasonable time for them to expect to them their arbitration and
10 mediation and to come back in front of us. So if we say 90 days I'm saying that hopefully they
11 will talk before 90 days. If we say after the Council it may never come back to us. Director.

12
13 Ms. McLean: Thank you Chair. Another option could be...well, I'll make a couple of comments.
14 I know that the next two meeting agendas are probably pretty full. I don't know what we're
15 looking at the few agendas after that. So one option for your consideration could be till we are
16 notified by the parties that they are ready for this to be heard again by you and if the parties in
17 their discussion agree that it makes sense to wait until after Council then we could wait until
18 after Council. But if either says we want to come back before then either party has that power if
19 you will over the other to bring it forward. And as long as both are participating then they can
20 come up with a time that they agree to. That's another option for you.

21
22 Mr. Robinson: I think that's a great option. Commission?

23
24 Mr. Carnicelli: Chair I have a question for clarification.

25
26 Mr. Robinson: Sure.

27
28 Mr. Carnicelli: Maybe David you can answer this. So we have an intervention right now. Is the
29 intervention on the CPA, DBA, CIZ and SMA or is it just on the SMA? And if it's on all four is
30 what they're agreeing to is bifurcating those two things? Please clarify that.

31
32 Mr. Galazin: Okay. Thank you for that question. Chair? Thank you for that question
33 Commissioner Carnicelli. Yes, the intervention is for all four items. You will have to dispose of
34 three of those items one way or the other. And those would be for the advisory
35 recommendations you make to the County Council. We can get into a discussion about that. I
36 think a decision could be made on those items as far as intervention. I believe that can be done
37 today. You can come back at a later time before Council has acted. You can come back at a
38 later time and decide on the intervention portion of the SMA Permit without taking up action on
39 the SMA Permit. You just, you can't take action on the SMA Permit without dealing with the
40 intervention. But you could deal with the intervention in 90 days or 100 days. You know as the
41 Director suggested, when the parties agree that they're ready to, if they both stipulate to that
42 time frame if they want to come back in six months, Council hasn't done anything yet, and
43 they're both prepared to present their arguments for and against intervention on the SMA Permit
44 then you guys could take that up and make a decision on that knowing that the underlying SMA
45 Permit would not come back until Council takes action. So if you are willing to let the parties
46 work amongst themselves for the time frame then you could vote as the Director has suggested
47 to allow them to defer action on just the intervention on the SMA Permit until such time as

1 they're ready to come back on that. But you do...I would say that's incumbent upon you dealing
2 with the intervene for the Community Plan Amendment, District Boundary Amendment and
3 Change in Zoning. Those have to be disposed of first. Does that answer all your questions?
4

5 Mr. Robinson: Yeah, I mean and—
6

7 Mr. Carnicelli: No, I'm fine. I just don't know if everyone understood that.
8

9 Mr. Robinson: Yeah, well, as long as the, as long as the intervenors and the Parks know what
10 they're agreeing to, I think that's, I think that's a point and I think Director's point of when they're
11 ready to come back we're available for them instead of setting a time date which, which to your
12 point might be after, hopefully after the Council. You know hopefully, we won't, we won't be
13 here before something again. Commissioners any other questions or clarifications? Okay.
14 Yes, Commissioner La Costa.
15

16 Ms. La Costa: Thank you Chair. If the parties do have to come back before us I would request
17 a full title report so that we all know what the ownership of the property is so we can make a
18 better determination rather than he said, she said, I said, we said?
19

20 Mr. Robinson: That's good. We can request it. And I think, I think the Parks already agreed to
21 that that they would have that information and I think they're gonna get that information during
22 their discussions with the intervenors. So I think that's all part of intervention people agreeing to
23 sitting down with them. Right Tom?
24

25 Mr. Colby: Yeah, that's correct. If we don't have the documents, we'll get them. But I believe
26 we already have them. I'm just...I'm not prepared to discuss them with you today, but we can
27 get that and we'll be providing that information to the intervenors as well.
28

29 Mr. Robinson: Okay, thank you. With that being said, do we have a motion on the floor to defer
30 this intervention and to...and Director Mclean will use the terminology. We need a motion first.
31 Yes, Commissioner.
32

33 Ms. La Costa: I so move.
34

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

37 Mr. Carnicelli: Second.
38

39 Mr. Robinson: Okay, and now we'll let the Director.
40

41 Mr. Carnicelli: Tell us what the motion is.
42

43 Mr. Robinson: Tell us what the motion is.
44

45 Ms. McLean: If I understand your motion correctly. It would be to defer taking action on the
46 Petition to Intervene in the Special Management Area Permit until either Council makes a

1 decision on the Change in Zoning, Community Plan Amendment and District Boundary
2 Amendment or either or both parties request the Petition to Intervene to be considered.

3
4 Mr. Robinson: And can we clarify the item on this that we're voting on?

5
6 Ms. McLean: This is specific to Item E.2.c.

7
8 Mr. Robinson: E.2.c. Okay, all those in favor, please raise your right hand. That's six ayes.
9 Okay, thank you

10
11 **It was moved by Ms. La Costa, seconded by Mr. Carnicelli, then**

12
13 **VOTED: To Defer Action on the Petition to Intervene Until Either the County**
14 **Council Takes Action on the Community Plan Amendment, District**
15 **Boundary Amendment and Change of Zoning or Either or Both**
16 **Parties Request the Petition to Intervene to be Considered.**
17 **(Assenting – P D. La Costa, L. Carnicelli, S. Castro, A. Hill, K. Pali,**
18 **C. Tackett)**
19 **(Excused – T. Gomes, L. Hudson)**

20
21 Mr. Robinson: Now we are back to 2.a.

22
23 Ms. McLean: We need to continue ...(inaudible)...

24
25 Mr. Robinson: We need to continue with c?

26
27 Mr. Galazin: Yeah, we need to continue with c.

28
29 Mr. Robinson: I apologize Commissioners we need to continue c.

30
31 Mr. Galazin: So Chair if I may? Thank you. So Commissioners now that that motion has been
32 taken, you've heard arguments from both the intervenor as well as the opposition as it pertains
33 to solely Item a, Community Plan Amendment, State Land Use District Boundary Amendment
34 and a Change of Zoning. You can vote now on whether or not to grant intervention on those
35 item. I would just note that you know, as was stated before in Section 12-201-39 of your Rules
36 which describe the Petition to Intervene, all proceedings in which action by the Commission will
37 result in a final determination of legal rights, duties or privileges of a specific party or parties and
38 which is appealable pursuant to Section 91-14, as amended is a contested case. Petitions to
39 intervene in such proceedings may be filed. You're not in making recommendation to County
40 Council making a final determination as to the legal rights, duties and privileges and it is not
41 appealable, your recommendation is not appealable and it is not a contested case. So with that
42 in mind I leave it to you decide whether to grant the petition to intervene although those are the
43 standards by which you judge it.

44
45 Mr. Robinson: Commissioner Carnicelli.

46
47 Mr. Carnicelli: So I just again clarity, clarity, clarity, we could hypothetically, I'm just gonna use
48 a hypothetical, we could deny the intervention on all three of those and still recommend to the

1 Council that they not approve all of them. I mean, that's...so it's not making a ruling as to
2 whether or not we want to pass those three things or we're going to recommend those three
3 things to the Council but rather just we're going to talk about whether or not they have standing
4 or we have the authority to grant the intervention for those three things. Just the intervention is
5 what we're gonna make the ruling on.

6
7 Mr. Galazin: Chair?

8
9 Mr. Robinson: Yes.

10
11 Mr. Galazin: Yes, that is correct. That is the first step you will take.

12
13 Mr. Carnicelli: Okay.

14
15 Mr. Galazin: And if the decision is to deny intervention then you can take up the item of—

16
17 Mr. Carnicelli: Recommendation.

18
19 Mr. Galazin: --yeah, of Subsection a, the recommendation regarding those land use
20 entitlements and you can recommend whatever you want.

21
22 Mr. Robinson: Okay, Commissioners I think we've heard a lot about intervention today and
23 hopefully we've all understood what the criterias for intervention and I think with the parties
24 agreeing to talk I think that's what we always want. We want the public to be heard. We want
25 the, you know, the County department to be able to come and explain things and clarify things
26 for people. So I think, I think we're gonna get what we want. Intervention is very hard to get
27 from this Commission in the past, first of all that's why we're here for. We're here to make
28 decisions. Second of all, we always got to be cognizant of the fact that sometimes when we
29 grant intervention it's actually more of a hardship to the intervenors financially because then it
30 becomes a legal process instead of a open public process and that's the last thing we want to
31 do...intervenors especially now that we got them to have sit and down and talk. So I think, I
32 think we know where this is going. But if somebody make a motion that would be, would be
33 great. Commissioner Carnicelli.

34
35 Mr. Carnicelli: I make a motion to deny the Petition to Intervene on the District Boundary
36 Amendment, Change in Zoning and Community Plan Amendment.

37
38 Mr. Robinson: And do I have a second? Would like to speak to the motion? I don't have a
39 second yet, would you like to speak to it so we maybe get a second?

40
41 Mr. Carnicelli: Sure, is we're not denying them their rights in total. They still have the right...if
42 this motion were to pass they still have their rights under the SMA. The SMA still has to come
43 back to us no matter what, right. So they're not...if this...we were to say deny these three, it still
44 means we can grant them their rights under the SMA. They still can have their rights under the
45 SMA. So what this does is it allows the process to continue onto the County Council, let them
46 make their decision while these people sit down at the table and try to iron this out.

47

1 Mr. Robinson: Okay, and I think it's, it's we don't think they don't think they have a legal right to
2 it and even though we approve it, it still might be contested anyway because there's certain
3 criteria for intervention and because we're not the final word on any of this, we're just giving a
4 recommendation, it's really as they said, it's sort of moot but this is the process.

5
6 Mr. Carnicelli: Right.

7
8 Mr. Robinson: I would love a second or if not, then we can...I'll withdraw the motion. Second,
9 okay...your motion is—

10
11 Mr. Carnicelli: I'll withdraw the motion.

12
13 Mr. Robinson: Motion is withdrawn.

14
15 **A Motion was made by Mr. Carnicelli to Deny the Petition to Intervene Regarding the**
16 **Community Plan Amendment, District Boundary Amendment and Change of Zoning**
17 **Which He Withdrew His Motion After No Second was Received.**

18
19 Mr. Robinson: Do I have another motion? Commissioners we gotta, we gotta make a motion
20 some way. We have to...'cause and again once we have a motion we still have discussion
21 guys, but we gotta, we gotta get something on the floor.

22
23 Mr. Galazin: Chair may I ask?

24
25 Mr. Robinson: Yes, yes please.

26
27 Mr. Galazin: There seems to be a resounding silence right now. So again, I would just reiterate
28 that something that is not a contested case and is not a final determination by this body is not
29 something that's subject to intervention. As it pertains to the land use entitlements you are
30 making a recommendation to Council. That recommendation Council can toss out to the
31 window. You are not the final authority on that. They cannot appeal your recommendation. I
32 see no legal basis within your rules for granting a petition to intervene. I see a basis within
33 12-21-39 to...12-201-39 to deny a petition to intervene, but I do not see anywhere in the rules
34 that would allow for intervention in this process. If somebody would like to move that they would
35 need to point to a specific section of the rules that allows it. So far I see one second which very
36 definitively does not allow it and that is my suggestion to you.

37
38 Mr. Robinson: Commissioners if you have questions please ask, but it's, it's we have the
39 intervenors agreeing and seems like we're the ones that aren't agreeing. Commissioner
40 Tackett.

41
42 Mr. Tackett: So if I understand correctly if we do, if we do deny the motion it's because the
43 motion or what they're asking for is not appropriate for us anyway?

44
45 Mr. Robinson: That's correct. Because we do not have the final say. We are not appealable.

46
47 Mr. Tackett: I understand.

48

1 Mr. Robinson: Director.

2

3 Ms. McLean: Thank you Chair. There's been a lot of very important information shared with
4 you from the intervenors and the Department in a situation like this doesn't take a position on
5 the petition to intervene that's for the parties to make their arguments to me, but I just leaned
6 over to David and said, if you grant the Petition to Intervene in the three entitlements what are
7 we going to do? We're responsible for administering that intervention process and I don't know
8 how we would carry that out because it's just not something that rules call for. So that's not
9 making a judgment on, on the intervenor's arguments and all the important issues that they
10 raised, it's more of a procedural quandary that we would be put in because we follow a process
11 prescribed in the rules but this falls outside of that. So I just...I don't know what we would do if
12 you granted the intervention in this component it's...as Corporation Counsel said the rules don't
13 allow for it.

14

15 Mr. Robinson: Commissioner Tackett.

16

17 Mr. Tackett: I would like to motion to deny the intervention.

18

19 Mr. Robinson: Motion to deny Commissioner Tackett. Do I have a second?

20

21 Mr. Carnicelli: Second with clarification. Clarification is on the District Boundary Amendment,
22 Change in Zoning, and Community Plan Amendment only not on the SMA?

23

24 Mr. Robinson: Is that what your motion is?

25

26 Mr. Tackett: It is. Is that the appropriate scope for...

27

28 Mr. Robinson: Yes.

29

30 Mr. Tackett: Then yes, that's the motion.

31

32 Mr. Robinson: Okay.

33

34 Mr. Carnicelli: And again if I could speak to the—

35

36 Mr. Robinson: You could speak to the second.

37

38 Mr. Carnicelli: Well, I'll speak to...yeah, the second the motion. The reason why I seconded
39 that is again, just for clarification the District Boundary Amendment, Change in Zoning and
40 Community Plan Amendment, we're nothing more than a recommendation to County Council.
41 We don't have the authority on that. We do have the authority on the SMA where that's our
42 kuleana. So it's like no, we're gonna let them intervene in our kuleana and what is the Council's
43 kuleana we're gonna...you know, it's gonna be dealt with another way. So that's why we're
44 saying is we're separating those things out and saying what's in our wheelhouse we're letting,
45 you know we're not going to deny that. We're gonna just deny the part that is not our kuleana.
46 That's all. That's what this motion speaks to.

47

48 Mr. Robinson: And Commissioners if you have apprehensive, you're not still clear that's what

1 we're here for. You know, we still have the opportunity and I, and I like the fact I feel that we're
2 all here making sure that the people get to have their say, and they don't get you know, they
3 don't get checked, box checked out off of doing something and I think that's where the
4 intervenors and I think that's where Tom met outside and I think they're gonna, I think they're
5 gonna get a lot of...more answers and more openness this way than if we did if it was
6 intervention and it won't be at a financial expense to the intervenors. And that's what we always
7 remember once it becomes legal then it's just lawyers and the intervenors gonna have to, have
8 to pay instead of them doing it openly. And when it does comes back, if it does, if it does, if the
9 Council approves it, it still has to come back to us with SMA and we have 100 percent authority
10 of the SMA. We have a 100 percent authority to ask for questions, for everything related to that
11 area which includes the safety, which includes the road, which includes all of that which is I
12 think is gonna be more important than just a land code.

13

14 Mr. Galazin: Yeah, and Chair maybe if I may speak up real quick?

15

16 Mr. Robinson: Sure Corp. Counsel.

17

18 Mr. Galazin: Thank you Chair. And just to be clear if you deny the Petition to Intervene for
19 those three items, then you can act on those three items today. If you grant a Petition to
20 Intervene in addition to the Director's comments I don't know how the heck we'd even make that
21 work, you wouldn't be able to do anything more with it today. So you can, you can deny the
22 Petition to Intervene and still recommend to the Council not make the changes. So the denial of
23 the Petition to Intervene doesn't have any impact on what your recommendation to Council is
24 going to be. It's just the fact that you are making a recommendation and it's not a case where
25 you're adjudicating anything. You're just gathering information and providing a memorandum to
26 the County Council to say, hey this is what we think you should, you should do. That's all.

27

28 Mr. Robinson: Is there any other discussion? Any questions? Yes, Kahu Hill.

29

30 Kahu Hill: So clarification, just looking if we move forward in this way we would be able to vote
31 on the SMA permit today or that's not...unless it comes back to us?

32

33 Mr. Galazin: Chair? Thank you Kahu Hill. No, the SMA...the SMA permit you would not be
34 taking any action on right now. You wouldn't be taking any action on the intervention which
35 means that you can't take any action on the underlying permit until you deal with the
36 intervention. You've already, you've already stayed the intervention determination so that
37 precludes you from doing anything with the SMA permit today. That part's already...it's all pau.

38

39 Mr. Robinson: And guys if you have any more questions and if we look at this at the big sense,
40 and again, Commission we have to move on, we have to make a vote that's what we're here for,
41 but will it even make this Council, we don't know, right? Time is up. Will the next Administration
42 pull this project altogether? We don't know. So this is this Administration, this project going on
43 so you know, you know, so you know so there's other factors and then again, it still comes back
44 to us for SMA. So we're just trying to clear up. You know, it's the intervenors threw everything
45 at the wall and they agree to the most important which is the stay on the intervention of the SMA
46 which we do have power over and the Council is something different. And what we have to do
47 is we have to take a step either to allow them intervention which we can't enforce and we can't
48 facilitate or to deny intervention and then we can get to the topics of whether we recommend to

1 approve or disapprove of the projects or approve or disapprove of the things on which I think is
2 what we're really here for to give recommendation. So I'm gonna call for a vote and hopefully,
3 hopefully we can move forward. Director.

4
5 Ms. McLean: The motion before you is to deny the Petition to Intervene on the Community Plan
6 Amendment, the State Land Use District Boundary Amendment and the Change in Zoning.

7
8 Mr. Robinson: All those in favor of denial please raise your right hand. That's four. All those
9 opposed? We have four ayes and two abstains which, which considers as a, as a yes and the
10 motion has been approved which the intervention has been denied and you can save your
11 money. Thank you.

12
13 **It was moved by Mr. Tackett, seconded by Mr. Carnicelli, then**

14
15 **VOTED: To Deny the Petition to Intervene on the Community Plan**
16 **Amendment, District Boundary Amendment, and Change of Zoning.**
17 **(Assenting – C. Tackett, L. Carnicelli, A. Hill, K. Pali,**
18 **S. Castro – Abstain, P.D. La Costa - Abstain)**
19 **(Excused – T. Gomes, L. Hudson)**

20
21 Mr. Robinson: Parks Department, Tom, can we ask you folks to go ahead and draft the order?

22
23 Mr. Colby: Yes.

24
25 Mr. Robinson: Thank you. All right, now we're back to Item E.2.a. Director.

26
27 Ms. McLean: Thank you Chair. Now you do have before you the Department initiated Change
28 in Zoning, Community Plan Amendment and State Land Use District Boundary Amendment for
29 the proposed Nahiku Community Center on approximately 1.9 acres of land at 0 Nahiku Road,
30 TMK: 1-2-002: 023. And well we start with...Mr. Fasi did already make some introductory
31 remarks. Did you have more presentation or would you like to turn that over to the applicant's
32 consultant at this time?

33
34 **a. WILLIAM SPENCE, then-Planning Director, transmitting the**
35 **following requests for the proposed Nahiku Community Center to be**
36 **located on approximately 1.9 acres of land at 0 Nahiku Road, TMK:**
37 **(2) 1-2-002:023, Nahiku, Hana, Island of Maui (P. Fasi) (Public**
38 **hearing conducted on October 26, 2017)**

- 39
40 **1) Community Plan Amendment from Agriculture to**
41 **Public/Quasi-Public, (CPA 2017/0002);**
42 **2) State Land Use District Boundary Amendment from State**
43 **Agriculture District to State Rural District, (DBA 2017/0002);**
44 **3) Change of Zoning from Agriculture to P-1 Public\Quasi-**
45 **Public, (CIZ 2017/0002);**
46

1 Mr. Paul Fasi: Thank you Director. I'm gonna be real brief. I just want to get this on the record
2 and I will turn it over to the consultant to make their presentation and that way I will not be
3 repeating myself.

4
5 So in Conclusions of Law, a community plan amendment is reviewed pursuant to Maui County
6 Code, Title 2, Chapter 2.8b, and the Community Plan Amendment is to reclassify the project's
7 area in the Hana Community Plan from Ag to Public/Quasi-Public. This is consistent with
8 Chapter 2.8b of the Maui County Code.

9
10 As far as the next request for land use entitlement and the district boundary amendments
11 standards for reviewing a Land Use Commission District Boundary Amendment and this is
12 going to be from Ag to Rural are found under Title 15, Subtitle 3 of the State Land Use
13 Commission and the conclusion that the Department has reached is that this District Boundary
14 Amendment will change the land use designation from Ag to Rural and the proposed action is
15 consistent with the District Boundary Amendment requirements from Ag to Rural.

16
17 In the Change in Zoning the last land use entitlement, the Change in Zoning is reviewed
18 pursuant to Maui County Code, Title 19.510, Change in Zoning and this is Change in Zoning
19 designation from Ag to P1, Public/Quasi-Public is consistent and is supported by the Title 19,
20 Chapter 19.510, Section 19.510.040 as stated in the Maui County Code and further
21 supplemented by the Department's report. So I just wanted to get that on the record for the
22 three land use entitlement requests and in order so I don't repeat myself, I'm going to turn this
23 over to Karlynn Fukuda, Munekiyo Hiraga. She's going to give you a presentation on the actual
24 project and its details.

25
26 Ms. Karlynn Fukuda: Good afternoon Chair and Members of the Maui Planning Commission.
27 My name is Karlynn Fukuda of Munekiyo Hiraga. We are here today to present information
28 regarding the proposed Nahiku Community Center project. Joining me today are Brian
29 Shimomura and Robert Halverson from the Department of Parks and Recreation, the project's
30 applicant. Mimi Desjardin from the Parks Department's Corporation Counsel and Anthony
31 Riecke Gonzales from Riecke Sunnland Kono Architects, the project's architect.

32
33 The presentation will briefly touch upon the three requested land use entitlement actions which
34 were initiated by the former Planning Director as well as the Special Management Area Use
35 Permit application which was prepared by our office. We are requesting the Commission's
36 recommendations on the State District Boundary Amendment, Community Plan Amendment
37 and Change of Zoning. Following the County Council's final determination on the land use
38 entitlements as has been discussed in the previous proceedings the project would return to the
39 Planning Commission for final action on the SMA Use Permit application.

40
41 This is a regional location map to provide you with context on the location of the project site.
42 We have Hana Highway here. This is heading towards Kanae and Hana. This is back
43 towards—

44
45 Unidentified Speaker from Audience: Kanae is the other way.

46
47 Ms. Fukuda: Sorry, to Kahului but the location is, the Nahiku Road is here. This is a tax map
48 key map which provides the project site located here at the corner of Nahiku Road and Lower

1 Nahiku Road, also across the street from the Nahiku Church site. The site is owned by the
2 State of Hawaii and transferred to the County of Maui with a Executive Order for community
3 center purposes.

4
5 The proposed Nahiku Community Center would replace the former Nahiku Grammar School
6 building which was burned by arson in 2005. The former school building served various
7 community purposes after the school was closed down including as an election polling place as
8 we understand and as a gathering space.

9
10 This next slide provides a brief history of the site and the legislative actions that have taken
11 place for the project. As you can see here, the school was closed in 1958 and from then on was
12 utilized for various community purposes. We note that the Department of Parks and Recreation
13 filed an SMA Assessment application for the project which was approved as an SMA Minor
14 Permit back in 2012. There was also an EA Exemption granted by the Department of Parks and
15 Recreation at that time.

16
17 A construction contract was awarded in 2012 and a Notice of Proceed was issued in 2013. We
18 note that there was also a legislative action by the County Council to officially name the
19 community center as the David Kanaloa Kahookele, Jr. Nahiku Community Center. However,
20 as has been mentioned previously there was a legal matter between the contractor and the
21 County so work was not initiated.

22
23 The proposed project plans are the same as what was prepared or proposed in 2012. However
24 the estimated cost of the project has increased over that time to \$1.5 million as previously
25 mentioned and as such the Planning Department determined that the SMA Use Permit would be
26 required. It was also determined by the Planning Department that the proposed use was not
27 consistent with the existing land use entitlements which we'll talk about in a minute and so the
28 Director initiated the District Boundary Amendment, the Community Plan Amendment and the
29 Change of Zoning. The project was reviewed by the Urban Design Review Board for the SMA
30 Permit and the Hana Advisory Committee in October of last year for both the land use
31 entitlements and the SMA application and as has been mentioned previously the meeting today
32 is to review the recommendations by the Hana Advisory Committee.

33
34 The next series of slides are photos of the project site. What you see here is the northwest and
35 southeast view of the future...of where the future community center building would be located
36 and we have a reference map for you up here. This next slide shows the northeast view and
37 the southwest view of the proposed parking area that would be adjacent to the community
38 center building. Next we have the northwest view of the project area and the southeast view
39 along Nahiku Road just located here. And then finally we have the east and west view of the
40 project site which is located here and on this side in these photos along the Lower Nahiku Road
41 and you can see the Nahiku Church you know at the top here which would located there.

42
43 This next chart provides a summary of the land use entitlements that are being sought for the
44 project site. As been mentioned previously the State Land Use District Boundary Amendment is
45 proposed from Agricultural to Rural. The Hana Community Plan is from Agricultural to
46 Public/Quasi-Public and the Maui County Zoning is from Agricultural to P-1, Public/Quasi-Public.
47 The project site is approximately 1.9 acres in size and these land use changes would only apply
48 to the particular TMK.

1
2 As Paul mentioned, you know the Planning Director initiated the land use entitlement changes
3 and the Planning Department went through their review of the proposed action and so on the
4 District Boundary Amendment they determined that the project will meet the standards for Rural
5 District. On the Community Plan Amendment they determined that the proposed request was
6 consistent with the Maui County Code relative to the General Plan and community plans. And
7 for the Change of Zoning the Department determined that the proposed request met the criteria
8 that's outlined within the Maui County Code relative to zoning.

9
10 I'd now like to provide you with information on the proposed community center improvements
11 which is submit to SMA Use Permit application. We understand that there will be no action on
12 that today but wanted to provide the Commission with just some information. We note that the
13 proposed center is approximately 600 square feet larger than the footprint of the original Nahiku
14 Grammar School building and the community center would be a Parks Department facility and
15 hours of operation for the center would be posted at the site. The community center building
16 would contain those various uses a social hall, a kitchen, restrooms, storage and a covered
17 entry lanai and related improvements we have a paved parking lot and driveway, individual
18 wastewater system as well as utility connections and site work.

19
20 This is copy of the proposed site plan again to provide you with some orientation this is Nahiku
21 Road and Lower Nahiku Road is here. So this is the community center building that would
22 contain the community hall, the kitchen, restrooms, et cetera, and this is the paved parking lot
23 where there would be I believe it's 13 parking stalls and one loading stall as required by County
24 Code. Again, the improved driveway up and down from Nahiku Road. The landscaping would
25 generally stay with what's there. As you saw in the photos is pretty lush. There is a tree that
26 would need to be relocated from the site and it would be relocated here.

27
28 Wanted to just provide some context for everyone in terms of the size and scale of the site. If
29 you're familiar with Helene Hall in Hana we just provided an overlay of...the outline that you see
30 here is the footprint of Helene Hall. So the proposed Nahiku Community Center would fit within
31 the footprint of Helene Hall.

32
33 These are elevations of the proposed building. You see the west elevation so this would be
34 looking from the parking lot looking back at the community center building. This would be
35 looking from the other side of the building and then you've got the north elevation and the south
36 elevation. We did as I mentioned go through Urban Design Review Board review and the colors
37 don't necessarily translate very well here in the slide but they are from the palette of approved
38 colors from the Parks Department requirements.

39
40 In addition to those improvements there will be drainage system improvements. We're
41 proposing installation of catch basins within the paved parking area and the drainage system is
42 designed to accommodate the increase in runoff due to the improvements of a 50-year, one-
43 hour storm and would meet the County Storm Drainage Rules and requirements.

44
45 Additionally we note that...so there is an existing water meter on the site that served the
46 school's building that was there previously. A new individual wastewater system is proposed
47 and I assume because you know the system that was there previously is probably no longer

1 permitted, the cesspool system. And the electrical and telephone services are available in the
2 area.

3
4 We note that there was an archaeological inventory survey that was completed for the site in
5 January of 2017. The report recommended no mitigation for three historic properties that were
6 identified on the site which were associated with the Nahiku Grammar School. There were two
7 modified outcrops for agriculture purposes or landscaping and one buried trash pit.

8
9 As has been mentioned previously I think the Commission understands that you're making a
10 recommendation today to the Maui County Council for review and action and that final action on
11 the SMA Permit will be held...on hold until there is a final decision from the Council on those
12 land use entitlements.

13
14 Again, just to summarize, the proposed community center would replace the former Nahiku
15 Grammar School building which was utilized for community purposes previously and it would
16 provide another County facility in East Maui which, you know, residents could use for various
17 public purposes.

18
19 So today we're respectfully requesting your recommendation of support for the proposed District
20 Boundary Amendment, Community Plan Amendment and Change of Zoning to the Maui County
21 Council. This concludes our presentation and we're available to answer any questions you may
22 have. Thank you.

23
24 Mr. Robinson: Thank you, Karlynn.

25
26 **a) Public Hearing**

27
28 Mr. Robinson: At this time we're gonna open it up for public testimony. And if we can please,
29 please keep the questions to this item would be preferred. We've heard a lot, but you know just
30 as a...we do have to leave over here so don't lose quorum, but I do want to hear all the
31 testifiers. You guys all will be able to speak. First, Mr. Paisner. Would you like to speak on this
32 item sir? Please introduce yourself, you have three minutes.

33
34 Mr. Jeffrey Paisner: Jeffrey Paisner. I won't take three minutes.

35
36 Mr. Robinson: Jeffrey, please move the mic up. Thank you.

37
38 Mr. Paisner: Jeffrey Paisner. You showed some photographs could you go back to Photo
39 Number 1 of the site please?

40
41 Mr. Robinson: Jeffrey I'm sorry, it's maybe we can come back later but you—

42
43 Mr. Paisner: Okay, Photo Number 1 showed the site and I believe if I was looking at it correctly
44 it showed a lot of flooding on the site which is one of our big concerns that site often floods.
45 This photo, I believe that's water there pooling on the site in the lower left corner. Sunshine on
46 water I should say. There's been testimony from the intervenors that it is a site that does flood.
47 Did you consider the elevation of the site?

48

1 Mr. Robinson: Jeffrey, I apologize, it's just testimony and it's to the Commission. It's not to the
2 applicant, sorry.

3
4 Mr. Paisner: Oh, okay. She had asked for questions.

5
6 Mr. Robinson: No, no but that's from us.

7
8 Mr. Paisner: Oh okay.

9
10 Mr. Robinson: Yeah, but it's fine.

11
12 Mr. Paisner: My question is one of the reasons why this site should be considered is for use as
13 an emergency shelter and I question why we would consider that given the low elevation of the
14 property number one. And number two, the difficulty, you saw the road how it's a narrow one-
15 lane road of getting emergency vehicles in or out. So I want to know what the rational is to
16 consider that a site for an emergency shelter on the basis of that lack of infrastructure. Thank
17 you.

18
19 Mr. Robinson: You're welcome. Any questions for the testifier? Seeing none, John would you
20 like to testify on this item?

21
22 Mr. Blumer Buell: I would.

23
24 Mr. Robinson: Please introduce yourself and you have three minutes.

25
26 Mr. John Blumer Buell: Thank you Chair. John Blumer Buell and I would just like to say...plea
27 really for you to recognize the wisdom of the Hana Advisory Committee and they're simply
28 asking for an EA. And I think you could send it to the Council with the recommendation that an
29 EA be available to them. That's just information.

30
31 Now a couple things. When Mr. Correa declared an exemption and I think it's...if you go back
32 and look at that there's lot of misinformation intentional. So I call it fraudulent. It's not a
33 replacement of the old Nahiku School. The old Nahiku School had at the most eight students
34 and a teacher living there. There was no real impact. A new center is gonna be available to
35 every person on Maui and every visitor to use. It will be anybody can reserve it with a capacity
36 of 150 and a certified kitchen. That's gonna be an enormous impact and that's...let me tell you
37 there will be regular use every weekend there's going to be 150 people down there having
38 enormous impact. And you know, Mr. Correa claimed that there was no significant change in
39 use. I just laid that out, there's a huge difference in use. It's not a replacement of the Nahiku
40 School. And so all I ask is for you to please recognize the Hana Advisory Committee
41 recommendation to you to request an EA.

42
43 Finally, I ask you to go back and look at the 2007 transfer from the State Land Board to the
44 County of Maui. It did not exempt the County from an EA at all. It says, the act of transference
45 is not subject to an EA. And it is clear that does not exempt the project from Chapter 343.

46
47 And so in closing, I just you know really beg you for the sake of the community and due process
48 to recommend that the County Council require an EA and that will be in everyone's best

1 interest. And that will be as you know an EA is a chance for everyone in the community to ask
2 questions. It's a back and forth dialogue and EA or EIS requires alternative to the project. One
3 year ago, more than a hundred people signed a petition wanting no money to be spent for this
4 center. They wanted the bridge to be replaced as a priority. So that would have to be looked at
5 in an EA and God Bless you. I hope you make a wise decision and thank you for your service.
6

7 Mr. Robinson: Thank you for your testimony John. Next up to testify is Lehua
8 Kehuna...Kekahuna, I'm sorry. Aloha, please introduce yourself and you have three minutes.
9

10 Ms. Lehua Kekahuna: Aloha mai kakou. My name is Lehua Kekahuna and I am a partial
11 resident besides my family also resides in Nahiku, Maui. I stand before you all just to hope and
12 pray that we can come to some kind of decision for this has been on the table since 2006. I am
13 in fully in support of this community center. I think it will hold a big asset to the community and
14 the communities on the east side of Maui. Now I've heard a lot of testimonies and we all have
15 our own mana`o but I hope and pray that we can come to a decision for it's a long awaited
16 decision to have been made. So with Ke Akua to guide you folks decision, I hope you can come
17 to a decision and put this project going forward. Mahalo nui.
18

19 Mr. Robinson: Aloha. Do we have any questions for the testifier? Lehua, could you please?
20 Commissioner Tackett.
21

22 Mr. Tackett: My question to you is how do you feel about what was said about the community
23 center being open to all the public and the amount of traffic that they're saying may or may not
24 be going on down there. Do you think that that would be problematic to have that community
25 center down there deep in Nahiku open to people that are maybe not necessarily from Nahiku?
26

27 Ms. Kekahuna: I don't think so because I think as a kuleana everybody that lives there pretty
28 much has the aloha and the understanding you know to share. I think it will be controlled. We
29 already have traffic there. Tourism is there. Due to the bridge being broken, it has stopped a lot
30 of traffic because they can no longer go all the way down to the landing, turn around, picnic,
31 party, et cetera. So in order to go to the landing you would have to walk it and then carry all
32 your ukana which is your stuff, you would have to carry it all the way down which I definitely
33 don't want this to be a head...talk about the bridge because this has nothing to do with the
34 bridge. The community center is way before the bridge. It's located right across the church.
35

36 The access of this community center will be for our generation to come, our keiki. I think our
37 kupunas that is no longer here that was it's all part of it, you know it's not only for disasters. It
38 should be for community events. It could be held for County people or State people to come
39 there, meet with the people, meet with the community. Hana has its own. Keanae we don't
40 have any more. YMCA is rented out to tourism and things like that. So a lot of functions can be
41 utilized with this community center. It doesn't have to only be for a disaster use whether it's a
42 tsunami or it could be road closures, trees, storms knocking out electricity, the roads, you know,
43 where the cliffs or all of that can be considered where it could be a safe haven for a lot of
44 people, for community members. A lot of people...how many of you have gone to Nahiku, have
45 seen Nahiku? Who here has gone to Nahiku I would like to surely know. Okay, so for the ones
46 that have gone down to Nahiku, you know, people love to go, visit and leave. So on this
47 community center whether we want to realize it or not will benefit the community and the
48 communities on the east side of the island. Unless you're a property buyer or you already own

1 property there, you live there, this is for the community. So you know, I respect everybody's
2 testimony. I am not here to bash anyone. I am not here to make anybody think any different,
3 but in the long run I think the community center is needed for the east side of the island. And so
4 with that being said, I think it's a good thing and I'm in full support.

5
6 Mr. Tackett: Thank you.

7
8 Mr. Robinson: Mahalo Lehua.

9
10 Ms. Kekahuna: Mahalo nui.

11
12 Mr. Robinson: Oh I'm sorry Lehua, Commissioner La Costa would like to ask you a question.

13
14 Ms. La Costa: Mahalo Chair. Mahalo nui for showing up and giving your testimony. So you're
15 in favor of a community center.

16
17 Ms. Kekahuna: Yes.

18
19 Ms. La Costa: Whether it's that place or would you be in favor if it were to be some place with,
20 with different roads and infrastructure?

21
22 Ms. Kekahuna: You know it's never been a problem when the school was there. I don't feel it
23 will be a problem if the community center is there. I would surely like to see something there
24 that will benefit the community. Whether it's Upper Nahiku or not a place where the land will be
25 taken cared of and a place that can benefit the community I think the place isn't the problem.
26 People will go anywhere to go there and do their function. In other words, kupunas there if they
27 want to gather to do a crocheting or a haku lei making guess what, they have a place to go. If a
28 boy's club or some kind of sport event wants to come there because Helene Hall isn't available
29 ...(inaudible)...they have a place to come. You know so I don't think it would be a problem.
30 The lower part of it, you know being close to the ocean when there was a tsunami years ago it
31 never even touch Nahiku. So we have to look at all of this other aspects of it and I wanna think
32 that I'm looking at it as a positive thing that will happen for the future not only for our generation
33 right now. We're fighting for our future. So I want to use this and hopefully pray that my
34 ancestors, my kupunas which this community center will be named after my great grandfather,
35 great, great grandfather. So this property was in our family and it was given and I'm hoping that
36 it's used for benefits of our community.

37
38 Mr. Robinson: Mahalo. Okay.

39
40 Ms. Kekahuna: Can I go?

41
42 Mr. Robinson: Yes.

43
44 Ms. Kekahuna: Thank you so much.

45
46 Mr. Robinson: Next we have Della Honokapu.

47

1 Ms. Zandra Amaral Crouse: Aloha Chair and Commissioners. The Kekahuna Family asked me
2 to testify because I do need to leave and they'll be testifying prior...I mean, after myself. My
3 name is Zandra Amaral Crouse. And I'm glad to see these people coming together and I thank
4 the intervenors Chair and I thank you for providing them opportunity to kuka kuka so that
5 resolve can be made. Because those of us who were born and raised here, who have family in
6 Keanae, Nahiku and Hana know that it's a very small and close knitted community and we
7 should not let things like this diversify and divide them and so I thank you for that.

8
9 As for the community center, I am totally in favor of that. We know that there is not much to
10 occupy our children, our keiki. Keiki o ka aina in our east part of the island. Thereby leaving
11 them with having to do things that's not what we think they should be doing. And we all know
12 that when we have a center to gravitate and gather at that our kupunas are blessed by taking
13 care, and meeting, and gathering with our keiki o ka aina.

14
15 As for the school in Nahiku that closed in 1958 if I recall correctly, that area was the gathering
16 place. My son-in-law's family, the great family of the Hoopais and the Hoopiis. My daughter-in-
17 law's family of the kalo patches in Keanae, the Nakoa Family. They gather there. That was a
18 place for...that provided an opportunity for families to gather. I remember we used to roll rocks
19 there. We used to play all kinds of Hawaiian games down there and I envision that to be a
20 place where East Maui will have their own area at least in the Keanae and the Nahiku part of
21 East Maui. Give them a place where the halaus can practice such as we have here in Wailuku
22 and in other areas in Maui Nui. Give them a place to learn how to dance, to learn how to
23 weave with the kupunas in our district, in their district. Give them a place to call their own and
24 the only traffic impact I see for this community center Chair, Commissioners, are the impacts of
25 their very community, their children going down there to play ball, meet friends, and meet family.
26 They're families going down there to put on a miniature luau or a big luau, but they'll have a
27 place to do it. So I see the impacts of traffic being the very families who are keiki o ka aina who
28 has been there over 100 years. These ahupuaas and these are theirs. Give their children.
29 Have we not displaced our families and our children for far too long? So I humbly ask you to
30 support their community center and I realize that there's much that needs to be done before it
31 comes back to you guys. But when it does –

32
33 Ms. Takayama-Corden: Three minutes.

34
35 Ms. Amaral Crouse: --give our citizens a place to gather in their own community. And mahalo
36 Chair and Commissioners, I really do thank you for the time and effort. Mahalo.

37
38 Mr. Robinson: Thank you Zandra.

39
40 Ms. Amaral Crouse: You're welcome.

41
42 Mr. Robinson: Is Della here? Della want to...you want to testify Della? Aloha please introduce
43 yourself and you have three minutes.

44
45 Ms. Della Honokaupu: Can give you one minute time. Hi I'm Della Honokaupu, and thank you
46 all for the input and everything. I agree. I also would like to say I'm with the community center.
47 And it's not only for disaster it's for the keiki, for the kids, like my niece was saying if they like
48 learn leis, going do the hula, you there's some place to go to. I'm not doing only for all of us, yet

1 this is all for all of us, for everybody, the community. But mine is for keiki. You look at this right
2 now, summer just when pau. What did the kids do down there at Nahiku? What did they do?
3 The other kids out here they play football. They get place to practice soccer. They have some
4 place to go to dance the hula. So this community for me I would say is for the keiki. For the
5 future. For the future that's what I'm saying. Maybe I not going be there. I'm 72 years old
6 believe or not, maybe I not going to be here to watch that, but it's for the keiki as what I'm
7 saying. So I hope that we can get together as one and try see if we can do something about
8 this. I really do. Thank you so much. Mahalo nui loa.

9

10 Mr. Robinson: Mahalo. Any questions? Della please, Commissioner Pali.

11

12 Ms. Pali: Hi, thank you for your testimony. I...we were handed a bunch of written testimony
13 and a petition that supported...I didn't count the number of supporters here, but at a glance and
14 I attempted to count it looks like a few hundred people also agree with you. Your testimony did
15 that encompass some of these people that were not here today as well?

16

17 Ms. Honokaupu: Yes, yes.

18

19 Ms. Pali: Thank you.

20

21 Ms. Honokaupu: Oh you're welcome. You're so pretty. Thank you. Any more questions?

22

23 Mr. Robinson: Ask you'll get a compliment.

24

25 Ms. Honokaupu: Yeah, yeah, no worry braddah you look good too. Thank you very much.

26

27 Mr. Robinson: Thank you. Aloha. Next Cheryl Kekahuna. Please introduce yourself and you
28 have three minutes.

29

30 Ms. Cheryl Kekahuna: Aloha.

31

32 Mr. Robinson: Aloha.

33

34 Ms. Kekahuna: My name is Cheryl Kekahuna aka Kaohe. I'm a resident of Lower Nahiku.
35 E kala mai I'm not trying to be disrespectful but I kinda made some memo bullet points so I try
36 not to get off track. A project that started for a very long time, a building to replace a building
37 sounds like a simple task but obviously not. A lot of unforeseen obstacles that you would never
38 think. I've said it in the past and I truly believe, I truly believe in this center simply because it
39 seems like based on the powerpoints that we viewed it's a center that actually compliments our
40 community. It's a simple, small community. I've never seen or I don't know if you folks know I
41 pass, I commute five days a week to and from work, I pass Haiku Community Center, I pass
42 Paia Community Center, I don't see how that impacted their communities in a negative way. It
43 had said, it is mentioned you know about property taxes being raised. That answer I think has
44 been answered it's not. And I just think that for generations now and generations moving
45 forward it has been a very tireless process. We continue to holomua for kupunas in memory
46 and in honor of them that have supported and have passed and are still with us. We holomua in
47 that initiative which is a protocol that was how we was born and raised into. We didn't really
48 have planning commissions, we didn't really have...we went to the kupunas, we solicited their

1 mana`o. They knew what was right. They know what's right for the ahu, what's right for your
2 ahupuaa. If they didn't say, if they were negative, it would be a negative, you know, then that
3 wasn't good enough. But look at all this process that you have to go through it seems like a lot
4 of obstacles and red tape you have to go through. The blessings came from the kupuna from
5 this project. And with that being said, we're gonna continue to move forward and I hope you
6 folks make the right and the pono decision. Again, this is something that's not gonna impact in
7 a I think we hear the negative, we the EA and it's something that's not only gonna help our
8 generations now, our kupunas and future generations but going ahead. It is something that will
9 be, that we as a community should be proud of. Division comes from the people of being
10 misinformed, miseducated, holoholo olelo. They go around and they talk, talk, talk and then
11 before you know it's a big mess. You can support something and then on the tip of a hat now
12 you don't support something, I struggle with that. I struggle as an individual, as a character now
13 how am I going to look at you? How is your character? Do you have the right intentions for the
14 ahu? You're not even relevant and live in the ahu, but you have a kuleana. Now you niele and
15 you come here for our ahu but you not even relevant. I don't even know where your roots are,
16 but they get plenty to say. So with that being said, again we commute, the road conditions they
17 change at any time. It could be a final stop. I can go on and on of the benefits of a community
18 center. People say going get big parties. They will go through the same regulations like any
19 community center would. You know you apply, you go through the process like everybody else.
20 Look at something and be proud off because of all the challenges that you need to make
21 something an entity like that happen. And so I pray to you folks, I lift it up to Ke Akua to give me
22 the strength and the focus to say what's right and what's pono and I hope you folks will make
23 the right pono decision in this initiative for our community. Mahalo.

24

25 Mr. Robinson: Mahalo. Any questions for the testifier? Commissioner La Costa?

26

27 Ms. La Costa: Mahalo Chair. I will ask you the same question and again mahalo for being here
28 and testifying. Is it the actual building of a community center that is most important or is it the
29 position of that building of the community center that's most important?

30

31 Ms. Kekahuna: Well, it just makes sense. I guess it's a yes or no question. A community
32 center on the east side would be very...you know, it's something that would be neat. I think it
33 would be very instrumental, a fundamental for the community. If your question is the location it
34 just made sense. You know the school burned down that there's an open spot, boom...put a
35 building there. If another location that would be good too 'cause it would serve the east side
36 community. Do you want to go through the process? The money, it's talked about the money,
37 the process of how it's going to take. Do that all over again? So to me, it makes no difference,
38 but where would that second location be? Again, we've seen the power. You know, we've seen
39 the power slides, it's a little community. Smaller than Helene Hall that would be perfect for that
40 1.9 acres. It just makes sense to me to replace a building with a building than having to explore
41 a different area where possibly more millions, probably 1.5, 2.5 million dollars would have to be
42 spent for another initiative. Does that help?

43

44 Ms. La Costa: That does. Mahalo.

45

46 Mr. Robinson: Thank you. Anyone else? Mahalo for your testimony.

47

48 Ms. Kekahuna: Mahalo.

1
2 Mr. Robinson: Next up I have Mapu Kekahuna.
3
4 Mr. Mapu Kekahuna: I'm going to let my kupuna go first. I want to speak last. Let the kupuna
5 go. Thank you.
6
7 Mr. Robinson: Sure. Next on the list is Louisa Alina.
8
9 Ms. Louise Alina: My name is Louise Alina. Aloha ka kou everyone.
10
11 Mr. Robinson: Aloha.
12
13 Ms. Alina: I came in from Honolulu for this meeting. I have come to Nahiku every year for this
14 project. So I really firmly believe in it and let me tell you why. My great grandfather worked with
15 or had the chance to pick two parcels to give according to our Kalakaua and so he picked the
16 church parcel and he picked the school parcel out of his...what he was in charge of to give to
17 the community. Now my grandfather really continued what Kalakaua wanted was to care for his
18 people and this is one of the things to take care of the church and to have a school for
19 education and they firmly believed in education. And all my grandfather, great grandfather
20 that's what they believed in. And so they used this school property to further education, to
21 share whatever they wanted to share with everyone. As a child I used to come there every year
22 and I've seen the school being used for school and for voting, for community things that they
23 needed to take care of. So for me it made sense, really made sense to make use of this
24 property to put a community center in place of a school which is too bad it burnt down. So why
25 leave this property vacant for what? So to continue my grandfather's passion of education,
26 English education and the Hawaiian culture, we think having the community center is a way to
27 continue this process of I really, really believe it will help the community. Yes, it is for the small
28 community but there are many people that come there, all of you when you come from town
29 here and you go to the country side, you will stop by maybe not, but you might do in some time.
30 It's a beautiful, beautiful place. It's very peaceful and yes, we may have difference of opinions
31 there, but it's like that everywhere and we can never satisfy everyone. We try our very best to
32 do what we can to help further educating people, giving our children, our grandchildren,
33 grandchildren to come to have a place to share with each other, to learn. Regarding traffic and
34 all, no, we have the regular normal traffic of the people that live there that go up and down. I
35 see it 'cause I'm there. I see it up and down. It's our own people. We have the normal little
36 people that come to visit and that's fine and they are so hungry. The people that come to
37 Nahiku and any part of the east they're hungry for learning what our culture is about. So we
38 want to share that with them and we're there. I mean, the families it's too bad that we used to
39 be down on the landing, we can't go because of the bridge and the locals used to just share
40 what they know about the area and that encourage people to get interested in the Lower Nahiku
41 and what do you know, we have new people moving in. Fine, that's great, we welcome all. I
42 heard so many things today which really it hurts and it doesn't make sense and I really don't
43 know where they're coming from but Nahiku is a beautiful place. It encourages everyone to
44 come in and the community center will serve its purpose because we have education there.
45 We'll have Hawaiian culture there, whatever is needed. Civil Defense, we need a place when
46 the electricity and the water and whatever, telephone goes out, what if somebody is hurt on the
47 Hana Highway, someone gets stuck in between when there's flooding or landslides where
48 would they go? They're stuck in between if two sides are caught. So there's many, many

1 positive things where this community center will come in use for everyone. And I hope we can
2 all just work together and find some kind of solution that will work. But it's been a really long
3 time and I encourage this...my cousin them to call a meeting because it's very discouraging. I
4 come every month when we started this program and I'm coming from Honolulu. I care and I'd
5 like to see something done. Thank you.

6
7 Mr. Robinson: Mahalo. Any questions for the testifier? I have a question for you please. Kahu
8 Hill.

9
10 Kahu Hill: Mahalo for testifying and everyone. I just wanted to know, I haven't heard you guys
11 talking much about the flooding and just knowing about that in the past and Nahiku my kupuna
12 Kaalakea we came many times just for Nahiku for the flooding of that area and the homes.
13 Could you speak about your experience in this please?

14
15 Ms. Alina: Okay, my experience regarding the flooding I don't know where that flooding is
16 coming from. As a child my brothers, we all grew there. I've never saw flooding. Yes, we have
17 rain that come through every home there that was there and is now being built there have the
18 same problem because of the way they build the roads go down. But as for flooding, no I think
19 that's a little exaggeration for the cause whatever that might be. But no, I have not seen that.
20 It's like the puddles in there, that's normal and in no time if there's a little rainwater that kind of
21 builds up just a little bit in certain low areas it dissipates really fast. So it's not like it's a disaster,
22 no it's not like that.

23
24 Mr. Robinson: Okay, thank you so much. Next is Kumu Kamalu. You guys jun ken and poing?
25 Please introduce yourself, you got three minutes.

26
27 Mr. Paul Bordner: My name is Paul Bordner. Excuse me I have a hard time speaking. I'm a
28 resident of Nahiku. I live there a long time. E kala mai ia`u. I am emotional. Let me calm
29 myself down.

30
31 Mr. Robinson: Paul take your time. It's okay.

32
33 Mr. Bordner: I get like this all the time. Oh my goodness. Anyway I live there for so long. E
34 kala mai. Thank you so much. Mahalo. My grandma was school teacher in Nahiku. I
35 remember, reminisce back in the days of the old days when we all gathered at the school and it
36 hurts me to see people fight against each other because of the school. It is a place of gather, of
37 learning of hula, of chants, of speaking Hawaiian. All doing the things that is what we brought
38 up as. So when I see people from not from Nahiku, from not from our area, of you, it hurts me
39 more and wonder why. So I must overlook all this and think of my tutu and my parents, my
40 mother and my father, think of them and calm myself down and say and pray that all this things
41 will come to a close and decision where we great help from Akua and which is also among you
42 people that we are...we work very hard for many, many 12, 13 years already on this project and
43 we know the benefits of it but it's so hard to convince everyone. So when we propose all this
44 and worked on it we wasn't thinking about...we wasn't thinking about oh, you can come but you
45 cannot come. We were thinking about you all come. You all come ...(inaudible)...You all come
46 to be with us. And it's still like that in my heart. I still aloha them all. They are my...these are
47 my family as well, they are part of my blood, Bergau is relative, but he's on the other side. So it
48 makes hard for us like this. So I pray that we can all one day come to a head where we can

1 agree that this community is so important to us. We are...we need something for like when
2 there's a Civil Defense for any of the above matters, for fires, for floods, if there be any flood
3 which Nahiku never had. Nahiku never flood. The river we have two ...(inaudible)...wai's run
4 between Nahiku that's where the flood stay but never in us, in your homes or never at the
5 school, maybe little bit water here and there, but the water bumbye evaporate. So no more
6 pilikea, no more trouble. So our King David Kalakaua, my King he told all the Konohiki, he put
7 one church and one school and all the ahupuaa and he when he say that he didn't say for Maui
8 he said all the Hawaiian islands and so all the Konohikis did. And Kahookole is Konohiki and so
9 he did. ...(inaudible)...us, here school, here church and so respect that. And when we look at
10 the church after the thing when demolish when burn down we said, well maybe we could do
11 something else with it. Maybe we could school and bring back culture and so we try. We try,
12 we try our best and we still try today and we will continue on trying so. Knowing in that in our
13 hearts that this is the right thing to do. We have many of our kupunas older than...I'm only 75
14 I'm still a young man. There are many of the other kupunas much older than me who have
15 passed away already...(inaudible)... who wanted the center, who came to meetings for the
16 center, only think about the center, would dream about seeing their ohanas coming to visit them
17 at the center and I had the plan to go get MEO, bring all the Keanae, the Hana, the Kipahulu,
18 Kaupo, wherever they all from come down holoholo have dinner with us, have lunch with us at
19 our, at our ahupuaa. To gather, to continuously gather and to be among our people. This is
20 what we want, but we having hard time now. So we look upon you people to make decisions for
21 us to help us and I thank you all of you thank you very much.

22
23 Mr. Robinson: Mahalo, mahalo.

24
25 Mr. Bordner: Thank you.

26
27 Mr. Robinson: We have any questions for the testifier? Mahalo.

28
29 Mr. Bordner: Thank you.

30
31 Mr. Robinson: Thank you. Okay, Kumu and Kapu...Mapu, you guys when jun ken po? Who's
32 next? Please guys.

33
34 Mr. Mapu Kekahuna: Aloha mai ka kou.

35
36 Mr. Robinson: Aloha.

37
38 Mr. Kekahuna: Commissioners. Mahalo nui for having us today and thank you for hearing this
39 project today. Today we delivered a lot of issues—

40
41 Mr. Robinson: Mapu please introduce yourself.

42
43 Mr. Kekahuna: Oh yeah, my name is Mapu Kekahuna, I'm the sitting Vice-Chairman of the
44 Nahiku Community Association. It's the most heart wrenching for me to hear my kupuna talk
45 amongst my cousin, Moke Bergau who is also a Kanaka. I am a Kanaka and I'm very ha`aheo
46 about that. I will always be. I served eight terms on the association board. Prior to me Moke
47 served as the President also. My mother serves as the current President. I've been hearing all

1 of this talk about the history and all of this things. And I keep telling myself inside I says, Mapu
2 you really stick with your foundation, the roots, where you came from.

3
4 You know when the school was resurrected in 1898 it educated about a hundred somewhat
5 children my mother being the last graduate in 1955 before they closed the school not eight or
6 ten. Go look it up, public ...(inaudible)...Ordered by the King David Kalakaua at the time was a
7 ruling by his order that this aina is set apart for this things.

8
9 Today, 2018...in 2006 when this project was first geared its way out I wasn't even on the board
10 but I was a member. Everyone thought it was a good thing. People that were in support of it
11 and are against it. Today, I think we wouldn't be here today if the Council built it 2013. That's a
12 fact. So now the kuleana falls back here, you know, and along the way between 2013 and 2018
13 five years after we're back at the same problem. Well, not even a problem...but now it's a
14 problem. 2013 it would have been built. We never had intervenors in 2013. Maybe two, one of
15 which is no longer here.

16
17 So I just wanna say that I'm a Kanaka, proud to be. I stand forward in front of Ke Akua and my
18 kupuna and I made a vow and one of my kupunas passed, in fact two of them has passed
19 since. I have a 95 year old ...(inaudible)...in Honolulu that keeps asking the question when is
20 the community center gonna be pau. He no longer can travel here because of his age and it's a
21 real shame. So while all this bickering going on and I'm glad that the intervenors were granted
22 that thing so sit and kuka and discuss all their concerns, what have you. You know for time us
23 is minimal, I may not even be here when that building gets set forth. I'm in full support of it. But
24 we shall see where it all goes. Appreciate your time and we shall see how this whole thing pans
25 out. Thank you.

26
27 Mr. Robinson: Mahalo.

28
29 Mr. Kekahuna: Questions before I walk away?

30
31 Mr. Robinson: Mapu one second. Commissioner Pali.

32
33 Ms. Pali: Hi, thank you for your testimony. You mentioned that there were only two people that
34 may have been against the project prior to 2013 when it seemed to be approved and money
35 granted to build?

36
37 Mr. Kekahuna: In 2012 and Mr. Blumer Buell can recall this if he could there was...he couldn't
38 make that meeting and there was an individual that spoke on his behalf that individual is no
39 longer here. The partner of hers has since been deceased. Relevancy things such as lighting
40 and the banyan treeing be yanked out, all this misinterpretation of certain things that has
41 already been mitigated through the whole process. So my point that I'm trying to make is this
42 thing was incepted in 2006, a huge committee meeting in 2010, petitions signed by some of the
43 intervenors by the way, it's in front of you, okay these matters should have been brought up
44 then not today in 2018.

45
46 Ms. Pali: So what you're saying is these issues that you're hearing recently were not brought up
47 back then based of your understanding?

48

1 Mr. Kekahuna: Honestly I don't recall none of it.

2

3 Ms. Pali: Yeah.

4

5 Mr. Kekahuna: Because if that was so we wouldn't have had a groundbreaking in 2013 and a
6 notice to proceed.

7

8 Ms. Pali: Okay, thank you.

9

10 Mr. Robinson: Mahalo. Any other questions? Mahalo Mapu.

11

12 Mr. Kekahuna: Thank you.

13

14 Mr. Robinson: Kumu are you ready?

15

16 Ms. Dorothy Kahookele: ...(Spoke in Hawaiian walking up to podium)...

17

18 Mr. Robinson: Aloha.

19

20 Ms. Kahookele: I'm Dorothy Marleen Lena Kamalu Kahookele aka Kumu Kamalu Kahookele of
21 Lower Nahiku, raised in Lower Nahiku since I was three years old. The last graduate of the
22 Lower Nahiku Grammar School. And I would like to say, mahalo ya oukou Cousin Moke, to all
23 of you, John Blumer Buell, Jeffrey, Theresa, mahalo kakou for all your mana`o. Mahalo.

24

25 And I would like to just share this with you dear panel. I am the oldest person standing in this
26 room right now. Born and raised lived through Nahiku, know the history of Nahiku like the back
27 of my hand. Raised with kupuna, kupuna kane ame kupuna wahi and yes, I do speak my
28 language fluently.

29

30 I am so pleased to be amongst all of you and I thank all of you for giving us this opportunity and
31 this blessing to be amongst you. I have been affiliated with the Nahiku Community Association
32 with the help of many great, great people on the State level and the County level and the
33 community level. And they have given me and taught me so many things. You know when you
34 graduate Nahiku School yeah, you only know so much. Now when you graduate Hana High
35 School you still only know so much. But irregardless I pray that all of you will be touched by
36 Akua ame kupuna and bring home what belongs and what should be for many, many reasons
37 including reasons that at this time is unforeseenable. Our future we're depending on that.
38 When I say our future I'm talking about the next generations to come and those that are already
39 right here. They will need the community center in Lower Nahiku because we go through a lot
40 of things in Lower Nahiku that people are not even aware of like being without electricity for
41 about a week, almost two weeks. We don't have a cell tower up at Makapii that everybody
42 where that. The true name for that is Kapipiwai. But anyway telephone service down and out.
43 Nobody have anywhere to go. If landslides fall where do we go? How do we get ahold of the
44 Police Department, et cetera, et cetera? I know how. I got me an iPhone and
45 ...(inaudible)...what they call the Wi-Fi. What a lucky kid I am, wow. But anyway, I thank all of
46 you. God bless all of you. And whatever will be will be through God's wish not yours, not mine,
47 not nobody. Akua will be the one to tell the story. Aloha kakou, mahalo keia.

48

1 Mr. Robinson: Mahalo. Any questions for the testifier?

2

3 Mr. Tackett: I got a question.

4

5 Mr. Robinson: Kumu?

6

7 Ms. Kahookele: Kala mai ia`u.

8

9 Mr. Tackett: Thank you for your time. So there was some talk about this type of center being
10 built in a place that's easier to be reached perhaps off of the main road or something along that
11 lines. Since you have the most experience of anybody here in that area I would like your insight
12 as to whether or not you think a community center for Nahiku and you know Nahiku would be
13 better served next to the ocean or up next to the road?

14

15 Ms. Kahookele: The ocean, are you speaking of the landing, paena or are you speaking of
16 pitiula?

17

18 Mr. Tackett: Or the fact that...so people were saying that that it would be better up by the top
19 road and my understanding of Nahiku which is not great, but my understanding of Nahiku is that
20 much of what happens in Nahiku revolved around the ocean and much of what was taught to
21 the children had to do with what was going on around the ocean. And if people from Nahiku are
22 gonna be using it would it...do you feel it would be better closer to the ocean where you can
23 have some of those kinds of activities going on or do you think it would be better up towards the
24 road where you could access it more easily off of a highway?

25

26 Ms. Kahookele: Okay, I'll answer that question sir.

27

28 Mr. Tackett: Thank you.

29

30 Ms. Kahookele: This is my honest answer. It would be better where it is designated to be
31 'cause it has been chosen by the kupuna. So it's best sometimes to leave things alone the way
32 it's supposed to be and not change it 'cause kauna fall down. So where it's supposed to be is
33 right where the old grammar schools was. When I first looked into this situation sir, I wanted to
34 see if we could get back a grammar school. Why? Call that pride 'cause I was the last
35 graduate et cetera, yeah. But we didn't...we wouldn't have enough students 'cause they were
36 all transported back to Hana and for that reason it was suggested to me how about a community
37 center so that my ohana, and I'm gonna be honest with all of you, my ohana, my family I got so
38 sick and tired of them grumbling, fighting because of land. The only way this problem could be
39 solved was no, no, you no own 'em John, oh Mary own 'em, oh no, no, no my tutu own 'em, no,
40 no, no, no. No. So I said with the help of State representatives, senate, let's do a community
41 center for everybody whether they're in Kaupo, Kipahulu, Kaeleku, Honokalani, Waikoloa,
42 Nahiku, Keanae, et cetera, so on and so forth, it would be a place for all them. And if death
43 occurred for example, we have one church left, that land was very much...(inaudible)...with the
44 school lot, it walked hand in hand. The church lot is one acre, the school lot is 1.9 that they
45 would have a place to go to feed the family. They would have a place to come for meetings no
46 matter what type of meeting. It would be so maikai for everybody and everything. I hope I've
47 answered your question. Did I?

48

1 Mr. Tackett: Yes you did.

2

3 Ms. Kahookele: Thank you.

4

5 Mr. Robinson: Would anybody else like to testify at this time?

6

7 Ms. Kahookele: Oh, I'm sorry any more questions?

8

9 Mr. Robinson: You already dropped the mic, you're good. You're good.

10

11 Ms. Kahookele: Am I good?

12

13 Mr. Robinson: You're good.

14

15 Ms. Kahookele: Mahalo sir.

16

17 Mr. Robinson: Aloha. Any other testifiers at this moment? Yes, you may if you want. Yes, it's a
18 different item. Yes, please. Please introduce yourself again.

19

20 Mr. Moke Bergau: Thank you Chair. My name is Moke Bergau. I'm from Lower Nahiku. I just
21 want to comment on the proposal here. My understanding of it is that if it gets passed it
22 becomes a public domain. And my experience with public domain in the middle of a community
23 with no access to the public is very detrimental. A mirror image Honokalani, Waianapanapa
24 State Park. It's a public domain that's situated in the middle of a community with no public
25 access. And the people are on that main highway, on that road is affected value. You know I
26 get to...I know that. And they've been going with the State, going head on with the State of that
27 one particular matter access. I appreciate the uses that was mentioned for a facility of that sort.
28 And I do understand that on the public domain created by the County Council...created by the
29 Planning Commission it has criteria that needs to be met. Now those criterias is not very
30 suitable for the people in Nahiku. For the evidence wise there's two facilities in Hana which is
31 Hana Bay and the Old Hana School. It's underutilized but it's a public domain. It's been set
32 aside for that underutilized. This proposal is proposing for "x" amount of millions of dollars yeah
33 to create a public domain in the middle of Nahiku that ladies and gentlemen it's a proposition
34 that's very detrimental. There is no, there is no check and balance here. There is none.
35 Because of the EA that they...it was claimed to be that they exempt from without any findings
36 for the purpose of the exemption. What? It's not recorded. There is none. And EA needs to be
37 addressed, looked at and I would strongly recommend that you press on that issue. Press it
38 hard 'cause we've been told an exemption has been served. The question is where did it come
39 from? It did not come from the State. The State don't do that. We asked. It came from one
40 individual, a stroke of a pen that exemption materialized. All my rights has been determined by
41 the stroke of that pen. And that ladies and gentlemen is not acceptable, it cannot be. So I
42 would recommend again, take a really close look at Waianapanapa State Park and if it's
43 possible get it...start interviewing those people. For my ohana that's on that road,
44 ...(inaudible)...trampled, getting pushed. And I do realize that Nahiku need, need a place,
45 yeah. Before this even happened, before we even came to this Planning Commission it was
46 utilized, it was utilized. Today it's still being utilized by the people. It's still being used. We
47 don't need a elaborate with infrastructure...(inaudible)...we don't need, don't need that because
48 that area is not suitable for it. Our pipelines is all undercoated, our water source, our power, our

1 electrical, it's all undersourced, monthly you know we have blowouts every time, water pipes
2 which is coming. But again, council let's let's...I beg you to reconsider and really push on the
3 EA issue to the Council members. Mahalo for your time. And I really appreciate you guys
4 donating your time to us.

5
6 Mr. Robinson: Mahalo Moke. Questions? Commissioner Pali.

7
8 Ms. Pali: Yes, thank you for your testimony. So forgive me because I did not sign up for this on
9 my first day. So forgive my ignorance, but I always like to make sure I understand each side.
10 And so the only way I can do that is to ask questions. I also feel it's important to consider the
11 written testimony from many working families that cannot travel out of Nahiku or wherever
12 they're from to be here presently. And so I'm a little perplexed and I just need your help. Your
13 testimonies have all been important and very strong. But I don't see a lot of written testimony in
14 opposition and when I keep hearing the word, Nahiku I keep thinking of a group of people. It's
15 clear that there's a very large group of people that are in support of this very community and its
16 very location. And I see just a few of you standing here today. I want you to have an
17 opportunity of commenting on others like you that are against it so that when we make a
18 decision we're making sure to include all the facts.

19
20 Mr. Bergau: Yes, ma'am. Thank you. All the facts have started back 10 years ago.

21
22 Ms. Pali: And just to clarify the facts of how many people are truly opposed versus how many
23 people are for because you know when we make a decision everyone...you can't please
24 everyone. Unity is important but we do want to make sure that the groups are represented
25 properly with how many are for, how many are against that's sort of important as well I suppose.

26
27 Mr. Bergau: Yeah, I understand your question ma'am. Yes, October 26 at the hearing at Hana
28 Bay there were almost 200 petitions demanding that the County do an EA. It's recorded and I
29 see had seen them. It's available to the planning yeah, to you folks. There's a lot more.
30 There's a lot more people. I cannot bring it out right now, but it's available.

31
32 Ms. Pali: Okay, thank you.

33
34 Mr. Robinson: Any other questions? All right thank you.

35
36 Mr. Bergau: Mahalo.

37
38 Mr. Robinson: Anyone else would like to testify at this time? Seeing none, public testimony is
39 closed. We'll take a five-minute break. Thank you.

40
41 A recess was called at 3:00 p.m., and the meeting as reconvened at 3:07 p.m.

42
43 Mr. Robinson: Maui Planning Commission is now back in session. Commissioners now is time
44 for questions for Karlynn. Does anybody have questions for Karlynn? Commissioner La Costa.

45
46 Ms. La Costa: Mahalo. Can you please tell me how far is it from the current site to Hana
47 Highway?

48

1 Ms. Fukuda: I'm getting some assistance from...but the architect, Anthony Riecke-Gonzalez is
2 saying it's about two, maybe two and a half miles.

3
4 Ms. La Costa: Yeah, there was no scale.

5
6 Mr. Robinson: I know, no scale yeah.

7
8 Ms. La Costa: There's no scale. That's why I wondered because I see how far the—

9
10 Mr. Robinson: I think the consensus is two and a half to three miles. Any other questions?
11 Commissioner Carnicelli.

12
13 Mr. Carnicelli: I was gonna let you just finish your notes. So the other part too that I didn't find
14 in here but has been talked about a couple of times is do we have a visual of the flood zone and
15 flood plain and also just because it's something that's already being considered other places in
16 relation to the sea level rise adaptation and vulnerability report like where does this particular
17 site fall within those two items?

18
19 Ms. Fukuda: Thank you Commissioner for you question. So let me just go to the project
20 assessment report that we had filed as part of the SMA application. Relative to the flood zone
21 so I do have a copy of the map that was included in our application, the flood zone, the FIRM
22 map, the Flood Insurance Rate Map. So the site is located in the Flood Zone X which is an area
23 of low risk, low flood risk and minimal flooding with no development restrictions. Secondly, we
24 did have a figure in here with the tsunami evacuation map and the site appears to be within the
25 safe zone for tsunami evacuation. And then relative to your question on the sea level rise, we
26 did take a look in our report with the UH Sea Grant College Program, Sea Level Rise and
27 Coastal Land Use which recommends using sea level rise benchmarks of one foot by year 2050
28 and three feet by 2100 for Hawaii and the project area is located between 98 to 135 feet above
29 mean sea level. So we did not anticipate that it would be affected by the projected sea level
30 rise.

31
32 Mr. Robinson: Commissioners? So Commissioners is what we're doing right now is we have
33 the, is we have the three different type of recommendations that we're going to do and we're
34 gonna tie it all in one. I think if you're for one, you're for them all. If you recommend against all,
35 it's all intertwined it's just boundary exemptions, it's you know it's zoning and it's really
36 intertwined even though it's three different things. Do I have any apprehensions from the
37 Commission about bundling it that way? Okay, seeing none let's...let's make sure we proceed
38 that way where we're talking with all three. We've heard a lot of testimony and we do have
39 Karlynn here. If somebody decides, Karlynn if you'd like to ask a question to if you think that's
40 gonna pertinent to your decision making we can also make that available.
41 Commissioner La Costa.

42
43 Ms. La Costa: Thank you Chair. So my question is and I'm not sure if you're able to ask this or
44 not there has been no building there for at least 13 years from my calculations from the time it
45 was closed in '58 and then it was burned down in 2005?

46

1 Ms. Fukuda: Yes. I'm not sure the exact date but the remains of the building got demolished,
2 but it was sometime after 2005 that...but it was inhabitable because it had burned down in
3 2005.

4
5 Ms. La Costa: So where was the place that people went to vote because I heard it was a polling
6 place? I don't know if that was prior to 2005 when it was burned down or where has the
7 community gathered from 2005 until 2018?

8
9 Ms. Fukuda: So in answer to the question I think as far as the polling place and where it was
10 used as kind of a community center use anyway it was the school building before it had burned
11 down. Since then I'm not sure. It seems that maybe some...you know the photos show the
12 grassy area that's there so perhaps the community is just using the grassy area that's there at
13 the site but I'm not certain as far as anything happening after 2005.

14
15 Ms. La Costa: Can we ask the community Chair? May I ask the community?

16
17 Mr. Robinson: The Nahiku Association? Is that what you're asking for?

18
19 Ms. La Costa: Yes. I just want a verification on what they're using now?

20
21 Mr. Robinson: Yes, Mapu being the Vice-President can you honor us with the question?

22
23 Mr. Kekahuna: But first the question?

24
25 Mr. Robinson: We'll repeat it for you. Commissioner La Costa.

26
27 Ms. La Costa: Being that there hasn't been a building or anything there since 2005 where has
28 the community gathered for meetings and hula and those kinds of things since then?

29
30 Mr. Kekahuna: Currently the association meetings are being held at our residence at 540 Lower
31 Nahiku Road since. We used to have the meetings at the church pavilion you know across the
32 street from the school, but they had been since the passing of the Kahu the association was
33 displaced. We're no longer allowed to use it as a community meeting place which is the little
34 pavilion next to the church. So since that time we've been using...voting now is done in Hana's
35 cafeteria at the Hana School. Currently since the property...since the building had been torn
36 down to the fire is you know, the community put their hands together including the intervenors,
37 well some of them, put their hands together to clean it up 'cause it was just a holy mess. It was
38 devoured with bushes, we made it pretty the way it looks today you seen in the pictures. So
39 there was a lot of community effort to keeping the property looking the way it is now. Now that
40 it's under the County's jurisdiction the County has been you know maintaining the mowing and
41 stuff like that. So as far as where the community is using now currently, nothing, nowhere.

42
43 Mr. Robinson: Thank you and I apologize Carolyn that was Mapu Kekahuna, I forgot to remind
44 him. Do we have any other questions? Is I have a question and it's my question is concerning
45 the slide that you showed and the roads that we saw that you had on those slides. I don't know
46 how that meets public access width if you could...if somebody from the County could please
47 verify or that they have plans for it. You know we've dealt with this before with gatherings, we

1 dealt with this before with people with tours and horticulture and all this type of stuff. If we're
2 gonna have a public place there has to be a certain right of width of a road to be access.

3
4 Ms. Fukuda: So I'm not certain that there's any information we have regarding what that
5 existing right of way width is for Lower Nahiku Road. That's something that certain we could
6 follow up with Public Works on to confirm that information. So I do know that there is some
7 additional information that Corp. Counsel had obtained relative to the roadway right of way
8 because of the testimony that had been presented earlier and that it appears again, you know
9 that there is County jurisdiction over that road. But I think that's probably better responded to by
10 the Corp. Counsel.

11
12 Mr. Robinson: Okay. I have another question. You guys have a question? Please
13 Commissioner Castro.

14
15 Mr. Castro: Karlynn, they mentioned earlier the distance from the main road all the way down to
16 the site is roughly about two and a half miles or so. Where are the majority of the resident,
17 where do they live? All down on the lower side or are they all located all coming on all the way
18 down to the site?

19
20 Ms. Fukuda: So I'll share my limited experience with going to the Nahiku site and I'm not sure if
21 you know, you're open to hearing from the residents themselves who would probably be better,
22 better resource, but when we did drive down the road there were residences along the way from
23 what I remember on both sides of the road. I did not go beyond the project site that we're
24 looking at but in looking at the tax map key maps there appear to be residences both going
25 towards the church site and in the opposite direction. So basically it seems that there are
26 residences you know all along the way.

27
28 Mr. Castro: Thank you.

29
30 Mr. Robinson: Is...my question is is for community centers and for community centers on the
31 east side it's when people are making reservations to use that community center is it a online
32 reservation or is it a they have to come down to the county offices here in central?

33
34 Ms. Fukuda: I do see from the Parks Department Representative Mr. Halverson he is saying
35 that it can be...it could be available online. You know there's no center there yet so...

36
37 Mr. Robinson: Well, I mean is how is Hana dealt with the community center?

38
39 Ms. Fukuda: It's available on—

40
41 Mr. Robinson: Is it in person registration or is it online or both?

42
43 Ms. Fukuda: It appears from the Parks Department's response it's available online and I would
44 imagine yeah both that you could go to the center itself.

45
46 Mr. Robinson: And it's just a normal assumption that to be able to sign up for the Nahiku
47 Community Center in the future it would...people could do it online from anywhere as long as
48 they have internet?

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Ms. Fukuda: That would...I would assume so...

Mr. Robinson: Fair assumption?

Ms. Fukuda: Yeah, it's a park...it will be a parks facility so...

Mr. Robinson: Okay, thank you. Commissioner Kahu Hill.

Kahu Hill: Aloha. I just wondered about the people of Nahiku and if anyone can rent this area what you're looking at to charge this area or for them to be able to come to practice hula or teach or to be able to utilize this center?

Ms. Fukuda: Yeah, so I will defer to the Parks Department. I don't know that they've come up with a price scale yet or anything like that but I don't know if there's been thought or...I'll defer to Robert Halverson from Parks Department.

Mr. Robert Halverson: Robert Halverson with the Parks Department. The fees...the rates and fees are set by Council. Parks makes the recommendation but the actual fees are set by Council and it's determined by the size of the facility and infrastructure there if it's air conditioned or what different facilities are available at that community center.

Mr. Robinson: So Robert is it, is it all rates are considered on a straight standard form or does the Council look at each individual area and assess rates that way? What I'm saying is the Paia Community Center ...(inaudible)... charged per foot, per square foot or they say well Paia we're gonna charge this, Haiku we're gonna charge this, Velma Santos we'll charge that.

Mr. Halverson: I think there's a distinguish between large and small community centers and it's also different rates for different functions. Like community classes have one rate and birthday parties have another rate.

Mr. Robinson: So what is the rate for a community class?

Mr. Halverson: I don't have that information. It's available.

Mr. Robinson: It's available.

Mr. Halverson: Publicly but I don't have it in my mind.

Mr. Robinson: Okay, all right. Thank you. Thank you for that. Guys any other questions? You know it's, and Commissioners, you know going through this...listening to this, I mean does anybody on this Commission think that there shouldn't be a community center? I think, I think that's just trying to narrow it down. I think we're all in agreement that a community is a good thing and needed. You know, and I don't know if a community center is what's needed. I know a center is needed, right? Right, Hana has a ...(inaudible)...has a center from the State that they do that but yet State, you know State has different needs. County it's different permitting process, it's different uses, people can still use it, but when you turn something to a community center like I said your internet it's everybody, it's exposable. And you know, and that's

1 something that I, you know when the State turned it over to the County then therefore uses
2 changes. You know, the State with the school, the school has a ability to rent to churches, rent
3 to halaus, rent to all these different type of people. Community center becomes auxiliary use
4 with certain rates everybody can sign up for with different things. You know so you know I think
5 there's a, there's a need but what is the use and whether you should be I think that's, you know
6 I think that's what a lot of people are struggling from. You know, and sorry, I brought that up
7 guys, it complicates it more 'cause we're not here for that, we're here for the three other things.
8 But I just wanted to, to share that with you guys. Do we have any discussion? Do we have a
9 motion? I'm sorry, we won't have a motion yet because we still have discussion and we need
10 the recommendation, I apologize. But you have a question?

11

12 Mr. Tackett: Could what you spoke about, could that be part of the recommendation?

13

14 Mr. Robinson: Of course.

15

16 Mr. Tackett: I like those lines.

17

18 Mr. Robinson: Okay, I don't know if it's...we can say anything in the recommendation. We can
19 say they could have banyan trees, but you know I don't know of the legality and you know and
20 that type of stuff that we can move there because it was donated. It is the County of Maui's land
21 now. But just on that, you know, thought process. Kahu Hill.

22

23 Kahu Hill: Just part of the discussion. Very moved by everybody's testimony today. Very
24 moved and it's an honor, very humbling to be here and I remember when Uncle Harry Mitchell
25 told Papa Kaalakea we have to share the la`au lapa`au or it's going to die that part of our culture
26 and it's very also touching the kupuna coming out and the last student of this school in 1958 and
27 to want to share the culture and I just as we move forward hope that this is the way we're going
28 for this center or community center and it's right for this area that the people of Nahiku really will
29 be able to access this and be able to practice their culture to learn and to teach and to carry on
30 for generations to come. Mahalo.

31

32 Mr. Robinson: Commissioner Carnicelli.

33

34 Mr. Carnicelli: This is hard. This is hard. I have to say guys. Excuse me. When I think about
35 the Hana side, I think about the family that is that and to see you guys divided is a little hard.
36 And the other part of it is you know several of you talked about like we need a decision today
37 and this is the part that's hard too is there's not a decision today. We make a recommendation
38 on these three things and then you guys get to go relive this whole thing again up at County
39 Council. And if it goes from there then it comes back to us for a SMA and we get to relive this
40 all over again. And this is what...this is how the ball bounces and this is a community center
41 and we wonder why we can't build houses. I mean this is something that you know is we're
42 splitting hairs to a certain extent on what it is that we want and so, and I'll just share it's just part
43 of what is hard for me today is to see the kupuna come out and bare their hearts 'cause my 86-
44 year-old father's oldest living relative died this morning. So I'd like you guys all share your
45 mana`o. I just hope you guys can come together as a community. I really do. I don't know how
46 it's going to happen. I don't know what it's going to look like. I don't know what it's going to be,
47 but if there's a part of this island that can do it it's you guys. You guys know how to do that
48 more than any of us. So as Commissioner Pali said is, you know whatever we decide today

1 somebody is not going to be happy, but we don't make a decision, we make a recommendation.
2 My heart goes out to you all and hope that there can be a resolution that everyone can live with
3 and as Barrack Obama once said, don't let perfect get in the way of good. And that's all I have
4 to say Chair. Thank you.

5
6 Mr. Robinson: Thank you Commissioner. Anybody else have anything else they like to share?
7 Commissioner La Costa.

8
9 Ms. La Costa: I am also in agreement with all of the other commissioners and it is, it is so hard
10 to hear both sides and be at each other and kind of for manini things. Yes, there does need to
11 be a place for gathering and for cultural exchange and for learning. And what I'm struggling with
12 is we're all one community. We may be in different places but we're all one. And is this you
13 know, if it is in this place because of the association with the church of the family property will it
14 create a problem or an issue for more cars because it is a community. Will it be an issue
15 because you won't be able to have emergency vehicles because of the small road because if
16 you have more people there then it opens you up to people falling and breaking their leg,
17 et cetera? But having said that only you folks can decide I think. We can, we can say yeah we
18 make a recommendation to the County, but again, it's your ohana, it's your home. It's the hale
19 where your heart is. So you know, it's...this one is not an easy one. Kinda like you spank your
20 kid or do you make him sit in the corner or do you take away his cellphone? You know it's a
21 real tough thing. So understand that we are struggling with both A and B sides of this because
22 we see both sides. So mahalo nui for all of you being here and mahalo Aunty for the mele.

23
24 Mr. Robinson: Anybody else? Can we hear the recommendation please Paul?

25
26 **b) Action**

27
28 Mr. Fasi: In consideration of the foregoing, the Planning Department recommends that the Maui
29 Planning Commission recommend approval of the Community Plan Amendment, State Land
30 Use District Boundary Amendment, Change of Zoning and adopt the Planning Department's
31 report and recommendation statements prepared for the October 26, 2017 meeting. This is was
32 the Hana Advisory Committee public hearing which is the report you have before you, and
33 authorize the Planning Director to transmit the report and recommendations to the Maui County
34 Council. Thank you.

35
36 Mr. Robinson: There's a little bit more?

37
38 Ms. McLean: No.

39
40 Mr. Robinson: No, you're good?

41
42 Ms. McLean: Got it.

43
44 Mr. Robinson: You got it Paul. Commissioners, discussion? Okay, I'll start to try lead us and
45 take a breath and then I'll bring you in. So we agree on community center or center is good. So
46 recommendation is I assume is we don't want to deny a center but now we're
47 ...(inaudible)...what type of center do we recommend? And I think that's what we're looking at.
48 I think with the three things that we have in front of us and we'll stick to that is that do we

1 approve of the land use and the amendments that's going forward in front of us. We still want to
2 remember that the SMA part is still gonna come back to us. The intervenors still have their
3 chance in that SMA part to still step in and do some things that are coherent, I mean, that may
4 not, you know that may not ...(inaudible)... on certain things. My personal feelings is is this is
5 a...the farther we keep it from Hana Highway the more Nahiku it stays. They move it up
6 towards Hana Highway the more access it is, like anything you build it they will come. You build
7 the center close to the roads, the roads will grow and people will be more accessible, they'll use
8 it more and that's just my feelings. Is is the location that it's at it's 98 feet I don't think, you
9 know, I don't remember a tidal wave on record of hitting that so it's not that, but storms, other
10 things we've heard from people about the rivers on both sides that's where the water flows, it's
11 not that. There's always standing water, but as with the puddle, once the water hits that level
12 then the water ...(inaudible)...over. So I think we want to, want to start moving on what I think
13 we all are is at, we think a center is good. Now, County community, State community that's,
14 that's gonna be down the road and that's gonna be for the Council. But as far as
15 recommendations do we have a feeling of we want it, we want a certain thing or certain way in
16 part of the recommendations and do you guys have any opinions on top of that and I think that's
17 what we gotta, we wanna go now. And if you have, anybody has any feelings you know let's get
18 at. Commissioner Carnicelli.

19
20 Mr. Carnicelli: So Chair the thing that sorta jumps out for me is the example of Waianapanapa
21 that was brought up and the impacts on the community. You know this isn't gonna be cabins
22 and things of that nature. This is a community center so it is a little bit different. But you know
23 like the example at the beginning of the day however long ago that was now when it comes
24 back or an SMA part of what an SMA is and does is we can impose conditions to mitigate
25 impacts. You know so knowing that...I mean, I only have two and a half years left on the
26 commission so who knows if it will come back by the time I'm still here or not, but I think that in
27 knowing that this commission can put some mitigating factors into an SMA Permit to try to help
28 the community in that way helps me think okay, at least we can lessen the impacts that are the
29 concern. And again, that's not what we're doing today, we're just making recommendation and
30 hopefully you know we're still here. It's this group that gets to make the recommendation on the
31 SMA so we all know it, you know, everything that was shared today. So that's kinda where I
32 guess I'm coming from is can we move forward on a community center like you said, and yet do
33 everything we can to mitigate the impacts on the local community.

34
35 Mr. Robinson: Anyone else? And you know it was mentioned earlier that the EA was exempt
36 you know and a signature was made and I agree that happened, but I also agree that we vote
37 people in office, we put people in positions to make decisions. We may not agree with the
38 decisions, we may not like the decisions, it affects people differently and hopefully our laws and
39 our SMA will protect that signature that happened and hopefully everything can be pono, but
40 there's always somebody that's gonna be able to, you know to do things unless, unless we have
41 an SMA. But the SMA does...EAs, EAs take a long time, EAs are good, but SMAs are stronger.
42 SMAs are stronger than the EAs. EAs are just a report. SMAs we find out what in that report
43 that we can pull out that we can mitigate things for. And I'm being here I'm very confident in that
44 fact and I just wanted to share that with you guys. So Commissioners how do we feel? We
45 want...we feel on the recommendation please, Commissioner Tackett.

46
47 Mr. Tackett: I feel like it's a community center. I don't know if it was initially intended to be a
48 community center. It was initially intended to be a school. When it was a school I believe that

1 they were...I don't know what the fee schedule was like to use the school. I don't know if there
2 was any fee schedule to use the school. I'm definitely in favor of the community center. I'm in
3 favor of anything that allows the people of Nahiku to have a nice place to gather at minimal
4 expense and I don't know if the name has to be a community center or it has to be a cultural
5 resource center or what it has to do to create a place that gives these people the facilities
6 without giving them a facility that one, they cannot afford or one that they gotta make a
7 reservation to where it's already been reserved or one that somebody else comes in and
8 reserves when they need it. So those are the things that I'm leery of. I'm definitely in favor of it
9 in whatever form best suits that community.

10
11 Mr. Robinson: Anyone else? Do we have a motion? Director.

12
13 Ms. McLean: Thank you Chair. Commissioner Carnicelli is correct that with SMA Permits the
14 commission can place conditions and typically those conditions are related to the Special
15 Management Area or impacts to the coastal zone, the coastal environment and that includes the
16 socio economic environment. The land use entitlements in front of you today that are going to
17 the Council those can also have conditions placed on them. It's most typically on a change in
18 zoning. And at this point you may not have language in your minds of what kinds of conditions
19 you're thinking of and if you do those can be discussed and you can decide whether that's part
20 of your recommendation. But you can also specify comments that you would like for us to
21 include in the transmittal that goes up to Council. If for example you recommend approval of
22 these today and you don't have specific conditions in mind, you can say that you know, you
23 would like for the Council to consider these several points. You know, describing the kind of
24 facility that you have in mind or what concerns you have that you would like the Council to be
25 sure to address. So that's part of the decision you can make today is not just saying yes or no,
26 but you could say yes with conditions or you could say with conditions or with comments for the
27 Council's consideration. Thank you Chair.

28
29 Mr. Robinson: Commissioner Carnicelli.

30
31 Mr. Carnicelli: So then would that in mind however you're going to put this in your report is you
32 know like the fear that I have is that suddenly we end up with weddings happening there, you
33 know, the tour buses are gonna end up being down there and it's like you know okay, we're
34 gonna rent it for the afternoon and it suddenly becomes it's not a community center but it's just a
35 tourist attraction. That's I think you know my concern in just sort of listening to everybody right
36 now is that it becomes a destination place. So you know I don't, you know...

37
38 Mr. Robinson: It be on some site of Hidden Treasures.

39
40 Mr. Carnicelli: Right.

41
42 Mr. Robinson: Here's what you do, you go to the site and get your—

43
44 Mr. Carnicelli: Yeah, this is the inside thing like oh, the new thing that nobody knows about that
45 it's down the broken road that you know, like the thing that everybody wants to try to find, that
46 golden little treasure. That's the thing to me that I look at, it's like you know what if the people
47 from Hana, the people from Nahiku want to have their birthday parties there, right on let's go.
48 But I don't want to have all the wedding folks find out about it and it's now, and then they're

1 walking across the broken bridge out to the landing which is even more spectacular and it
2 now...it even affects the below. So that to me is, and I don't know again how that looks in a
3 change in zoning condition but that's something that I think that you know limiting the use of it
4 and I don't know if we can make it limited to just the people that live in a zip code you know or
5 what it is, but...

6
7 Mr. Robinson: Yeah, and we have these opportunities like you know, it's we have community
8 parks but teams are able to reserve this park for three months or six months for their teams to
9 practice and they sign up and you know they have this. And I think that's where we're trying to
10 get is is community center the right title? Should it be a district park? Should it be a community
11 complex? You know, what is the different criterias for different things for availability and for
12 usage and how can we use, we use the criteria of what each thing is called you know for the
13 benefit of Nahiku, you know, and I think Nahiku can be part of that reason. I said because
14 community center compared to you know community park, you know parks can be open at
15 certain time or they're not renting that out but you can reserve it for a whole season and we talk
16 about cultural hula dancing, we talk about classes, we talk about all these things that people
17 want to be able to use it for instead of having to sign up every single weekend on that weekend
18 or that weekday again, and again, and again every single day.

19
20 Mr. Carnicelli: And to that point the last thing I want to do though is say okay, there's a local
21 company that then rents it every Saturday that said oh it's a local that renting it but yet they're
22 subleasing...so the other part then and I'll stop here Chair is again, maybe that's the thing that
23 can bring you guys together is to agree on what it can be used for and not and when you guys
24 go to County Council and you know whatever our recommendation is it still goes to County
25 Council and you guys can come with that. Like here are the restrictions that we would like to
26 have as a community on that or not and maybe that's where it is that you guys can come
27 together is in that regard. So thank you Chair.

28
29 Mr. Robinson: Commissioner Pali.

30
31 Ms. Pali: So just along that same lines from my understanding of what we're doing today is we
32 might be in agreeance to moving forward with maybe let's say this parcel even the same
33 building aspects that this young lady did as a presentation but right now maybe we don't have to
34 identify a name or a use yet. That's something that can be established as this moves forward?

35
36 Mr. Robinson: Is each Commissioner is we can have 20 recommendations, we can change and
37 differ in recommendations because it's just a recommendation. One commissioner could say
38 we recommend that, you know, it be blue, recommend that it's open so many hours and that's
39 the beauty about recommendations. It's not a vote. It's they want to our input and they might
40 take it, they might listen to it, they might not.

41
42 Ms. Pali: But I guess what I'm saying is I wonder if...could we separate the use with the
43 building? Like do we like this building, do we like the plans that have been presented, do we
44 like the way that looks, will that serve the Nahiku community as you hoped it to? 'Cause I think
45 what we're doing is we have this project in front of us that we're...

46
47 Mr. Robinson: Yeah, so at this point we're dealing with the zoning at this juncture and on SMA
48 we can maybe look at certain things but when an EA happens we look at different structures.

1 The Urban Design Board is you know is in charge to make sure that that's there. I think there
2 wasn't any complaints about the building itself.

3
4 Ms. Pali: Got it.

5
6 Mr. Robinson: And you know, there's just so many things but I think what we're talking about
7 right now is just the zoning. But again, we can make all types of recommendations. You know,
8 we could recommend that it's a youth center, it's not a community center. You know, like we
9 heard from the kupunas it's supposed to be for the youth, supposed to be for school, supposed
10 to be for different things but youth centers can still be used for different things in the community.
11 You know I think that's a recommendation that we could put forward to the Council say we'd like
12 this to be something other than a community center. Can you find...can you pick a different
13 definitions that the community could maybe look at and decide what they want to call that?
14 Well, I mean, but the Council has the criteria, the different classifications and maybe go back to
15 the, you know, hopefully by that time they'll maybe agree on one, and then again, you know,
16 agree you know it's a slippery slope. Commissioner La Costa.

17
18 Ms. La Costa: Thank you. And along the lines of restricted activities. If there's a
19 recommendation if it's possibly for us to say no commercial or if the community has an issue
20 with commercial so you wouldn't have the buses and the vans and you know the non-
21 community activities in that.

22
23 Mr. Robinson: Well, it's...but you gotta be careful 'cause what if somebody from Nahiku has the
24 community center, they want to have a wedding and they want hire a caterer instead of cook?
25 And I hear you, is I think that's something that they're gonna have to work out. You know, as I
26 said because we all want a place to throw a party that's not our house and we all want to go
27 someplace, the community centers, you know the Hawaiian Homelands you know guys they all
28 have a community center, they all use it for their parties, it's great, ...(inaudible)...and this is
29 what I sort of see what's happening in Nahiku, they want to...you know they want their area to
30 go and have these, you know these gatherings. And it could be, you know it doesn't have to be
31 a blow out or alcohol ...(inaudible)...just a gathering area. And I think we want to let them, we
32 want to let them you know sort of get that criteria. Yes, go ahead Corp. Counsel.

33
34 Mr. Galazin: Thank you Chair. Just to kind of bring everybody back to what we're looking at
35 right now if I can. You know we have a parcel that's been turned over to the County. It's
36 community planned Ag, State Land Use District Ag and Zoning Ag. So we have a County
37 owned parcel that's Ag across the board. What is being proposed is to change all those to
38 Public/Quasi-Public because it's owned by a public entity. What happens there, what ultimately
39 ends up getting built there if anything down the road if Council goes ahead with these changes
40 who knows what it might look like, who knows what might be allowed there and who knows what
41 kind of restrictions might be appropriate to it, the level at which you're looking at it is really a
42 10,000 foot level when you guys are down around a hundred feet right now. So my advice
43 would be probably stick to you know, what the recommendation is as far as okay, we think it's
44 appropriate to recommend these land use entitlement changes knowing that there's still a lot
45 more processes to go through. We don't have any idea yet what an ultimate project might look
46 like. The EA exemption is predicated on the fact that it's a similar footprint. That might change.
47 You know a project change and that might entitle something you know completely different but
48 right now the Council needs to know from you folks what you think about this proposal of

1 change in zoning and a change in community plan and the State Land Use Boundary
2 Amendment.

3
4 Mr. Carnicelli: Thank you for that clarity.

5
6 Mr. Robinson: I disagree with Corp. Counsel, but...it's I think we already, I think we already
7 agreed on the part of what the zoning is going to be and what the Council wants. I think we're
8 on the recommendation. I think we're on the part where this land was donated for a purpose
9 from a private owner to the State and then the State gave it up and gave it to the County 'cause
10 they didn't want to deal with it. And I think us with our recommendation is trying to honor that
11 original donation. And I think a community center wasn't...you know, even though it's
12 considered I think that...you know, that's ...it's a criteria that I don't think any of us are
13 comfortable with because it was supposed to be for a school. So if you guys would like to put
14 something on record for a recommendation and we can go and we can wrap this up.
15 Commissioner Kahu Hill.

16
17 Kahu Hill: I did want to acknowledge what Lehua said that it was coming forward that this is
18 what's gonna happen that it would be named after her grandfather I believe who donated the
19 land, great grandfather. So I think that's really important we honor the past and remember that
20 as we move forward that we reach back.

21
22 Mr. Robinson: So we have to start saying recommendations and put it down on paper.
23 Lawrence would you like to start with one and I'll go around the horn.

24
25 Mr. Carnicelli: I'll just go with support the Department's recommendation.

26
27 Mr. Robinson: That's your recommendation?

28
29 Mr. Carnicelli: That is mine. I'm in support the Department's recommendation.

30
31 Mr. Robinson: Okay. Kahu Hill. You have any recommendations?

32
33 Kahu Hill: I would just like to recommend knowing that there's a declaration of exemption and it
34 says in here for the replacement and reconstruction of existing structures, facilities with new
35 structures located generally in the same site that has substantially the same purpose. That we
36 look at that that it is moving from a school and to a community center or a center in Nahiku and
37 that we keep mindful of this community that it can be near the same capacity and density
38 because that's what's written that I understood.

39
40 Mr. Robinson: Okay, thank you. Commissioner Pali.

41
42 Ms. Pali: I do recommend to take the advice of the suggested I guess recommendation from
43 the Planning Department and move forward with I believe changing zoning or recommending to
44 change zoning so that we could build a community meeting place. I'll just call it a community
45 meeting place for now.

46
47 Mr. Robinson: Commissioner La Costa.

48

1 Ms. La Costa: I concur with the recommendation of Staff. My...however with the caveat that
2 the uses be noncommercial which excludes caterers that come for birthday parties. I'm talking
3 about dive companies that might come there, et cetera. So no commercial uses out of there on
4 an ongoing basis.

5
6 Mr. Robinson: Commissioner Castro.

7
8 Mr. Castro: I agree with the Planning Commission's recommendation and support it. They do
9 need something.

10
11 Mr. Robinson: Okay, thank you. Commissioner Tackett.

12
13 Mr. Tackett: And I recommend that whatever it ends up that the fees for the community be as
14 minimal as can possibly be for them so that people use it for what's it's intended for not because
15 whether or not they can afford it or not. So it was donated land so...

16
17 Mr. Robinson: And I'd like to recommend that the Council look at a other use besides a
18 community center that would more reflect supporting the youth of this donated land. Okay. She
19 got it and then I call for the vote.

20
21 Ms. McLean: I don't know if there's a motion.

22
23 Mr. Robinson: Oh I'm sorry, Commissioner Carnicelli.

24
25 Mr. Carnicelli: I make a motion to approve or to recommend approval be transmitted to the
26 County Council.

27
28 Mr. Robinson: Do I have a second?

29
30 Mr. Castro: Second.

31
32 Mr. Robinson: Second by Commissioner Castro. Discussion? Seeing none, Director.

33
34 Ms. McLean: The motion before you is to approve or excuse me, to recommend approval to the
35 County Council of the Change in Zoning, Community Plan Amendment and District Boundary
36 Amendment with five comments that were just noted those being one, that the purpose is similar
37 to the school as per the EA exemption meaning the same density and impact and size and that
38 it serve as a community meeting place. That there be no commercial uses. That the fees for
39 the Nahiku and Hana communities be minimal and that the Council consider different
40 terminology than community center to ensure that the focus is on youth and culture and
41 gathering.

42
43 Mr. Robinson: All those in favor please raise your right hand? Six ayes. All right motion
44 passes. Thank you.

45
46 **It was moved by Mr. Carnicelli, seconded by Mr. Castro, then**

47
48 **VOTED: To Recommend Approval of the Community Plan Amendment,**

1 **District Boundary Amendment, and Change of Zoning to the County**
2 **Council as Recommended by the Department and with the**
3 **Commission’s Comments Noted.**
4 **(Assenting – C. Tackett, L. Carnicelli, A. Hill, K. Pali, S. Castro,**
5 **P.D. La Costa)**
6 **(Excused – T. Gomes, L. Hudson)**
7

8 Ms. McLean: ...(inaudible)...defer action on the SMA.
9

10 Mr. Robinson: We’re still in session guys. You know what guys just for housekeeping is we
11 didn’t officially vote on the deferment of the SMA and we’d like to do that point.
12

- 13 b. **KAALA BUENCONSEJO, Director, DEPARTMENT OF PARKS AND**
14 **RECREATION requesting a Special Management Area Use Permit for**
15 **the Nahiku Community Center Project and related improvements**
16 **located at 0 Nahiku Road, TMK: (2) 1-2-002: 023, Nahiku, Hana,**
17 **Island of Maui. (SM1 2017/0002) (P. Fasi) (Public hearing conducted**
18 **on October 26, 2017)**
19

20 The proposed action includes the replacement of the former
21 grammar school building site with a community center building of
22 approximately 2,472 square feet in size and related improvements,
23 including a paved parking lot and driveway and installation of an
24 individual wastewater system. The proposed community center
25 includes a social hall, kitchen, storage areas, restrooms, and a
26 covered entry lanai.
27

28 Mr. Robinson: Could I have a motion please?
29

30 Ms. Pali: I’ll make the motion. I’ll make the motion to defer the SMA agenda item.
31

32 Mr. Robinson: We have a motion to defer.
33

34 Mr. Carnicelli: Second.
35

36 Mr. Robinson: And we have a second. All those in favor raise your right hand. Six ayes. All
37 right, defer has passed.
38

39 **It was moved by Ms. Pali, seconded by Mr. Carnicelli, then**
40

41 **VOTED: To Defer Action on Special Management Area Use Permit.**
42 **(Assenting – K. Pali, L. Carnicelli, S. Castro, A. Hill, C. Tackett,**
43 **P D. La Costa)**
44 **(Excused – T. Gomes, L. Hudson)**
45

46 Mr. Robinson: Next on the agenda item. Director.
47

48 Ms. McLean: Next is the Director’s Report.

1
2 **F. DIRECTOR'S REPORT**

- 3
4 1. **MS. MICHELE MCLEAN, Planning Director, notifying the Maui Planning**
5 **Commission pursuant to the provision's of the Maui Planning**
6 **Commission's SMA Rules of the issuance of the following Special**
7 **Management Area Emergency Permit:**

8
9 **MR. CARL HARDIN, President of the HONO KOA CONDOMINIUM**
10 **ASSOCIATION receiving an SMA Emergency Permit approval letter dated**
11 **July 17, 2018 for the demolition of the existing sun deck and to clear the**
12 **cavity walls and remove overburden by hand and shovel; line the cavity**
13 **with two (2) layers of geotextile fabric; place sand in the cavity up to the**
14 **grade of the adjacent grassy area and landscape with salt-tolerant**
15 **vegetation for property located at 3801 Lower Honoapiilani Road, TMK: 4-**
16 **3-006: 014, Lahaina, Island of Maui. (SM2 2018/0009) (K. Scott)**

17
18 **This is for notification and review purposes.**

19
20 Ms. McLean: The first item is notification that pursuant your SMA Rules the Department issued
21 an SMA Emergency Permit to Carl Hardin, President of the Hono Koa Condominium
22 Association that was on July 17, 2018 for the demolition of the existing sun deck and to clear
23 the cavity walls and remove overburden by hand shovel, to line cavity with two layers of
24 geotextile fabric, place sand in the cavity up to the grade of adjacent grassy area and landscape
25 with salt-tolerant vegetation for property located at 3801 Lower Honoapiilani Road at
26 TMK: 4-3-0006: 014 in Lahaina. This is for notification purposes. Keith Scott is the project
27 planner. He's here if you have any questions.

28
29 Mr. Robinson: Seeing no questions. I apologize, do anybody have questions for Mr. Scott.
30 Okay, thank you Keith. Next item.

31
32 Ms. McLean: Next item before you is to consider designating the Hana Advisory Committee to
33 conduct the public hearing and provide a recommendation back to you on the following
34 application. It's a request from Richard Lee Lopez and Devin Lopez for a B&B Permit in order
35 to operate the Hana Aloha Hale, a two-bedroom B&B in the County Interim District at
36 6820 Hana Highway at parcel 1-4-010: 018 in Hana.

- 37
38 2. **Designation of the Hana Advisory Committee to conduct the public hearing**
39 **and provide a recommendation on the following application:**

40
41 **RICHARD LEE LOPEZ and DEVIN LOPEZ requesting a Bed and Breakfast**
42 **Home Permit in order to operate the Hana Aloha Hale, a two (2)-bedroom**
43 **bed and breakfast located in the Interim District at 6820 Hana Highway,**
44 **TMK: (2) 1-4-010: 018, Hana, Island of Maui. (BBHA T2018/0001)**
45 **(R. Quigless)**

46
47 **There is at least one permitted bed and breakfast home operation located**
48 **within 500 feet of the subject property.**

1
2 **The Commission may take action to designate that the Hana Advisory**
3 **Committee conduct the public hearing and provide a recommendation on**

4
5 Mr. Robinson: Do we have a motion?

6
7 Mr. Carnicelli: So moved.

8
9 Mr. Robinson: Do we have a second?

10
11 Mr. Tackett: Second.

12
13 Mr. Robinson: So the Commission is referring this to the Hana Advisory Committee. All those
14 in favor please raise your right hand? Six ayes. Thank you.

15
16 **It was moved by Mr. Carnicelli, seconded by Mr. Tackett, then**

17
18 **VOTED: To Designate the Hana Advisory Committee to Conduct the Public**
19 **Hearing.**
20 **(Assenting – L. Carnicelli, C. Tackett, S. Castro, A. Hill, K. Pali,**
21 **P D. La Costa)**
22 **(Excused – T. Gomes, L. Hudson)**

23
24 Ms. McLean: Next you have your SMA Minor Permit Report and SMA Exemptions Report.

25
26 **3. SMA Minor Permit Report**

27
28 **This is for notification and review purposes. No action is anticipated.**

29
30 **4. SMA Exemptions Report**

31
32 **This is for notification and review purposes. No action is anticipated.**

33
34 Mr. Robinson: Commissioners do we have any questions on the SMA Minor or the SMA
35 Exemption? Seeing none...

36
37 Ms. McLean: Next item is the proposed meeting schedule for Calendar year 2019 and you can
38 take action to approve or modify the meeting schedule and that's on the purple sheet.

39
40 **5. Proposed Meeting Schedule for Calendar Year 2019**

41
42 **The Commission may take action to approve or modify the meeting**
43 **schedule.**

44
45 Mr. Carnicelli: I just have a question Chair.

46
47 Mr. Robinson: Commissioner.

48

1 Mr. Carnicelli: I haven't actually looked at it on a calendar. Why do we have three Mondays?

2

3 Ms. Takayama-Corden: Holiday on Tuesday.

4

5 Mr. Carnicelli: Holiday on Tuesdays.

6

7 Mr. Robinson: Do we know what holidays they are.

8

9 Ms. McLean: March 26 is Prince Kuhio Day.

10

11 Mr. Robinson: Memorial Day is the 28th.

12

13 Mr. Carnicelli: Move to approve.

14

15 Mr. Robinson: Memorial Day is on a Monday so why are we... Go check it.

16

17 Ms. Pali: 2019 May 28th is actually a Tuesday.

18

19 Mr. Robinson: Commission we will review these dates and we'll get back to you at our next
20 meeting.

21

22 Ms. McLean: Sorry about that.

23

24 Mr. Robinson: Item No. 6.

25

26 **6. Discussion of Future Maui Planning Commission Agendas**

27

28 **a. August 28, 2018 agenda items**

29

30 Ms. McLean: Lastly Commissioners, you have a memorandum dated August 13th for the items
31 for your next meeting on August 28th. Do you have any questions on that? There is one public
32 hearing item so far and one communication item and one item under new business. Any
33 questions on that?

34

35 Mr. Robinson: Seeing none...

36

37 Kahu Hill: I just want to make sure and to share if you didn't know that I won't be here for that
38 meeting.

39

40 Ms. McLean: And I will not be here either so Deputy Director Joe Alueta will be staffing.

41

42 Mr. Robinson: Okay, seeing that, that's it. Thank you all. Meeting is adjourned.

43

44 **G. NEXT REGULAR MEETING DATE: AUGUST 28, 2018**

45

46 **H. ADJOURNMENT**

47

48 The meeting was adjourned at approximately 3:58 p.m.

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Submitted by,

Carolyn Takayama-Corden
Secretary to Boards & Commissions II

RECORD OF ATTENDANCE

Present

Lawrence Carnicelli
Steven Castro
Kahu Alalani Hill
Larry Hudson, Vice-Chairperson
P. Denise La Costa
K. Pali
Keaka Robinson, Chairperson
Christian Tackett

Excused

Tina Gomes

Others

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